

Animal Welfare Act Farm Bill Provision

Section 12308: AMENDMENTS TO ANIMAL WELFARE ACT

This provision gives the Secretary the authority to define “de minimis” under the Animal Welfare Act for the purpose of exempting certain dealers or exhibitors from licensure requirements. It also makes knowingly attending or causing a minor to attend an animal fighting event illegal. (USDA’s Office of Inspector General enforces the animal fighting provision).

Farm Bill Manager’s Related Report Language:

The Conference substitute amends the Animal Welfare Act by providing “that a dealer or exhibitor shall not be required to obtain a license as a dealer or exhibitor under this Act if the size of business is determined by the Secretary to be de minimis.” By limiting the scope of dealers and exhibitors who are required to obtain a license, the conference substitute allows the Secretary of Agriculture to focus the U.S. Department of Agriculture Animal and Plant Health Inspection Service’s limited budget and inspection and enforcement staff on entities that pose the greatest risks to animal welfare and public safety. USDA has found that no license is required for small-scale breeders of certain animals (i.e., those that maintain four or fewer breeding cats and dogs and who sell only the offspring of those animals which were born and raised on the premises for pets or exhibition) and the Conference substitute codifies this exemption, allowing USDA to determine that animal breeders who raise animals on their own premises need not obtain a license if the number of animals they breed or sell, or the gross annual dollar amounts earned from such activities, are so minor as to merit disregard. The Managers continue to recognize the importance of ensuring that all animals bred, transported, and sold in (or substantially affecting) interstate commerce are humanely treated. The Conference substitute also allows USDA to determine that certain exhibition businesses are de minimis. An exhibitor’s business must not be considered de minimis merely because the facility operates as a non-profit corporation, nor is the exhibition of a small number of dangerous animals (including, but not limited to, big cats, bears, wolves, nonhuman primates, or elephants) de minimis. The Managers expect APHIS to complete this rulemaking expeditiously and would suggest a timeframe not to exceed one year from the date of enactment in order that the agency begin receiving the benefit the policy provides related to resource allocation. Furthermore, by freeing up resources and more effectively focusing its regulatory program, the Managers observe that this policy eliminates a direct obstacle to lifting the stay on the agency’s contingency rule and issuance of the proposed rule to regulate bird dealers and exhibitors, and expect action to be taken on these rules without delay.

The Animal Welfare Act (AWA or the Act, 7 U.S.C. 2131 et seq.) seeks to ensure the humane handling, care, treatment, and transportation of certain animals that are sold at wholesale and retail for use in research facilities, for exhibition purposes, or for use as pets by means of federal licensing and inspection. A revised definition of retail pet store included in the Final Rule published by USDA on September 10, 2013, and effective November 18, 2013, restored and amended the exemption in § 2.1(a)(3)(vii) so that any person including, but not limited to, purebred dog or cat fanciers, who maintains a total of four or fewer breeding female dogs, cats, and/or small exotic or wild mammals, and who sells, at retail, only the offspring of these dogs, cats, and/or small exotic or wild mammals, which were born and raised on his or her premises,

for pets or exhibition, and is not otherwise required to obtain a license, is also considered a retail pet store for regulatory purposes.

The Managers are aware of confusion among the regulated industry and request clarification of two principles pertaining to the sale of pets: (1) Current regulatory language uses the term “breeding female” which does not appear in statute and thus lacks statutory direction. The Managers urge APHIS to clarify that only those female animals capable of reproduction and actively being used in a breeding program qualify as breeding females. (2) The Managers also recommend clarifying that USDA oversight of such sales pertains to those transactions in interstate commerce as provided for under the Commerce Clause (U.S. Const. amend. I, § 8.)] [and as referenced in §2132 (c) of the Animal Welfare Act and regulated under authority of the United States department of Agriculture].