

Proposed Kennel Regulations

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INDEPENDENT REGULATORY
REVIEW COMMISSION

Arthur Coccodrilli, Chairman
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

Dear Mr. Coccodrilli:

Here are my comments about the proposed changes in the Pennsylvania kennel regulations. I will start with a section-by-section commentary on the proposals. My comments are in larger bold type. The text of the proposed new regulations to which I refer is in smaller and lighter type. At the end, I will summarize my views on the regulations.

PROPOSED RULEMAKING

DEPARTMENT OF AGRICULTURE

[7 PA. CODE CHS. 21, 23, 25 AND 27]

Dog Law Enforcement

[36 Pa.B. 7596]

[Saturday, December 16, 2006]

Fiscal Impact

Commonwealth

The proposed amendments to the regulations will impose additional fiscal impacts upon the Commonwealth. The amendments to the regulations will require the Department to purchase additional equipment necessary for measuring lighting and ventilation and to commit an additional amount of time to kennel inspection and review of the required kennel records. It is estimated that the cost to the Department per warden will be \$15,000 in the first year, and \$5,000 per year through year 5 for the additional amount of time to perform kennel inspections and review of the required kennel records.

The costs to the Commonwealth are severely understated. Dog wardens already say that they do not have enough time to do their

jobs. This can mean only one thing: Many more dog wardens must be hired. This statement does not estimate the number of new dog wardens that will be hired, does not enumerate the costs of several new Bureau of Dog Law Enforcement employees who already have been hired to implement the new program, and does not specify the additional costs for the salaries, benefits and support services for these new employees. In Governor Rendell's Oct. 17, 2006, press release, he stated that 17 new employees have been hired in the Bureau for this program.

Cost to Political Subdivisions

The proposed amendments to the regulations will impose no costs nor have a fiscal impact upon political subdivisions. The regulations do not impose any additional burden of enforcement or review on political subdivisions.

This is incorrect. Because of a higher number of citations, many costly legal actions and lawsuits against dog owners, and court orders, county and magisterial courts will have a greatly increased workload, and bear correspondingly higher costs.

Private Sector

The proposed amendments to the regulations will impose additional costs on the regulated community. Licensed kennels will likely have to make some changes to comply with the lighting, ventilation and space requirements, as well as, the additional sanitation and housing requirements in these regulations. Furthermore, establishments utilizing temporary homes will now have to comply with the kennel licensure and recordkeeping requirements of the act and these regulations. The costs to the regulated community will be varied, depending on the size and condition of the existing kennel. It is estimated that the costs will range from \$5,000 to \$20,000 per existing kennel for compliance with the new standards.

The financial impact on private kennel owners is substantially understated. Many kennels will have to be torn down and entirely rebuilt. Please understand that not even a handful of kennels in PA will be able to comply with these new regulations, especially in regard to length of runs and size of sleeping boxes. Many kennels will not be able to comply because of space limitations, zoning restrictions and the design of their facilities. Actual costs will vary, but for the kennels I know, \$20,000 would be a minimal figure. Perhaps the highest costs will be borne by indoor facilities, such as many boarding kennels and veterinary clinics. Buildings cannot be stretched to accommodate larger runs. The owners' only choice would be to construct an entirely new and larger building, or to cut back the number of runs (and their income potential) by half, to accommodate larger kennels sizes. Kennel owners also will be asked to pay significantly higher annual kennel license fees to fund a much larger Bureau of Dog Law Enforcement program with many more employees.

General Public

The proposed amendments to the regulations will impose no costs and have no fiscal impact on the general public.

This also is incorrect. In business, costs are passed along to a businesses' customers. Thus, the added costs of compliance and licensing ultimately will be born by the general public through higher costs for boarding and training services, and costs to buy a puppy or dog. Because many kennels will be forced to go out of business, consumers will have fewer choices and may not be able to find available facilities.

Definition of *Establishment*--The premises including the home, homestead, place of business or operation of any individual or person, including a dealer, which includes all of the land, property, housing facilities or any combination thereof, on, in or through which any dog is kept, bred, harbored, boarded, sheltered, maintained, sold, given away, exchanged or in any way transferred. Establishment shall encompass all of the individuals or persons residing thereon. It may be public or private and includes an individual, person, organization, business or operation, which utilizes offsite or temporary homes to keep, maintain, breed, train, harbor, board, shelter, sell, give away, adopt, exchange, or in any way transfer dogs.

Definition of *Housing facility*--Any land, premises, shed, barn, building, house, trailer or other structure or area housing or intended to house dogs for any period of time.

The definitions of "housing facility" and "establishment" are very problematic, and would have a major impact on Pennsylvania. These definitions encompass dogs that are traveling through the state, if the operator would be required to have a kennel license under Pennsylvania rules, and thus will virtually eliminate dog shows, field trials, obedience events and other events that bring dogs to Pennsylvania from other states. Thus, facilities during transport (dog boxes on trucks and on trailers, and stake-outs) would have to meet all requirements for a kennel. This is impossible to do. This will have a profound negative effect on state tourism revenues, and the numerous economic spin-offs that result from dog events and commercial travel through the state with dogs. Also, commercial dog carriers who use the highways, and even airlines that ship dogs, would have to meet all of the requirements of a licensed kennel. Thousands of dogs are shipped commercially to and from, or through, Pennsylvania every year. Dog crates, dog carriers, dog boxes and pick-up truck units to carry dogs would fail to meet space requirements, and stake-out chains used in traveling would fail to meet the length and surface requirements. For dog shows and other competitions, dogs often live in a truck or trailer for several days at a time. All of these dogs would be in violation. These proposed new rules fly in the face of standard practices among dog professionals.

- (iii) *Failure of a kennel to comply with licensure provisions.* Consistent with section 207(a.1) of the act (3 P. S. § 459-207(a.1)), it is unlawful for a kennel to operate without first obtaining a license. [The Secretary may file suit in Commonwealth Court to enjoin the operation of a kennel that violates any of the provisions of the act or this part and may seek the imposition of a fine of not less than \$100 nor more than \$500 for every day the kennel has operated in violation of the act or regulations.] Failure to obtain a kennel license prior to operating any establishment that keeps, harbors, boards, shelters, sells, gives away or in any way transfers a cumulative total of 26 or more dogs of any age in any 1 calendar year, may result in one or more of the following actions by the Secretary:

This provision will make major demands on the Commonwealth's legal system, and also on the time of dog wardens. While the regulations include a provision to exempt dog wardens from testifying at legal proceedings, by substituting another Department employee as a surrogate, this is unconstitutional, as a defendant has a right to confront his or her accuser in court. In addition, the fines that are specified could be imposed for merely technical violations, minor violations, or deficiencies in paperwork. As such, they are greatly excessive. The regulations also do not provide for issuing warnings to give kennel owners time to comply with violations that pose no real or tangible danger to dogs.

- (A) *Seizure.* Upon revocation, suspension or denial of a kennel license or an out-of-State dealer license, the Department may seize and impound any dog in the possession, custody or care of the person whose license is revoked, suspended or denied if there are reasonable grounds to believe that the dog's health, safety or welfare is endangered. The person from whom the dog was seized and impounded shall pay for reasonable costs of transportation, care and feeding of the dog.

Seizure of private property of any kind is unconstitutional without due process of the law, which generally requires an order of a court. This provision is in flagrant violation of both the Pennsylvania and U.S. Constitutions. Here is a direct quote from the Pennsylvania Constitution: "The people shall be secure in their persons, houses, papers and possessions from unreasonable searches and seizures, and no warrant to search any place or to seize any person or things shall issue without describing them as nearly as may be, nor without probable cause, supported by oath or affirmation subscribed by the affiant. "Administrative or enforcement personnel do not have the constitutional power to seize private property. A person who is accused of a violation of a regulation or law is entitled to defending him/herself in court before an order is issued by the court imposing any kind of punitive action. This provision in the regulation, in essence, gives judicial powers to administrative and enforcement personnel that are in violation of constitutional limitations under the concept of separation of powers. No definition is provided for "reasonable costs," and legally required competitive bidding is not required to provide such services to dogs that are seized.

- (I) The Secretary will serve the owner of the affected dog with written notice of forfeiture. The notice will indicate the ownership of the dog in question may be forfeited to some entity other than the Department. Notice of forfeiture will be served by personal service or by registered or certified mail, return receipt requested, to a responsible person at the kennel from which the dog was seized or the

owner of the affected dog or a responsible person at the address of the owner. The notice will specify an effective date of forfeiture which will be at least 10 days from service of the notice. The notice will further inform the dog owner of the right to request an administrative hearing on the issue of forfeiture by delivering written request to the department prior to the date of forfeiture.

There is a grammatical conflict in this provision that has major importance in terms of procedural interpretation. One sentence says that notice will be served on the owner of a kennel from which a dog "was seized," which indicates that the seizure occurs prior to the order. Another sentence says that the "effective date of the forfeiture...will be at least 10 days from the service of the notice," which implies that the notice must be served before the dog is seized. Under the Constitution, an administrative hearing does not meet the requirement for due process under the law, which guarantees the right of an accused person to face a court of law.

2) *License for each class and location.* A separate and proper kennel license shall be required for each type of kennel and every location at which a kennel is kept or operated

- (ii) An establishment that utilizes temporary homes and meets the threshold criteria of keeping, harboring, boarding, sheltering, selling, giving away or in any way transferring a cumulative total of 26 or more dogs of any age in any 1 calendar year shall obtain a kennel license, provide tags for the dogs in the temporary homes and maintain records meeting the criteria established in paragraph (5). The establishments shall be considered under the category established by paragraph (5)(iii)(B), regarding boarding kennel class I through boarding kennel class III and nonprofit kennel licensees. In addition, the records must set forth the location of each temporary home at which establishment dogs are kept, harbored, boarded, sheltered, sold, given away or in any way transferred, a description of each dog, a cumulative total of dogs housed at each temporary establishment, and the date each dog was transferred to the temporary home. Each temporary home utilized by the establishment shall be treated as a separate kennel location. All temporary homes shall be subject to inspection by the Department.

If these regulation-exempt temporary facilities are used to house a dog that is seized from a licensed kennel, the owner of the kennel could seek legal redress for the dual standard under the law, and for not being given equal protection under the law. The person also could allege that his dogs were being kept in substandard conditions (since they would not comply with the law), thus exposing the receiving kennel and the Commonwealth to potential legal action. In general, applying a dual standard for kennels would be a legal argument in court proceedings, if one kennel will be regulated to a lesser standard than another.

- (D) The date of the dog's last vaccination, deworming or other medical treatment and the medication administered. Any previous history of diseases treated for and past veterinary protocol of vaccinations or medication administered to the dog.

These record-keeping requirements would require kennel owners to keep extensive files on every dog that comes into the kennel, and much of the information may not be available to the owner of the dog, and thus to the operator of the kennel. For example, if a person buys an adult dog, it may have had several previous owners,

and some of these owners may be deceased or live in a distant state. Also, a complete medical history serves no valid purpose for most kennel operations, since all that matters is the current condition of a dog's health. Whether or not a dog was wormed five years ago has no bearing on whether or not a dog has worms today.

- (b) *Prohibitions on dealing with unlicensed kennels.* It shall be a violation of the act and this chapter for any kennel to keep, harbor, board, shelter, sell, give away or in any way accept, deal or transfer any dog from a kennel or establishment operating without a license in violation of sections 206, 207 or 209 of the act (3 P. S. §§ 459-206, 459-207 and 459-209), without the express written permission of the Department. In addition, it shall be a violation of the act and this chapter for any kennel to keep, harbor, board, shelter, sell, give away or in any way accept, deal or transfer any dog from a kennel that has had its license suspended or revoked, without the express written permission of the Department.

This requirement, in essence, makes everyone who buys a dog into a policeman. You are requiring a buyer to investigate the regulatory status of the seller. You also are imposing penalties against people who have no way of knowing or verifying the legal status of a seller.

- (c) *Health certificate requirement.* A dog entering this Commonwealth from another state, commonwealth or country shall have a health certificate. A person, licensed kennel, establishment or temporary home accepting a dog from another state, commonwealth or country shall assure a health certificate accompanies each dog and copy and record the health certificate which shall become part of their records. In accordance with section 214 of the act (3 P. S. § 459-214), it shall be unlawful to transport any dog into this Commonwealth, except dogs temporarily in this Commonwealth as defined in section 212 of the act (3 P. S. § 459-212), without a certificate of health prepared by a licensed doctor of veterinary medicine. The health certificate or a copy thereof must accompany the dog while in this Commonwealth. The health certificate must state that the following conditions have been met:

This provision makes it impossible for many people who work with dogs to carry out normal operations. For example, people often cross state lines to attend dog shows or competitions, and would have to have a current veterinary examination simply to bring their dogs back home. It also would impose substantial burdens on people who pass through Pennsylvania with a dog, or to move into Pennsylvania from other states, who may not be aware of our laws or who come from states with different laws. Moreover, under the U.S. Constitution, the power to regulate interstate commerce is reserved solely to the federal government. Thus, Pennsylvania does not have the constitutional authority to regulate dogs entering the state as part of commerce or trade. In fact, it is even more than arguable that Pennsylvania does not have the constitutional authority to license or regulate any kennel that does business with out-of-state customers. This would include kennels that buy puppies, dogs or stud services from out-of-state kennels, and individuals, people who sell dogs, puppies and stud service to people or kennels from other states, people who train dogs or handle dogs from customers who live in other states, boarding kennels located near state lines that have customers living in the contiguous state, people who show or compete with their dogs in other states (or people from other states who show or compete with dogs in Pennsylvania) as part of their business, and companies or people that transport dogs commercially. The

irony in this is that Gov. Rendell has stated that the intent of these new regulations is to improve conditions in large-scale breeding operations. Since these large-scale breeding operations sell many puppies and dogs to out-of-state customers, a successful legal challenge to these rules could cancel out their stated intention. If this happens, the only regulated kennels would be small-scale businesses that do business only in-state, and they could become exempt simply by selling one puppy across state lines.

- (d) [Adult dogs shall be segregated by sex except for health, welfare or breeding reasons.

This requirement contradicts accepted medical and management practices and, in fact, creates danger for dogs. It creates danger because the probability of serious dog fights radically increases with same-sex housing and exercise. Males are much more likely to fight with other males, and females with other females, than they are with a dog of the opposite gender. Moreover, there is no logical reason for segregating dogs by gender, provided that the female is not receptive to breeding at the time. Anyone who is familiar with dogs can easily detect a female's heat cycle, and thus is able to prevent unwanted pregnancies. This provision also does not address mixed-gender puppies that are pre-puberty and incapable of breeding. Both genders are present in most litters of puppies, and this regulation would require segregating puppies at birth. Since a licensed kennel is construed to exist anywhere dogs from a licensed kennel are located, males and females could not be together at dog shows, competitive events and when hunting, and a kennel owner could not keep both males and females as pets in his or her home. This is irrational and unduly burdensome.

- (e) Puppies not born in the receiving kennel facility or establishment, that are brought into a kennel from another kennel facility or acquired from another person shall be quarantined from other dogs and puppies in the receiving kennel facility for a minimum of 14 days or for the time period necessary to allow for treatment of any disease, prevent the spread of parasites or new strains of bacteria or viruses and to allow the puppies to acclimate to the new kennel environment, whichever is longer. Each group of puppies arriving from another kennel facility, person or establishment shall be quarantined together and kept separate from other groups of puppies arriving at the receiving kennel facility or establishment from a different kennel facility, person or establishment and shall be kept separate from the current kennel population of the receiving kennel facility or establishment.

This provision is both physically impossible for many kennel owners, contrary to acceptable veterinary and husbandry practices, and damaging to the emotional state of the puppy that is quarantined. For people who keep their dogs in their homes, this would isolate a puppy both from other dogs and from his owner, which is pointlessly traumatic and damaging for the new puppy. While this provision may make some sense at a very large facility that buys and sells large numbers of puppies, the vast majority of people who own licensed kennels are amateurs who have only their own dogs. For commercial boarding kennels, since a puppy is defined as a dog under a year old, it would mean that dogs under a year old could

not be boarded unless it was isolated. Since a dog under a year old could not be legally boarded, this provision is forcing owners who require boarding services to place their young dog in non-licensed facilities that may expose the dog to substandard services.

(e) Adult dogs entering a kennel facility or establishment, that are brought into a kennel from another kennel facility or acquired from another person or individual, that exhibit signs of parasites or disease or that have no record of vaccinations, shall be quarantined until adequate veterinary care has been provided to arrest the parasites or disease and until proper vaccinations can be given and become effective or all of the requirements have been met, when applicable. A release from the treating licensed veterinarian shall be adequate to allow the dog to enter the kennel population

This provision is both not workable, and also is contrary to accepted management and veterinary practices. It is common for almost all puppies to arrive with internal parasite, and there is only one brand of treatment that is safe for killing fleas on puppies less than 12 weeks old. It makes no sense to require a kennel owner to take a dog to a veterinarian for treatment of parasites, as they know how to do this themselves and treatment products are readily available. In fact, many kennel owners buy wormers and flea treatment products directly from their veterinarians. You are asking a kennel owner to pay about \$35 to take a dog or puppy to a veterinarian for worming or flea treatment, when the same result can be accomplished by the kennel owner for less than \$10 from the shelves of any Walmart or grocery store. This is an unnecessary financial burden that also eats up a kennel operator's time to do more important thing than taking an unnecessary trip to a veterinarian. Also, many (if not most) diseases are noncontagious, and there is no need for isolation of these dogs. A list of noncontagious diseases includes kidney failure, heart disorders and cancer.

In addition to the space requirements, each dog shall receive 20 minutes of exercise per day. Dogs shall be observed and supervised during exercise and shall be exercised the following manner:

- (i) Walked on a leash by a handler or put in an exercise area

This provision does not count training, allowing a dog to run loose, competition in field trials or conditioning exercises to fulfill this requirement, even though a dog would obtain far more and much better quality exercise than with either of the specified options. If a herding dog spent several hours herding cattle, or a hunting dog was taken hunting for several hours, it would not meet the exercise requirements of the regulation. This is absurd. Moreover, there is no evidence that the mandated exercise would benefit the dog in any way, if it received adequate exercise in its kennel or through other activities. For true boarding kennels, this requirement would be wholly unnecessary and burdensome, as most dogs sent to boarding kennels are there for a very short period of time before returning to their homes. Boarding kennels should be expected to provide a safe and healthy

environment that meets a dog's needs, but should not be required to duplicate a home environment.

- (ii) An exercise area must meet the following criteria:
 - (A) The space per dog must be consistent with § 21.24(b)(3) (relating to shelter, housing facilities and primary enclosures).

In other words, a dog could be exercised simply by moving it from one kennel to another. The absurdity of this rule is obvious.

- (B) The exercise area must be equipped in a manner to allow dogs to be exercised even during inclement weather and to protect the dogs from becoming wet, matted or muddy during the exercise.

This provision also would accomplish nothing, while also being burdensome to the kennel operator and harmful to the dog. Barring extremes, any healthy dog can safely be exercised in an open area, and in fact most dogs strongly prefer it. This provision would pointlessly (by that, I mean with no benefit to the dogs) contradict generally accepted management practices including walking a dog in the park on a leash, allowing them to romp in a fenced grassy area, or taking them hunting. Working dogs and hunting dogs of any breed are bred for tolerance to the elements, and, in fact, this is an essential part of their conditioning for the jobs that they do. For example, it is dangerous to hunt with a dog in bad weather if the dog is not conditioned to deal with bad weather. To follow this requirement would be to expose sled dogs, hunting dogs, herding dogs and other working dogs to grave danger. Moreover, even house pets are much healthier and happier when allowed the freedom to run and play outdoors.

- (C) The provisions regarding the type of materials utilized for flooring in § 21.24(b)(6) apply.

See comment directly above.

- (D) The same sanitation requirements in § 21.24(b)(8) and (9) and the applicable provisions of § 21.29 (relating to sanitation) apply.

This pointlessly limits exercise to a small and confined area.

- (iii) Dogs put in an exercise area shall be segregated in the following manner:
 - (A) Small dogs (35 pounds and less) shall be exercised together and may not be put in the same exercise area with medium or large dogs.

(B) Medium sized dogs (36 pounds but less than 60 pounds) shall be exercised together and may not be put in the same exercise area with small or large dogs.

(C) Large sized dogs (61 pounds but less than 90 pounds) shall be exercised together and may not be put in the same exercise area with small or medium dogs.

(E) Giant sized dogs (91 pounds and greater) shall be exercised together and may not be put in the same exercise area with small, medium or large dogs.

Segregating dogs by size has no merit or legitimate purpose. There is no evidence that any harm could result from different-sized dogs being exercised together. This seems to be based on an illogical assumption that bigger dogs pick on smaller dogs, which simply isn't true. Aggression is dependent upon disposition, not body size or gender. Nor is it logical and reasonable to assume that larger dogs are more aggressive than smaller dogs, or that there would be any other ill effect from mixing sizes during exercise. This requirement pointlessly imposes a great management burden on kennel owners, while serving no worthwhile purpose.

(F) Spayed and neutered dogs may be exercised together. Otherwise males and females shall be separated and may not be exercised at the same time in the same exercise enclosure.

This requirement also serves no purpose, and in fact endangers dogs by increasing the risk of serious fights with same-gender exercising (see above). Any kennel owner should be able to tell if a female is receptive to breeding, and this can be easily avoided. A female dog typically is in season for six weeks a year, and is not receptive to breeding for the other 46 weeks.

(G) Nursing bitches may be exercised separately with their puppies.

This provision requires kennel operators to move day-old puppies into exercise areas, or walk them on a leash. It is sheer absurdity, and potentially fatal to the puppies.

(iii) The Department may exempt a dog from exercise for a period of time, if a licensed veterinarian has determined the dog has an injury or other physical condition that would cause exercise to endanger the health, safety or welfare of the dog. The determination must be in writing, be for a time period limited to the amount of time medically necessary to recover from the injury or illness, state the specific medical condition and reason for the exemption and list the time period for the exemption.

Kennel owners should have the option of exercising their own judgment, as many reasons for withholding exercise do not require veterinary care. For

example, a dog with arthritis sometimes has bad days, and all dogs can have minor injuries such as pulled muscles.

- (iv) Daily records of exercise shall be kept for each dog in the kennel. The records, at a minimum, must set forth:

(A) The breed, color, markings, sex, approximate weight and age of each dog or when applicable, the microchip number of each dog.

(B) The date and the time period each dog was exercised and whether the exercise was on a leash or in an exercise area.

(C) Any medical exemption written by a veterinarian licensed to practice in this Commonwealth

This requirement is both utterly pointless, and impossibly burdensome on kennel owners. It is pointless because filling out the form does not ensure its accuracy. It proves nothing. The only way to prove that the requirements have been met would be to have an onsite inspector at each kennel to record what happens with a dog. If this requirement cannot be verified as factual, why impose it? It also is horribly burdensome. For a mid-sized kennel of perhaps 50 dogs, it would require filling out 50 forms a day that have no meaning whatsoever. This eats up a kennel manager's time that should be spent caring for the dogs.

- (b) *Outdoor housing facilities.* Shelter shall be provided for dogs kept outdoors. Sufficient clean bedding material or other means of protection from the weather shall be provided. Dogs that are not acclimated to the temperatures prevalent in the area or region where they are being maintained, breeds of dogs that cannot tolerate the prevalent temperatures of the area without stress or discomfort (such as short-haired breeds in cold climate or cold climate breeds--such as huskies--in warm climates), and sick, infirmed, aged or young dogs, may not be kept in outdoor facilities. When a dog's acclimation status is unknown, it may not be kept in an outdoor facility when the ambient temperature is less than 50° F.

To say that having short hair means that a dog cannot thrive in Pennsylvania's winters is to ignore the evidence of hundreds of years of successful husbandry of short-haired breeds in unheated outdoor facilities. Breeds such as hounds, beagles, pointers (sometimes called English pointers), German shorthaired pointers, Vizslas, Weimereiners and other short-haired hunting breeds originated in cold countries and have been bred in cold countries for centuries. While individual dogs may require extra protection, the vast majority of dogs in these breeds do not. Many of these dogs are sporting breeds that are used for hunting. They must be conditioned to cold, wind, rain and mud in order to do their job safely. It is far more dangerous to kennel these dogs in protected conditions, thus denying them the ability to acclimate to the jobs they are bred to do. Please remember that hunting seasons in Pennsylvania extend through late January, and that any kind of weather can be expected during field trials and other competitions in the spring and fall. The dogs

must be allowed to acclimate to the conditions they face, for their own safety. It also is completely unnecessary to require extra cooling for long-haired breeds, even for breeds with heavy coats like huskies. Owners of these breeds routinely clip their fur short in the summertime, to facilitate cooling. These regulations impose great burdens on owners of these breeds, as the problem can be solved very effectively by spending five minutes clipping the dog's coat. The rules also ban outdoor housing for "young dogs" and "aged dogs," but do not define these terms. There is no evidence that outdoor housing is harmful to puppies or old dogs, within reason. Very young puppies and very old dogs may need special protection, but every kennel owner I know does this routinely.

In addition to the shelter structures, at least one area of shade other than the dog box or primary enclosure itself shall be provided. The area of shade must meet the following criteria:

- (i) Be constructed as a permanent fixture. A tarp may not be considered a permanent fixture.
- (ii) Be immediately outside the dog box or primary enclosure to assure the dog has a mud and water free area in which to stay dry before entering the dog box or primary enclosure.
- (iii) Be constructed to allow for sufficient air movement to keep the dog comfortable in event of excessive heat and to provide all the dogs housed in that area protection from the direct rays of the sun. Be as wide as the kennel run area and at least 4 feet in length or large enough to contain all the dogs in that kennel run area at the same time and provide them with a permanent area of shade and protection from inclement weather throughout the day, whichever is larger. It must be large enough to allow each dog in the kennel run area to sit, stand and lie in a normal manner and to turn about freely. In addition, it must be large enough to allow all dogs in the kennel run area to avoid the elements--including direct sunshine and inclement weather.

These requirements are unnecessary, create a pointless burden on kennel owners, and also create a very serious drainage problem in the kennel. They are not needed because there is no evidence that other forms of shade do not adequately protect a dog from the sun, no evidence that exposure to rain creates significant problems for the kennel or dog houses, no evidence that exposure to ordinary climactic conditions is harmful to healthy dogs, and no evidence that other methods are not better to prevent mud from entering the house. In Pennsylvania, adequate shade can be provided by natural trees, and there is no evidence that tarps or impermeable fabrics do not accomplish the same thing with much less cost to the owner. To survive in business, controlling costs is vital, and there is no reason to tie kennel owners' hands in this regard. Moreover, the sort of solid and waterproof structure the regulations require would create massive drainage problems at their edges, because it would cause a heavy concentration of runoff from a large area onto a very small area of the kennel floor. Imagine the gutters on a house. The water pouring out of gutters (which collect water from the entire roof)

quite literally can dig deep holes in the ground. Any experienced kennel owner knows that the biggest problem in keeping bedding dry is that some dogs seem to enjoy running around in the rain, and bring moisture into their houses on their fur. The only solution is to check bedding frequently during rainy weather, and replace it as often as it is needed. That solution requires the discretion of the operator, and any regulations should allow for this. If the solid-roofed structure that is required by the rules were actually installed, every dog would get soaked to the bone from concentrated runoff every time it leaves the covered area. This regulation would create very serious problems, not solve them.

3). The run associated with each dog box or primary enclosure of an outdoor facility must be at least five times the length of the largest dog in that run and two times as wide as the length of the largest dog in that run, as measured from the tip of its nose to the base of its tail, and allow each dog convenient access to the primary enclosure or dog box, permanent shade area and food and water containers.

In my opinion, larger kennels are desirable for dogs. However, that is not to say that current requirements for the size of kennels are insufficient. For a 45-pound dog that is about three feet from the tip of its nose to the base of its tail (this is about the average size for a dog), current regulations require a kennel that is eight feet long and four feet wide. This size of kennel has become the industry standard minimum size for a 45-pound dog with the above length of body. It allows a dog to move freely, and run back and forth. Its width is sufficient for it to avoid its own feces and not splash urine or fecal matter into feed and water dishes. Thus, I can see no compelling reason to increase this size requirement. To illustrate, I'll put this in human terms, for people who are confined in state-run or state-licensed institutions. To apply the current standard for dogs, a six-foot-tall inmate in a state prison or county jail would require a cell that is about 15-feet long and 12-feet wide. Please note that most prison inmates are housed in much smaller cells. However, to meet the requirements of the new kennel regulations, an inmate's cell would have to be 30-feet long and 12-feet wide. While I am sure most prison inmates would welcome a larger cell, that is not to say that it should be a requirement, or that smaller cells do any harm to a prisoner in any way. For dogs, the new kennel regulations would require almost every kennel in Pennsylvania to tear down its current kennel runs, scrap its surfacing and drainage set-up, and build completely new runs. Significantly fewer kennel runs would fit in the same space, which would substantially reduce the income potential for these operations without the state having shown any compelling reason to do so. Moreover, indoor kennels in most instances could not be lengthened or widened, because of the physical construction of the building. For example, I have never seen a kennel or holding facility at a veterinarian's office that could even come close to meeting the new size requirements. It is reasonable to suppose that veterinarians, as a group, have a much better understanding of the physical needs of dogs than the people who designed the new regulations. Kennel sizes

in veterinary facilities should be used as a guide for minimum space requirements, and not the theories of dog law officials and animal rights advocates. Other regulations allow pet shops to have smaller kennels than the general public, and this dual standard is discriminatory and favors one segment of the industry over another. It would be impossible to justify this double standard in a court of law, which raises issues of equal protection under the law. .

- 10.) Outdoor facilities must be constructed and maintained in a manner and in an area that assures adequate and proper drainage and elimination of standing water, pooled water and mud--even in times of severe weather conditions. The outdoor facility and drainage system must be constructed to insure the animals stay dry and are not subjected to wet, muddy or unsanitary conditions

Severe weather should be taken into account in all regulations for dogs, as they are for humans. During very heavy rainfall, for example, some facilities might temporarily show minor flooding or pooling. This should not be grounds for calling a kennel inadequate. In human terms, it would be like taking children from a home and denying parental rights because the house they live in is in a flood zone. Half of the homes in Pennsylvania are in flood zones. In life, problems sometimes occur. This is inevitable. The legal issue is whether or not a kennel owner addresses problems in a timely manner, and keeps the dogs in his care safe when extreme situations occur. Temporary wetness and mud is not a sign of unsanitary conditions in severe weather, provided that the kennels have been cleaned and sanitized regularly. In designing regulations, please keep in mind that keeping dogs on dirt was not only acceptable, but also the norm, only a few years ago. The fact that we have dogs today is evidence that formerly ordinary conditions were not a significant problem for dogs.

- (10) (11) Outdoor facilities, including runs and exercise areas shall be kept free of grass and weeds. Grass and weeds shall be cut back from the sides of runs and exercise areas to a distance of 5 feet to help prevent tick, flea and other parasite infestation. Where pesticides are used, the owners shall consult a licensed veterinarian with regard to the proper pesticides to use to assure the health, safety and welfare of the dogs.

There is no question that grass and weeds should be removed or kept trimmed close to the kennel, as these areas can expose kenneled dogs to fleas and tick. However, this requirement makes no sense for exercise areas. Dogs have evolved as companions to humans in a natural environment. Regulations such as these require a sterile and almost clinical environment for dogs, which is contrary to their nature and well-being. It also denies dogs the essential role of companions and partners in the day-to-day life of people. There are many prescription and over-the-counter repellants and treatments

for fleas and ticks, and the possibility to exposure to these ectoparasites is no justification for denying dogs their rightful place in the lives of people.

- (c) *Tethers.* If [dog houses with tethers are used as primary enclosures for dogs kept outdoors] dogs are attached to primary enclosures by means of a tether... The tether [shall] must be a minimum of 6 feet long or at least [three] five times the length of the dog as measured from the tip of its nose to the base of its tail, whichever is longer, and must allow the dog convenient and unfettered access to the dog house, permanent shade area and food [or] and water [container] containers. The facilities must meet the requirements in subsection (b)(1), (2) and (4)--(8).

For an average-sized dog of 45 pounds, with a three-foot nose-to-tail-base length, a 15-foot-long chain would be required. This would create a 35-foot radius which would have to be constructed and maintained as if it were a kennel. This is excessive, would be impossible for many people to accomplish because of limited space, and serves no legitimate purpose. The current regulations would give the dog freedom of movement within an 18-foot circle, which is sufficient for any reasonable requirement for dogs.

* * * * *

(f) *Housing facilities--general.* The following criteria apply to both indoor and outdoor facilities:

- (1) A dog may not be housed on a temporary or permanent basis in a drum or barrel dog house, regardless of the material of which the drum or barrel is constructed. Metal barrels, drums, cars, refrigerators, freezers or like materials may not be used as primary enclosures or shelter structures.

Current regulations also prohibit barrels of any kind. For a regular barrel, this is a good regulation. However, some of the very best dog houses on Earth are constructed in the shape of a barrel. They are expensive (in excess of \$150 each), very well insulated and offer complete protection from the weather and insulation from the cold. Nonetheless, this type of dog house is illegal in Pennsylvania, simply because it is shaped like a barrel. These houses are designed to be mounted on posts and to swivel with the wind. A few years ago, a kennel in eastern Pennsylvania was shut down for using these houses which, ironically, are the best houses made commercially.

(8) Records shall be kept in accordance with the act and §§ 21.14(a)(5) and 21.41 (relating to kennel licensure provisions; and general requirements) must evidence, among the other provisions, the date and time of day following conditions were met:

- (i) The housing facility was cleaned.
- (ii) The housing facility was sanitized.

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(iii) Each individual cage, dog box or primary enclosure was cleaned.

(iv) Each food and water bowl was sanitized.

(v) New food and potable water was provided each dog.

This requirement is extremely and unnecessarily burdensome to kennel owners, as it requires the completion of five separate forms a day for each dog in the kennel. For a kennel with 50 dogs, this section would require filling out 250 forms every day. Since the truthfulness and accuracy of the information contained on the forms could not be verified, the forms and pseudo-documentation serve no legitimate purpose. They simply harass the kennel operator and take up time needlessly that could be better used to care for the dogs. This provision represents the bureaucratic mindset at its very worst. It is an embarrassment to Pennsylvania.

- (11) The housing facility including outdoor kennel housing must be equipped with waste disposal and drainage systems that are constructed and operated in a manner that allows for the rapid elimination of animal waste and water and that insures the animals stay dry. The drainage system must be properly constructed, installed and maintained.

Waste disposal and drainage are separate issues and should not be linked.

- (i) Where the kennel is an indoor kennel with no outside runs, a gutter and drain shall be provided for sluicing waste waters during kennel cleaning. The kennels must have adequate holding facilities to allow a dog to be outside its primary enclosure during the washing of that primary enclosure and until there has been adequate drying of the primary enclosure.

From a management perspective, this requirement is not feasible. It would, in essence, require two separate kennels for each dog. In Pennsylvania's humid climate, it may take several hours for kennel surfaces to dry. Also, there is no evidence presented that it would provide a significant benefit to the dog.

- (14) Open supplies of food or bedding shall be kept in leak proof containers with tightly fitting lids to prevent contamination, vermin infestation and spoilage.

There is no need for bedding to be containerized, if it is kept in a dry area and protected from the elements. Some commonly accepted forms of bedding, such as straw, would be very difficult to containerize. No need can be shown to do this.

- (15) Washing facilities, which may include washrooms, basins, sinks or showers, shall be provided for animal caretakers, shall be readily accessible and, where dogs are housed in an indoor facility, shall be accessible in the housing facility. Washing facilities shall be equipped with an adequate supply of potable water (both hot and cold), towels and soap or other disinfectant. Potable water is water which has been approved for human consumption. If water lines are not available, a water trailer and immersion heaters shall be provided.

At certain times, it is advisable to kennel workers to clean their hands and sanitize their clothing and bodies, such as after working with sick animals. While this may be the norm in a veterinary kennel, it is the rare exception to the norm in other kinds of kennels. Thus, there can be no justification for requiring installation of washing or shower facilities inside a kennel building, as long as facilities are available to employees within reasonable proximity.

- (16) If another business is operated on the same premises as the establishment, that business shall be physically separated from the actual housing facilities for the dogs in a manner (such as a wall) that will not allow uncontrolled ingress or egress by the dogs or other animals.

In general, there is absolutely no justification for mandating this kind of separation. Many people today have home offices, and/or do business of many kinds over the Internet. There is no evidence that exposure to these kind of venture would harm a dog. Nor is there justification to separate dogs from other kinds of business, unless dangerous machinery or chemicals are involved. If anything, mandated separation without justification is harmful to dogs by reducing opportunities for socialization with people, and denying dogs their traditional role as companions. This provision also ignores the fact that many sporting dogs or working dogs play a vital role in other businesses. For example, a dairy farmer may also raise herding dogs, and use his dogs every day to herd cattle. In theory, dairy farming and dog breeding are different, but in reality they are – and should be - closely intertwined. The same is true of people who raise hunting dogs, and also own a shooting preserve. Dogs from the kennel are used as a part of the shooting preserve

§ 21.25. Temperature control.

- (d) Auxiliary temperature control and air movement from fans, blowers or air conditioners shall be provided when the ambient temperature is 85° F (29.5° C) or higher.

Dogs have been raised for many centuries before the advent of air conditioning and cooling fans, and these comfort-enhancing devices also are of recent vintage in human history as well. It is hard to justify what have been normal conditions for mammals for many centuries is being unacceptable today. Outdoor runs should be constructed to allow maximum air movement and to provide shade and frequent changes of cool water.

Beyond that, cooling should not be mandated for dogs kept outdoors, anymore than it should be mandated for humans. In fact, cooling actually may be harmful to dogs because it fails to acclimatize them to hot weather. A dog that is used to air conditioning is much more susceptible to having a heat stroke from a simple romp in a park. The increased risk would be extreme for working and sporting breeds. The new regulations are, in fact, mandating a serious health risk.

- (e) Indoor kennels shall have a heating source sufficient to assure a slab temperature of not less than 35° F and not more than 55° F during heating season.

In a typical summer, the floor in a Pennsylvania home is warmer than 55 degrees, the ground is warmer than 55 degrees, and concrete surfaces are significantly warmer than 55 degrees. Thus, it is absolutely nonsensical to require the surface of a kennel to be less than 55 degrees. It also would require the installation of a prohibitively expensive underground cooling that would serve no purpose.

(e) Indoor kennels and the sheltered part of sheltered housing facilities shall be sufficiently heated and cooled to protect the dogs from temperature or humidity extremes and to provide for their health and well-being.

- (1) *Heating.* The ambient temperature in the facility may not fall below 50° F for dogs not acclimated to lower temperatures, for those breeds that cannot tolerate lower temperatures without stress and discomfort (such as short haired breeds), and for sick, aged, young or infirmed dogs.

This topic was addressed earlier in my comments.

- (2) *Cooling.* The ambient temperature in the facility may not rise above 85° F.

While temperatures in excess of 85 degrees are unpleasant, they are the norm in Pennsylvania in the summertime and are not dangerous if kennel facilities have shade, free air circulation and a supply of clean, cool water. People, wild animals and other domestic animals routinely endure such conditions in Pennsylvania. Occasionally, special considerations may apply to an individual animal, because of age or illness, for example, but handling these situations should be up to the discretion of the kennel operator, unless it can be shown that the needs of the individual animal are not being met.

§ 21.26. Ventilation in [indoor] housing facilities.

- (3) The kennel building must include ground level ventilation to assure dry kennel run floors during cold weather.

This is impossible to accomplish for some time after a kennel is sanitized. Regulations should not demand the impossible. In our humid climate, no form of ventilation can quickly dry kennel surfaces.

§ 21.28. Food, water and bedding.

[(b) If potable water is not accessible to the dogs in their primary enclosures, potable fluids shall be offered to the dogs at least 6 hours daily] (2) Potable water shall be available to the dogs at all times unless otherwise directed by a veterinarian. The water must be free of stools, urine, vomit and other contaminants at all times. The water in dog bowls may not be frozen. The Department may require that a kennel licensee have samples of the water that it provides to dogs analyzed to confirm potability, and may require a licensee to submit the results of the water analysis to the Department. The analysis [shall] will be conducted at the licensee's expense. The Department may also sample and analyze the water.

During a cold Pennsylvania winter, water may ice-over or even freeze solid in a short time. It is sufficient to require that the dogs be given access to water at least twice a day, but it is excessive and unrealistic to require ice-free water bowls all of the time. No purpose is served by mandating the testing of water, unless there is probable cause to suspect a problem. Without a good reason for testing, mandating it is simply regulatory harassment.

[(c)] (3) Food and water receptacles shall be accessible to dogs kept in the kennel and shall be located to avoid contamination by excreta. The receptacles [shall] must be durable, meaning a dog cannot destroy or ingest parts of the receptacle, and shall be kept clean and sanitized in accordance with this section.

It is impossible to locate feed and water bowls so that they are accessible to a dog, and yet also which cannot be accidentally contaminated by an active or excited dog. Regulations should not require the impossible. It is, however, appropriate for regulations to require bowls to be cleaned if they are contaminated and before they are used again for food and water.

§ 21.29. Sanitation.

(c) The buildings and grounds of kennels shall be maintained, kept clean and in good repair to protect the animal from injury and to facilitate practices required by this chapter. Kennels shall have an effective program that controls ingress by insects, ectoparasites and avian and mammalian pests. Evidence of insects, ectoparasites and avian and mammalian pests or conditions that would allow or encourage infestation in a kennel are indicative of an ineffective program and unsanitary environmental sanitation in the kennel.]

What is an avian or mammalian pest? Is this regulation saying that birds may not fly through or over a kennel? Is it saying that it violates regulations if a chipmunk or raccoon wanders into a kennel area? This is absurd.

Contagious diseases, including infectious canine hepatitis, leptospirosis and parvovirus are spread through the urine, stools and vomit of dogs and rats. To protect the health, safety and welfare of dogs housed in kennels, the cleaning and sanitation requirements in this section shall be followed.

While no one would say that good sanitation is not required, it is important to phrase these requirements in a way that health is the norm, and disease is abnormal. In almost all kennels, healthy dogs are the norm. They are not sick bays for dogs. They are not nursing homes or hospitals for dogs. A kennel is a place where healthy and happy dogs live. It is their home.

- (4) Dogs shall be removed from their enclosures while the enclosure is being sanitized and washed down.

The definition of "sanitized" should be made clear. In these regulations, the word "sanitized" is used both to pertain to the removal of feces, and the sterilization of a kennel with disinfectants. It is not necessary to remove a dog when feces are being removed, and it is only necessary to remove a dog during disinfecting when harsh chemical are used or if the dog does not have a dry place in the kennel. Otherwise this becomes a burdensome management constraint that serves no purpose.

- (5) One of the causes of bacterial skin infections and bacterial ear infections in kennels is the high humidity in the kennels. For this reason, when cleaning or sanitizing the kennels animals shall be removed from their primary enclosure and runs prior to cleaning or sanitizing the primary enclosure or run. The runs and floor areas associated with the primary enclosure shall be squeegee dried and the primary enclosure shall be dried prior to putting the animal back in the run or primary enclosure.

In Pennsylvania's often humid climate, this requirement is impossible to fulfill without having two separate kennels for each dog. Regulations should not demand the impossible. On humid days, it sometimes takes several hours for a kennel to dry, and an outdoor run will not dry at all during rainy weather. Short of air-conditioned kennels, which actually are unhealthy for many dogs if they are routinely exposed to the weather in the course of their lives, high humidity cannot be controlled. This is a management problem, for which remedial solutions are available if skin and bacterial infections do occur.

- (6) Kennels must have an effective program that controls ingress by insects, ectoparasites and avian and mammalian pests (such as fleas, ticks, mites and intestinal parasites). Evidence of insects, ectoparasites and avian and mammalian pests or conditions that would allow or encourage infestation in a kennel are indicative of an ineffective program and unsanitary environmental sanitation in the kennel. Mosquito control measures shall be used in ditches and swampy areas in the vicinity of the kennels. Disinfectants, pesticides and disinfectant procedures shall be used only with the approval of the veterinarian.

People are mammals. Dogs are mammals. Fleas, ticks, mites and intestinal parasites are not mammals. Short of enclosing the entire kennel in window screening, nothing can be done to keep out fleas and ticks. The only solution is to use treatments for dogs to repel or kill insects, or chemicals throughout the area. The use of toxic chemicals to kill insects around a kennel is a controversial issue in that some chemicals may pose health or environmental risks in their own right.

KENNELS--RECORDS

§ 21.41. General requirements.

(e) In addition to the records required under section 207 of the act, every keeper of a kennel shall keep a record of the following for each dog housed in the facility:

- (1) The date, time and detail of daily feedings, cleaning of kennel, and changing and refreshing potable water.
- (2) The date, time and detail of exercise activity of the dog.
- (3) The date, time and detail of any medication administered to a dog.
- (4) Any accident or incident in which the dog is injured.
- (5) The date and time of any veterinary care administered.
- (6) Records of veterinary care for each dog.
- (7) Any veterinary ordered or voluntary protocol for vaccination, medication or other recommendation for medical treatment of the dogs.

While some of these records may be essential for a veterinary facility that is treating sick animals, they are pointlessly bureaucratic and very excessive for most kennels. These requirements would impose an impossible – literally – amount of paperwork on most kennel owners, and serve no purpose, as there would be no way to prove or disprove their truthfulness or accuracy, thus making the requirement utterly pointless.

§ 21.42. Bills of sale.

Unnecessary and pointless bureaucracy. There is no way to determine accuracy or truthfulness. This is just another way to allow dog wardens to cite kennel owners for a “paperwork” issue that accomplishes nothing that will benefit dogs.

* * * * *

I live in Venango County, PA, and am among the 1,500 licensed kennel owners in Pennsylvania.

Most of us will be driven out of business if a proposed major revision of the regulations implementing the state kennel laws is approved by the Independent Regulatory Review Commission. This revision has been published in the Pennsylvania Bulletin. The period for comment expires Feb. 15. Kennel owners were not informed of the proposed new regulations, and many only learned about it this week. That leaves us little time to fight for our livelihoods and the dogs we love.

I own a state licensed kennel near Eaglerock, and make my living training grouse dogs for hunting and field trials, handling dogs in competition and operating a breeding kennel. I have trained national champions, and have bred some of the best grouse dogs in America.

I can state with absolute certainty that these proposed regulatory changes will put me out of business, and I think they will put many (and probably most) other kennels in the state out of business, too. In fact, I don't know of a single kennel anywhere that could meet the new standards. Even the most modern and even fancy kennels that I know would not meet the standards in the proposed regulations, which double the size of required kennel runs.

Here is a link to the PA Bulletin publication: <http://www.pabulletin.com/secure/data/vol36/36-50/2452.html>. Please note that there is a link to a second page, where most of the new requirements are specified...click "next" at the bottom of the page.

It almost seems like the supporters of this measure are trying to sneak this one through, as I believe it is standard practice to inform regulated parties of proposed changes and solicit comments. We were not informed. I learned about it by sheer luck, through a group I have never even heard of, an organization that appears to be countering animal rights activism. I am told that Gov. Rendell fully supports these changes, and perhaps is paying back some political debts to the animal rights groups for support in the election. It does appear to me that there may be a camouflaged animal rights agenda behind these new regulations aimed at eliminating many commercial kennels in the Commonwealth, with hunting dogs especially targeted. It is a step toward eliminating people who make their living from animals, banning private ownership of animals, regulating farm animals so that agriculture cannot survive, and eliminating hunting by reducing the number of hunters. These groups know that their real goals cannot succeed politically under the light of open debate, and, I believe, are trying to implement them gradually, one step at a time. These new regulations take about 10 giant leaps toward the extremist position.

The proposal in the PA Bulletin says it will cost between \$5,000 and \$20,000 for EVERY kennel in Pennsylvania to comply. Many kennel owners are telling me that it would cost them far more than \$20,000 to meet the changes, and I have had estimates as high as \$100,000. Please note that most kennel owners are small business people of moderate means, and that their businesses already are financially marginal. There is no way most of us can survive if we are faced with a choice of being shut down or paying these high costs. My cost would be at least \$20,000, as I have a large kennel in terms of area, with big runs. I would have to tear down my entire kennel simply to put in the required surfacing, and then rebuild it. I can't afford that kind of money, because my kennel business is struggling as it is.

The regulations allegedly stem from a desire to shut down what are termed "puppy mills." There have been some horror stories, but the worst-case scenario is that these kinds of places represent only an infinitesimally small fraction of the licensed kennels in Pennsylvania. Most of us love our dogs, dedicate our lives to them and give them the very best care that we can. Few of us earn more than a modest income from our efforts. Moreover, we contribute much toward making Pennsylvania a better place to live in. Our activities bring many thousands of people to this state for field trials, dog shows, obedience events, training seminars and other activities. Moreover, we contribute greatly to our local economies by purchases of dog food, veterinary care, medical supplies, building materials, advertising, communications services and many other things. Using

my own mid-sized kennel as an example, I spent \$14,000 last year for dog food and \$3,000 for veterinary services alone, and put more than \$40,000 directly into my local economy. We also provide some jobs for people, too. In my case, I hire three or four people to help me for parts of each year. In most cases, the people who come to work for me do not have jobs and have exhausted their unemployment benefits. These are people who need jobs. While we are not the solution to Pennsylvania's economic problems, we are part of the solution. We definitely are not part of the problem. The dog business represents the highest values of small business ownership crossed with the family farm. Those values are part of the American ideal.

Many of the regulations fly in the face of accepted veterinary and industry practices. For instance, for an average sized dog (say 45 pounds), the new rules require dog houses to allow a dog to lie down on its stomach or side without having any part of its body touching the walls, including its tail. That would require a dog house between five and six feet square. It would require me and almost every other kennel owner to replace every dog house in our kennels. I use the "large" size commercial houses, which are rated for dogs up to 65 pounds. I buy them locally at Agway, Buyer's Fair and Walmart, and pay about \$60 apiece. Please note that there is not a single dog house at any of those local stores that would be legal under the new rules - Not even close to being legal! If you check every store where you live, I doubt you could find a single dog house that would be legal for a 45-pound dog. Moreover, a house that is the required size would be dangerous for dogs, because it would not allow the space to be warmed by their body heat in the winter. For a Pennsylvania winter, a dog must have a small enough house so that it can lie comfortably, but also warm it a few degrees with body heat. The rules also prohibit two dogs from sharing a house, so that they might cuddle to keep warmer.

It also is impossible to purchase a manufactured kennel run in Pennsylvania that would meet the requirements for a 45-pound dog. Industry standards range between 4-feet by eight-feet, and six-feet by 12-feet. The regulations would require six-feet by 15-feet. To meet these regulations, all kennel runs would have to be custom-made.

Construction issues like those above are only part of the problem. The new regulations dictate management practices that, because of time, would be impossible to perform. For instance, I would be required to walk each dog ON A LEASH for 20 minutes a day. That is pointless, and most of my dogs are worked free in the woods for longer than that. Also, for nonworking dogs, I made my runs big so that they could get lots of exercise (my smallest kennel is 6'X16'), and I also turn them out to run around the kennel area on occasion. This practice of exercising dogs by letting them run around one's yard, the kennel area or in the woods would be illegal, because the new rules say the area must be fully protected from the weather, have a legal base of gravel or concrete, and meet every other requirement for a kennel. Hunting dogs tend to be very active dogs, and get far more exercise running around their kennels for 5 minutes than they would for 20 minutes on a leash. Moreover, it would be physically impossible for me and most other kennel owners to walk each dog on a leash individually for 20 minutes a day. When you look at the whole of the new regulations, there simply would not be time for anyone to exercise and care for even 20 dogs in a day if that was his or her full-time job! I would have to find the money to pay every kid in Eaglerock just to walk dogs! Remember, too, that my job is to train dogs. That is the most time-consuming part of my business, and the new rules would take away ALL of my time for training. They would destroy my business. Here is another example. The new rules prohibit ice in water bowls. On a day like today, I would have to bang out and refill every water bowl five times a day to keep them from icing over. How can I even find time to train a dog? Now, I knock out ice twice a day, morning and evening, and refill the bowls...that is twice the requirement of the current regulations, which require fresh water once a day. With the new rules, my water bowls would have to be ice-free 24 hours a day.

The new regulations would increase kennel paperwork several hundredfold, at a bare minimum - and that is NOT and exaggeration! Worse yet, they serve no purpose, as their accuracy could not be verified. For example, I would have to maintain a separate sheet for each of the dogs and

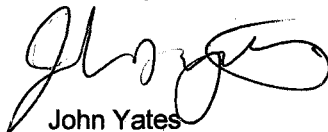
puppies in my kennel, documenting the times it was walked on a leash every day, with another separate sheet for each dog for when it was watered, and another separate sheet for each dog for when its kennel was cleaned every day, and another sheet for each dog for when its kennel was sanitized every day, and another separate sheet for each dog's food bowl was washed every day, and another separate sheet for each dog for when its water bowl was washed. For my kennel, this would require filling out more than 300 pages of paper a day! Moreover, there is a host of other required forms that I would have to complete.

Those are just a few of the many possible examples of problems with these new regulations. I could go on...I would be forbidden from buying a dog from you if you do not have a kennel license...my dogs could be seized for a thousand different reasons, including minor infractions...out of state sales of puppies or training services would be almost impossible.... This law gives new meaning to the words "Big Brother." In fact, laws pertaining to human children are far less restrictive. Far less! Can you imagine documenting the times you fed your children and each time you washed the dishes they eat off of?

Please understand that blocking these regulations will not expose a single dog in Pennsylvania to danger. Existing kennel regulations and cruelty laws are more than adequate to immediately end or prevent any serious problems from occurring. These new regulations are ineffective, burdensome and serve no legitimate purpose.

Thank you for listening.

Sincerely,



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