



The Animal Welfare Act: Background and Selected Legislation

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December 8, 2009

Congressional Research Service

7-5700

www.crs.gov

RS22493

Summary

The Animal Welfare Act (AWA) was first passed in 1966 to prevent pets from being stolen for sale to research laboratories, and to improve the treatment and well-being of animals intended for research. Congress periodically has amended the act to strengthen enforcement, expand coverage to more animals and activities, or curtail practices viewed as cruel, among other things. Farm animals are not covered by the AWA, which is administered by the U.S. Department of Agriculture's Animal and Plant Health Inspection Service.

In the 110th Congress, 2007 legislation (H.R. 137; P.L. 110-22) was aimed at strengthening provisions against animal fighting, the sixth time that Congress has amended the act. It was amended again in 2008 when AWA provisions were included in the 2008 farm bill (P.L. 110-246). These provisions ban the importation of puppies under six months of age for resale, tighten prohibitions on dog and other animal fighting activities, and increase penalties for violation of the act.

Other AWA bills that were pending at the close of the 110th Congress included H.R. 1280/S. 714, to restrict where research facilities could obtain their dogs and cats; H.R. 1947, 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; H.R. 2193, to prohibit the use of animals in marketing medical devices and products; and H.R. 6949/S. 3519, to require an AWA license from USDA of those who raise more than 50 dogs in a 12-month period and sell directly to the public.

Only one of these proposals—to restrict where research facilities could obtain their dogs and cats—was reintroduced in the first session of the 111th Congress. This proposal, the Pet Safety and Protection Act of 2009, was introduced October 22, 2009, into the House as H.R. 3907 and into the Senate as S. 1834.

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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 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.

Animal welfare advocacy organizations have continued to back proposals to further extend the reach of the AWA. Although a variety of such proposals were introduced in the 110th Congress, only one, the Pet Safety and Protection Act of 2009 (H.R. 3907/S. 1834), had re-emerged as of the end of the first session of the 111th Congress (see “Pet Safety and Protection Act of 2009,” below).

Key Provisions²

Animals Covered

The act applies to any live or dead dog, cat, nonhuman primate, guinea pig, hamster, rabbit, or other warm-blooded 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

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.

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.

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.

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 has banned 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 approximately 10,300 facilities were licensed or registered in FY2008. That year, AC had total staff of approximately 200 and an annual budget of nearly \$21 million.⁴

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.

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 18,343 inspections during FY2007, which included pre-licensing as well as compliance inspections, according to APHIS.

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 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 that 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 and Criminal Procedure). The law, based on companion bills 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."

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, but that conferees on the

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

final 2002 farm bill (P.L. 107-171) 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.

2007-2008 Farm Bill

Animal Fighting

A new omnibus farm bill (P.L. 110-246, first passed as H.R. 2419) contains a number of amendments to the AWA. One section (§14207) strengthens further the definitions of, and penalties for, activities related to animal fighting. For example, maximum imprisonment rises to five years from the current three years. The animal fighting provision is based on language in S. 1880 and H.R. 3219—bills introduced shortly after the July 17, 2007, indictment of NFL quarterback Michael Vick on charges related to dog fighting—to more explicitly ban various dog fighting activities, and to define the term.⁶

Puppy Imports; Penalties for AWA Violations

The 2008 farm bill requires regulations to prohibit imports for resale of dogs unless they are at least six months of age, in good health, and have all necessary vaccinations, with exemptions for research, veterinary treatment, or imports into Hawaii from certain countries. Another section (Section 14214) increases the maximum penalty for a general violation of the act from the current \$2,500 to \$10,000 for each violation.

Dogs and Cats in Research

Both the House- and Senate-passed versions of the omnibus farm bill had contained the language of two other pending bills (the Pet Safety and Protection Act of 2007; H.R. 1280/S. 714) to restrict where research facilities could obtain their dogs and cats. This language was deleted by conferees; the final version instead directed USDA to review “any independent reviews by a nationally recognized panel of experts” on Class B use by researchers. Conferees said in accompanying report language that they were aware of concerns regarding use of random source animals from Class B dealers. However, they observed that USDA’s FY2008 appropriation (part of the Consolidated Appropriations Act, 2008, P.L. 110-161) had requested such an independent review, which was underway by the National Research Council (NRC) of the National Academies of Science (NAS). The results “will help provide Congress information regarding the value of Class B dogs and cats in medical research.”

⁶ Another bill, H.R. 3327, included the provisions of H.R. 3219 and S. 1880, as well as language to enable animal humane agencies to initiate civil actions where violations are alleged.

Pet Safety and Protection Act of 2009

Critics have long asserted that the limited number of Class B dealers who still collect dogs and cats from random sources, including “free to a good home” classified ads, auctions, and flea markets, are more concerned about profit than animal welfare. Others have contended 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; and that the majority of Class B dealers are in compliance with the AWA.

The NRC issued its report in May 2009. It concluded that random source dogs and cats may be desirable and necessary for certain types of biomedical research but that “it is not necessary to acquire them through Class B dealers, as there are adequate numbers of such animals from shelters and other sources.”⁷ The NRC noted that of the more than 1,000 Class B dealers in the United States, at last count only 11 of them acquired and sold live dogs and cats for research and teaching. The report’s conclusions and recommendations apply only to these 11 dealers that may supply such animals for research funded by the National Institutes of Health, the authors stated.

The report discusses in more detail the advantages and disadvantages of random source dogs and cats, which constitute less than 1% of all laboratory animals; evaluates the Class B dealer system, under which (it found) animal standards of care appear to vary greatly; and offers alternative options for obtaining random source animals. These alternatives include partnering with pet owners, veterinarians, breeders, and others; obtaining animals from Class A dealers and through donations from small breeders and hobby clubs; and acquiring animals directly from pounds and shelters, among others.

On October 22, 2009, the Pet Safety and Protection Act was reintroduced as H.R. 3907/S. 1834. These bills would amend the AWA to limit the sources of random source dogs and cats to a licensed dealer (under Section 3 of the AWA) who has bred and raised the animal; a publicly owned or operated pound or shelter that meets certain qualifications; someone donating the dog or cat that bred and raised the animal or owned it for not less than one year; and research facilities licensed by the Secretary of Agriculture. The bill also would subject violators to a fine of \$1,000 per violation, over and above any other applicable penalties.

Other Selected Bills

The following bills were offered in the 110th Congress but did not re-emerge as proposals in the first session of the 111th Congress.

Animal Protection Accountability Improvement Act

H.R. 2193 would have amended 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 the House farm bill (H.R. 2419) but was deleted by conferees.

⁷ NAS, *Scientific and Humane Issues in the Use of Random Source Dogs and Cats* (Report in Brief), May 2009. The entire report is at http://www.nap.edu/catalog.php?record_id=12641.

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) would have amended 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 have increased 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.

Puppy Mills

The proposed Puppy Uniform Protection and Safety (PUPS) Act (H.R. 6949/S. 3519) would have required those who breed dogs to obtain an AWA license from USDA if they raised more than 50 dogs in a 12-month period and sold directly to the public. The bills also would have set some minimum daily exercise requirements for dogs held by the dealers. 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.

The bills were similar in intent to measures offered in the 109th Congress, the Pet Animal Welfare Statute (“PAWS”; H.R. 2669; S. 1139). These bills would have required commercial dog and cat breeders to obtain AWA licenses if they sold more than six litters or more than 25 dogs or cats directly to the public each year, among other things.

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