

2785

MIKE BRUBAKER
STATE SENATOR
36th DISTRICT

THE STATE CAPITOL
SENATE BOX 208036
HARRISBURG, PA 17120-3036
PHONE: (717) 787-4420
FAX: (717) 783-3156

mbrubaker@pasen.gov
www.senatorbrubaker.com



COMMITTEES
AGRICULTURE & RURAL AFFAIRS, CHAIR
AGING & YOUTH, VICE CHAIR
APPROPRIATIONS
LABOR & INDUSTRY
LOCAL GOVERNMENT
STATE GOVERNMENT

Senate of Pennsylvania

August 16, 2010

Mr. Arthur Coccodrilli, Chairman
Independent Regulatory Review Commission
14th Floor, Harristown 2
333 Market Street
Harrisburg, PA 17101

RECEIVED
IRRC
2010 AUG 17 P 12: 17

Re: Canine Health Board Standards for Commercial Kennels; Regulation #2 - 170

Dear Chairman Coccodrilli:

I recommend the Independent Regulatory Review Commission closely review the following five criteria in the regulation: heat index, humidity, air exchange, monitoring device and cost of compliance.

- Heat Index. The Department is requiring the use of the Heat Index when the temperature in a kennel exceeds 85 degrees Fahrenheit. The Heat Index is a measure of human comfort and the appropriateness of this standard as a measure for canines is unknown. The regulation requires the Heat Index to be applied when the temperature in "any part of the kennel" (Section 28a.4(2)) rises above 85° F; temperatures under heat lamps used for newborn puppies can exceed 85° F, and reducing the humidity in the kennel to the levels prescribed by the regulation when the temperature exceeds 85° F could be detrimental to the health of the puppies and other dogs.
- Humidity. There should be a relationship between the allowable temperature/humidity levels inside a kennel to the conditions present outside of the kennel. On a humid, hot day, it may be practically impossible to keep indoor conditions to the levels required through this regulation unless the kennel owner utilizes air conditioning. In the writing of this section of the law, the legislative intent was to allow for means of ventilation that did not require the use of air conditioning, and thus the Canine Health Board was charged with determining appropriate methods of ventilation to be used when the temperature exceeded 85° degrees F.
- Volume of air movement over dogs. There appears to be confusion as to whether the requirement of 100 Cubic Feet per Minute (CFM) per dog is multiplied by the number of dogs in the kennel, or whether every dog must experience 100 CFM worth of air flow. Further, the regulation requires that each dog be "in the moving air stream provided by

the ventilation” (Section 28a.2.(f)(6)), which seems to indicate a continual breeze which could provide uncomfortable living conditions for a dog, or even unhealthy conditions if the animal is very young or ill.

- Installation of measurement device. While language was added to the regulation under Section 28a.4(8) stating that data taken from the device shall not be used as the sole basis for a civil or criminal penalty, it appears the Department DOES intend to review recorded data for past violations; this would be akin to requiring devices on cars that record driving speeds at all times, then giving that information to the police for enforcement. This may present a constitutional issue.
- Cost of Compliance. While it is not unreasonable to expect financial investment by the owner/operator of the kennel, compliance should not be cost-prohibitive.

Thank you for the opportunity to review this regulation.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Brubaker". The signature is stylized with a large, looped "B" and a cursive "M".

Mike Brubaker
Chairman
Senate Agriculture & Rural Affairs Committee

MWB/kjc