



CRS Report for Congress

The Animal Welfare Act: Background and Selected Legislation

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Summary

The Animal Welfare Act (AWA) was first passed in 1966 to prevent pets from being stolen and sold to research laboratories, and to improve the treatment and well-being of animals intended for research. Passage in 2007 of legislation (H.R. 137; P.L. 110-22) on animal fighting marked the sixth time that Congress has amended the act to strengthen enforcement, expand coverage to more animals and activities, or curtail practices viewed as cruel, among other things. Several AWA amendments also are in the pending omnibus farm bill (H.R. 2419), which at the start of 2008 was awaiting a House-Senate conference committee. Both the House and Senate versions would amend this law to limit the sources research facilities may use to obtain dogs or cats. In the House but not Senate bill is an AWA amendment to prohibit use of live animals for marketing medical devices. The Senate, but not the House, version would amend the AWA to regulate the importation of puppies for resale, and to tighten prohibitions on dog and other animal fighting activities. AWA bills in the 110th Congress include H.R. 1280/S. 714, H.R. 1947, H.R. 2193, H.R. 3219, H.R. 3327, and S. 1880.

The Animal Welfare Act (AWA; 7 U.S.C. 2131 *et seq.*) is intended to ensure the humane treatment of animals that are intended for research, bred for commercial sale, exhibited to the public, or commercially transported. Under the AWA, businesses and others with animals covered by the law must be licensed or registered, and they must adhere to minimum standards of care. Farm animals are among those not covered by the act, which nonetheless provides a broad set of statutory protections for animals.¹

The law was first passed in 1966 following several years of lobbying by animal welfare organizations and growing public outcry over allegations that large numbers of pets were being “dognapped” for sale to medical research laboratories. Congress

¹ Numerous other federal laws seek to protect other classes of animals, often those from the wild. Examples include the Marine Mammal Protection Act, the Lacey Act as amended, and the Wild Free-Roaming Horses and Burros Act. These and the others are described, with legal citations, in CRS Report 94-731, *Brief Summaries of Federal Animal Protection Statutes*, by Henry Cohen.

amended the original law in 1970, 1976, 1985, 1990, and 2002. These amendments generally were intended to expand the scope of the AWA or to clarify various provisions. The U.S. Department of Agriculture's (USDA's) Animal and Plant Health Inspection Service (APHIS) administers the AWA. The House and Senate Agriculture Committees have exercised primary legislative jurisdiction over the act and its amendments.

Key Provisions²

Animals Covered. The act applies to any live or dead dog, cat, nonhuman primate, guinea pig, hamster, rabbit, or other warmblooded animal determined by the Secretary of Agriculture to be for research or exhibition, or used as a pet. The AWA explicitly excludes birds, rats, and mice bred for research; horses not used for research; and other farm animals used in the production of food and fiber.³ Animals sold in retail facilities are not covered, unless they are wild or exotic animals. Cold-blooded animals like fish and reptiles also are excluded from coverage.

Businesses and Activities Covered. Generally, animal dealers and exhibitors must obtain a license, for which an annual fee is charged. APHIS does not issue a license until it inspects the facility and finds it to be in full compliance with its regulations. If a facility loses its license, it cannot continue its regulated activity. Those who conduct research, and general carriers that transport regulated animals, do not need a license but must still register with APHIS and undergo periodic inspections. Specific details follow.

Dealers, including pet and laboratory animal breeders and brokers, auction operators, and anyone who sells exotic or wild animals, or dead animals or their parts, must have an APHIS license for that activity. So-called Class A licensees are breeders who deal only in animals they breed and raise; all others are called Class B licensees. Exempt from the law and regulations are retail pet stores, those who sell pets directly to pet owners, hobby breeders, animal shelters, and boarding kennels.

Exhibitors must be licensed by APHIS as such. These so-called Class C licensees include zoos, marine mammal shows, circuses, carnivals, and promotional and educational exhibits. The law and regulations exempt agricultural shows and fairs, horse shows, rodeos, pet shows, game preserves, hunting events, and private collectors who do not exhibit, among others.

Animal transporters must be registered, including general carriers (e.g., airlines, railroads, and truckers). Businesses that contract to transport animals for compensation are considered dealers and must have licenses.

Research facilities must be registered. They include state and local government-run research institutions, drug firms, universities, diagnostic laboratories, and facilities that study marine mammals. Federal facilities, elementary and secondary schools, and agricultural research institutions are among those exempt from registration.

² Unless noted, sources on the AWA are various materials provided by APHIS.

³ For example, rabbits raised for food are exempt from AWA coverage; those for pets are not.

Animal fighting generally is prohibited by the AWA. The ban includes dogfights and bear and raccoon baiting; sponsors and exhibitors are subject to penalties. The AWA also bans bird fights, except in the states where they are not prohibited by state law (namely Louisiana and New Mexico), and the sponsor or exhibitor was unaware that the transaction had occurred in interstate commerce.

Standards. All licensed and registered entities must comply with USDA-APHIS regulations, including recordkeeping and published standards of care. These standards deal with humane handling, shelter, space requirements, feeding, watering, sanitation, ventilation, veterinary care, and transport. (AWA regulations are at 9 C.F.R. §1.1 *et seq.*)

Oversight and Enforcement

APHIS's Animal Care (AC) program oversees the AWA, under which more than 10,000 facilities were licensed or registered in FY2007. That year, AC had total staff of more than 180 and an annual budget of \$17.8 million.⁴

AC officials make unannounced inspections of registered and licensed facilities to ensure compliance with all rules. Under the AWA, research facilities are to be inspected at least annually. Inspection frequency for other AWA-regulated facilities is based on risk; for example, moderate-risk facilities are to be visited about once yearly. APHIS inspectors also conduct searches to identify unlicensed or unregistered facilities. Failure to correct deficiencies can result in confiscation of animals, fines, cease-and-desist orders, or license suspensions. AC inspectors conducted 18,600 inspections during FY2006, which included pre-licensing as well as compliance inspections, according to APHIS. About 70% of all facilities have been in "complete compliance" with AWA requirements at the time of their most recent inspection, according to past USDA budget documents.

Legislative History

Original Law. Although long known as the Animal Welfare Act, the original law was passed simply as P.L. 89-544, the Act of August 24, 1966. The law requires dealers in dogs and cats for research purposes to obtain a USDA license and to abide by USDA-set humane treatment requirements. It also requires a research facility to register with USDA only if it uses dogs or cats and either (1) purchases them in interstate commerce or (2) receives federal research money. The law authorizes the Secretary of Agriculture to set humane handling standards for guinea pigs, nonhuman primates, rabbits and hamsters as well as dogs and cats — but only dealers and research facilities with dogs and cats are subject to these standards. Farmers and pet owners are among those exempted from the law. Other provisions spell out recordkeeping requirements, enforcement authorities and penalties for noncompliance.

Animal Welfare Act of 1970. P.L. 91-579 expands animal coverage to include all warm-blooded animals determined by the Secretary to be used for experimentation or exhibition, except horses not used in research and farm animals used in food and fiber

⁴ A portion of this amount, nearly \$500,000, was used to administer the Horse Protection Act (15 U.S.C. §§1821-1831), which makes it a crime to exhibit or transport any "sore" horse, i.e. one whose feet have been injured to alter its gait.

research. The 1970 law also incorporates exhibitors; defines research facilities; and exempts from coverage retail pet stores, agricultural fairs, rodeos, dog and cat shows.

Animal Welfare Act Amendments of 1976. P.L. 94-279 was passed mainly to clarify and expand previous regulations covering animal transport and commerce. This act for the first time addresses animal fighting, making it illegal to exhibit or transport interstate animals used in fighting ventures, such as dogs and roosters. Hunting animals are generally exempt, as are live fighting birds for states where such fighting is legal.

Improved Standards for Laboratory Animals Act. These amendments were passed as Title XVII, Subtitle F of the Food Security Act of 1985 (P.L. 99-198, the omnibus 1985 farm bill). The law directs the Secretary to set new minimum standards of care for handling, housing, feeding, water, sanitation, ventilation, and so forth. One new provision that was highly contentious at the time singles out two species by requiring standards for the exercise of dogs and the psychological well-being of primates. The law provides that research facilities must have procedures that minimize pain and stress to the animals, and describes practices considered to be painful. Each research facility must establish an Institutional Animal Care and Use Committee to review research proposals that involve animal experimentation and to provide oversight of laboratories. The amendments also increase civil and criminal penalties for AWA violations, and establish an animal welfare information center at USDA's National Agricultural Library.

Protection of Pets. Section 2503 of the Food Agriculture, Conservation, and Trade Act of 1990 (P.L. 101-624, the 1990 farm bill) extends pet protections. It requires public and private animal shelters and research facilities which acquire dogs and cats to hold them for at least five days to allow time for either adoption or recovery by the original owner before they can be sold to a dealer. Dealers are prohibited from selling dogs and cats they did not breed unless they provide certified records on, among other things, the animals' origin. Other new recordkeeping requirements also are specified.

2002 Amendments. Title X, Subtitle D of the Farm Security and Rural Investment Act of 2002 (P.L. 107-171, the omnibus 2002 farm bill) makes it a misdemeanor to ship a bird in interstate commerce for fighting purposes, or to sponsor or exhibit any bird in a fight with knowledge that any of the birds were so shipped (even fights within a state where the practice is permitted). The law also increases the maximum financial penalty for a violation (a misdemeanor) of the anti-fighting provisions of the AWA, to \$15,000 from \$5,000. The 2002 law also explicitly excludes from AWA coverage birds, rats, and mice bred for research purposes. The Secretary of Agriculture had previously published regulations excluding these animals from coverage, which the Animal Legal Defense Fund challenged in federal court. When USDA agreed to settle the case by essentially reversing its regulations, Congress (in P.L. 106-387, the FY2001 agriculture appropriation) blocked the action by prohibiting funds for such a rule change. The 2002 law made the exclusion a permanent part of the AWA.⁵

Animal Fighting Prohibition Enforcement Act of 2007. P.L. 110-22, signed into law May 3, 2007, makes a violation of the animal fighting provisions of the AWA a felony punishable by up to three years in prison, under Title 18 of the *U.S. Code* (Crimes

⁵ CRS Report 94-731, *Brief Summaries of Federal Animal Protection Statutes*, by Henry Cohen.

and Criminal Procedure). The law, based on companion bills originally introduced by Representative Gallegly (H.R. 137) and Senator Cantwell (S. 261), also makes it a felony to trade, in interstate and foreign commerce, knives, gaffs, or other sharp objects designed for use in animal fighting, or to use the Postal Service or other “interstate instrumentality to trade in such devices, or to promote an animal fighting venture.”

Selected Bills in the 110th Congress

Other Animal Fighting Bills. Three bills aimed at further curtailing animal fighting were introduced shortly after the July 17, 2007, indictment of NFL quarterback Michael Vick on charges related to dog fighting. S. 1880 (no title) by Senator Kerry and H.R. 3219 (the Dog Fighting Prohibition Act) by Representative Sutton are essentially identical bills to amend the AWA. They would more explicitly ban various dog fighting activities, one of which is to knowingly attend a dog fighting venture; they also define the term. In December 2007, the Senate incorporated the language from these bills into its omnibus farm bill, as Section 11072. A third bill, the Federal Dog Protection Act (H.R. 3327) by Representative Gallegly, includes the provisions of H.R. 3219 and S. 1880, as well as language facilitating the ability of animal humane societies and agencies to initiate civil actions where violations are alleged.

Proponents of various animal fighting bills had observed that in 2001, the House and Senate had approved strong animal fighting sanctions in their respective farm bills (H.R. 2646 and S. 1731), but that conferees on the final 2002 farm bill removed the felony language. Stronger deterrents are needed because animal fighting is a brutal, inhumane practice that is closely associated with criminal activity, endangers children where aggressive dogs are being reared, and may contribute to the spread of avian influenza in the case of live birds, they argued. Opponents have countered that such measures would violate provisions in the U.S. Constitution that protect states’ rights, including the Commerce Clause, and that recognize private citizens’ right to travel for economic reasons. Completely banning and/or stiffening penalties for all animal fighting activities would drive them further underground, undermining efforts to protect animals and the public from any disease problems created by such activities, other opponents have argued.

Pet Safety and Protection Act. Legislation (H.R. 1280 by Representative Doyle and S. 714 by Senator Akaka) would restrict where research facilities could obtain their dogs and cats. Such animals could be obtained only from licensed breeders, publicly operated shelters, other licensed research facilities, or donees that had bred and raised the animal or that had owned it for at least the previous year. Both the House and Senate versions of the omnibus farm bill (H.R. 2419) contain the language of these bills, in Section 11317 and Section 11072, respectively. Additional language in the Senate but not the House bill directs USDA to phase out the use of random source dogs and cats from “Class B” dealers within five years.⁶ Proponents have asserted that the 15 Class B dealers who still collect dogs and cats from random sources, including “free to a good home” classified advertisements, auctions, and flea markets, are more concerned about profit

⁶ Another provision in the Senate farm bill (at the end of subtitle III-C) that is not the House bill is a prohibition on the importation of live dogs for resale, unless they are at least six months old, are in good health, and have received all necessary vaccinations; exceptions could be made for research purposes or veterinary treatment.

than animal welfare. Bill opponents contend that passage would leave no viable sources of random source dogs and cats, which are needed by medical and veterinary researchers because of their genetic and age diversity. Opponents add that the majority of Class B dealers are in compliance with the AWA.

Animal Protection Accountability Improvement Act. H.R. 2193, offered by Representative Israel, would amend the AWA to prohibit the use of animals in marketing medical devices and products, and increase the penalties for animal research facilities that violate this part of the act. This language was adopted as Section 11316 of the House farm bill (H.R. 2419); it is not in the Senate version. Interest in the proposal was stimulated at least in part by a sales demonstration in an Ohio medical facility, where a dog reportedly was given a brain aneurysm, repeatedly subjected to the medical device, and later put down. Proponents believe the incident highlighted an inhumane practice done for profit, not science or medicine. Opponents argue that the facility had not approved the demonstration and acted swiftly to address it, and that most research facilities even go beyond federal welfare requirements to ensure that research animals do not experience pain and suffering.

Haley's Act. This bill (H.R. 1947) by Representative Boyda would amend the AWA to make it unlawful for animal exhibitors and dealers (but not accredited zoos) to allow direct contact between the public and big cats such as lions and tigers. The bill, which also would increase penalties for AWA violations, was named for a teenager killed by a grown Siberian tiger in 2005 while having her picture taken with it at an APHIS-licensed facility. Opponents argue that the measure is unnecessary because federal regulations already ban such contacts with older cats (the facility presumably was out of compliance) and because zoos will gain a monopoly in exhibiting younger cats.

Selected Bills in the 109th Congress

Past legislation has addressed other animal welfare concerns. For example, in the 109th Congress, the Pet Animal Welfare Statute (“PAWS”) by Representative Gerlach (H.R. 2669) and Senator Santorum (S. 1139) would have required commercial dog and cat breeders to obtain AWA licenses if they sell more than six litters or more than 25 dogs or cats directly to the public each year. The bills also would have required more record-keeping to ascertain the sources of the animals and would have strengthened USDA’s ability to correct AWA violations. Supporters of the bills contended that the Internet and other relatively recent marketing techniques have enabled importers and large commercial breeders, whom they call “puppy mills,” to sell their animals directly to the public while evading the AWA licensing and humane handling requirements, even though they are selling large numbers of animals. (Wholesale breeders are already covered by the AWA.) Opponents countered that the measures would strain USDA resources and newly subject thousands of relatively small in-home and hobby breeders, as well as rescue organizations, to burdensome licensing and regulatory requirements that were designed for large commercial businesses; some cat breeders in particular have argued that the six-litter limit is too low for their animals and threatens efforts to preserve some breeds.