

From: [Sunset Advisory Commission](#)
To: [Trisha Linebarger](#)
Subject: FW: Public Input Form for Agencies Under Review (Public/After Publication)
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From: sunset@sunset.texas.gov <sunset@sunset.texas.gov> On Behalf Of Texas Sunset Commission
Sent: Wednesday, August 19, 2020 12:28 PM
To: Sunset Advisory Commission <Sunset@sunset.texas.gov>
Subject: Public Input Form for Agencies Under Review (Public/After Publication)

Agency: TEXAS DEPARTMENT LICENSING AND REGULATION

First Name: Phil

Last Name: Guidry

Title: Director, Policy Analysis

Organization you are affiliated with: American Kennel Club, Inc.

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City: Raleigh

State: North Carolina

Your Comments About the Staff Report, Including Recommendations Supported or
Opposed:
August 19, 2020

Texas Sunset Advisory Commission
P.O. Box 13066
Austin, Texas 78711

Comments by the American Kennel Club on Texas Sunset Advisory Commission's Recommendation to Eliminate Licensed Breeders Program

Founded in 1884, the American Kennel Club (AKC) is America's only not-for-profit all-breed dog registry devoted to the study, breeding, exhibiting, and advancement of purebred dogs. We represent more than 5,000 dog clubs nationally, including 292 clubs in the State of Texas.

In addition to the millions of dollars Texas residents spend annually on their American Kennel Club-registered dogs, the AKC sanctions thousands of dog events each year that also generate significant economic benefits to local communities. In 2019, the AKC licensed and sanctioned 1,248 events in Texas in which more than 159,200 dogs participated. Exhibitors at AKC conformation dog shows spend an average of \$685 per show weekend. This means spending by AKC dog show exhibitors for a show weekend could inject more than \$1.7 million into a local economy. And because AKC dog shows are an educational and family-friendly event, large spectator gates can generate additional revenues for cities and towns statewide.

We demonstrate our commitment to responsible dog ownership and breeding through a variety of educational programs, humane programs, a multi-million-dollar commitment to canine health research through the AKC Canine Health Foundation—which, since 1995, has funded more than \$58.7 million in research—and by conducting thousands of kennel inspections each year.

The American Kennel Club supports reasonable and enforceable laws that protect the welfare and health of dogs and do not

restrict the rights of breeders and owners who meet their responsibilities. The AKC expects responsible dog owners and breeders to know, understand, and obey laws that apply to them. Moreover, we believe that dogs deserve a life in safe, caring, and healthy environments, and those who treat dogs in a negligent or cruel manner should be held accountable.

The American Kennel Club thanks the Texas Sunset Advisory Commission (Commission) for the opportunity to comment on its recommendation that the Licensed Breeder Program should be eliminated.

The Value of Responsible Breeders

For over 135 years, the American Kennel Club has supported and valued the responsible owners and breeders who breed and raise our cherished pets and beloved working dogs. Responsible breeders are an important asset and educational resource in our communities.

One of the most effective ways to ensure that dogs are placed in safe, loving environments is to support responsible dog breeders.

Responsible breeders are experts in their breed, and know the pedigree of the dogs they sell. They can tell potential buyers about the temperament, health, and other characteristics unique to the puppy they are considering. Many breeders devote their entire lives to developing a line or pedigree of dogs that meet specific temperament, performance, and health standards. Many also breed dogs for specific purposes, such as hunting, search and rescue, therapy, and assistance for the disabled. When responsible breeders sell a puppy, they ensure these dogs are placed in good homes by implementing a screening process for potential buyers and following up after the purchase. They often take dogs back if they are not in an ideal situation and place them in new homes.

States should consider responsible breeders an asset, as they are in a unique position to mentor new dog owners, provide advice and detailed information about the dogs they own and sell, and serve as knowledgeable animal husbandry resources for their states and communities.

AKC Abhors Animal Cruelty

The American Kennel Club takes a strong line against animal cruelty. We work to ensure that anyone—regardless of the number of dogs they own—who treats a dog negligently or cruelly is held responsible for such actions. Anyone who is convicted of animal cruelty involving dogs loses their AKC registration privileges.

The American Kennel Club is also the only registry that has a significant investigations and inspections program to ensure that people who register litters with us raise their dogs in a humane manner. Our kennel inspections program includes a flexible, comprehensive, performance-based care and conditions policy for the welfare of dogs that applies to anyone who registers a dog with us. The program has conducted more than 70,000 inspections of people who have registered their dogs with AKC since 2000.

Quality of Care is What Matters

Every profession has a few “bad apples” that tarnish the reputation of an otherwise respectable profession. Unfortunately, dog breeding is no exception. Thankfully, these few irresponsible breeders comprise a very small minority of an otherwise unique and special profession. According to the 2019 Animal Welfare Impact Report by the United States Department of Agriculture’s Animal and Plant Health Inspection Service (USDA APHIS), 99% of Animal Welfare licensees and registrants were found to be in substantial compliance through the use of inspections, guidance, and outreach. Those who do breed or care for dogs in an irresponsible or cruel manner must be punished under the law, but the term “irresponsible” must be carefully defined. When the Texas Dog and Cat Breeders Act was under consideration in 2009 and 2011, an unfortunate but common trend was to equate the term “irresponsible” with the number of dogs—particularly females—someone owns. There is an unfortunate tendency among individuals unfamiliar with animal husbandry and best practices in animal care to assume that keeping large numbers of dogs automatically equates to poor and inhumane care. Many of these people base their advocacy for state-run breeder regulation and oversight programs on this assumption.

However, just as there are excellent owners of 100 dogs, there are negligent owners of one dog. Simply reducing the threshold number of animals that qualifies a person or business for regulatory oversight, as recommended by many commenters, will not automatically make them a better or more humane owner. There is no magic number that will suddenly make someone a better dog breeder. Arbitrary numerical caps completely miss the underlying issue—owner responsibility.

In response to the multi-species effort at limiting animal ownership, many agriculture groups have partnered with the American Kennel Club throughout the United States to fight legislation that places arbitrary thresholds on animal ownership. They know that historically as well as today, the great kennels—like the great horse farms or cattle ranches—have maintained and provided excellent care to large numbers of animals and assured genetic diversity for the health of future generations of animals; and continue to do so.

Texas' Licensed Breeders Program is Not Alone in Inefficiency and Insolvency

Beginning in 2007, state-level breeder regulation regimes were promoted by and advocated for by a variety of animal rights groups across the country.

As these far-reaching programs became popular in the years that followed, even legislators and professional legislative staff claimed that many hundreds of dog breeders who met certain ownership thresholds would be subject to the new regulatory system, and that license/inspection fees and fines would ensure program solvency.

Respectfully, time has proven those claims to be flawed. The problems of the Licensed Breeders Program—regulated class parameters, unenforceable requirements, disproportionately high administrative costs—as reported by the Commission in its June 2020 Sunset Staff Report, are not unique to Texas. Other states have reached the same conclusion that the Commission has: That their programs are operationally inefficient and insolvent.

Tennessee

Tennessee's experience serves as a bellwether. The Tennessee Commercial Breeder Act was passed in 2009 and went into effect January 1, 2010. The act licensed, regulated, and required inspection of commercial dog and cat breeders. It considered a commercial breeder to be a person who possessed or maintained 20 or more unsterilized adult female dogs or cats for the purpose of selling the offspring as companion animals.

This law, which included an automatic sunset provision, was enacted based on fiscal projections that it would generate more than \$1 million dollars per year from licensing revenue received from an estimated 500 licensed breeders.

The actual number of licensed breeders as of fiscal year 2011-2012 was 20, actual licensing revenue was \$70,200, and the increased cost to taxpayers to administer the program was \$365,600.

Despite legislation that sought to remove its sunset provision, the law was allowed to sunset in 2014. Subsequent efforts to recreate the Tennessee program have failed in that state's General Assembly.

Wisconsin

Wisconsin is the latest state to indicate that the fiscal integrity of its law that regulates dog breeders and sellers, which was also enacted in 2009, is of concern. It requires dog breeders selling 25 or more dogs a year, from more than three litters they have bred, to be licensed and regulated.

In July 2020, Wisconsin's Department of Agriculture, Trade, and Consumer Protection reported that the dog seller program's fiscal year 2019 costs were \$338,600, while revenues rose only to \$181,200. With a tradition of such cost overruns, the department determined that it is not able to reduce its program expenditures to current revenues without failing to meet program requirements that have been set by the state's legislature.

Enforcement Counts

There is no disagreement: Those who treat dogs in an inhumane manner should be punished. Each of the 50 states, as well as the United States Code, outlaw animal negligence and cruelty. When tragic stories of animal cruelty and irresponsible breeding come to light, they almost always result in charges under existing law being brought against the individual or business responsible.

The problem is not an absence of laws, but rather a lack of enforcement or the resources to properly enforce existing laws. Many states and local communities simply do not have the manpower or money necessary to adequately enforce existing laws.

There have been many attempts across the country to further regulate dog breeders, including requiring warrantless inspections of private homes without probable cause as well as impractical and arbitrary standards of care. Such provisions are often ineffective and unenforceable. In our view, the problem is more complex than simply creating new or more restrictive laws – it requires the ability and will to enforce the laws against negligence and cruelty that are already on the books. A “quick fix” of

adding new laws will not change or improve a lack of enforcement and may only divert resources from much-needed enforcement operations.

At the federal level, the United States Department of Agriculture has regularly strengthened the standards for humane care and treatment of dogs and other animals owned by those regulated by the Animal Welfare Act (AWA). In May 2020, USDA's Animal and Plant Health Inspection Service finalized updates to AWA regulations. The changes were made in an effort to promote compliance, reduce license fees, and strengthen safeguards to prevent individuals and businesses with a history of noncompliance from obtaining a license or working with regulated animals. To better align the regulations with the humane care and treatment standards set by the AWA, the final rule also includes changes to the veterinary care and watering standards for regulated dogs. The AKC supports the strong enforcement of the Animal Welfare Act, as well as an increase in the number of USDA enforcement personnel.

Recommendations

The American Kennel Club agrees with the Texas Sunset Advisory Commission's recommendation regarding the current Licensed Breeder Program. In our view, sufficient evidence exists to support a conclusion that the program and its underlying legislation are operationally inefficient, ineffective, and insolvent.

We believe it is incumbent upon the Texas Legislature to determine a best means of moving forward with a reasonable alternative to the state's current programs. Contrary to what proponents of them imply, the underlying law and the Licensed Breeders Program are not the only way to ensure the appropriate care of animals by breeders. In our view, no single enforcement strategy or regulatory instrument will achieve all regulatory goals. However, multi-pronged approaches, which may include stronger enforcement of cruelty laws, cooperation with USDA APHIS, and development of strong consumer protection laws, will likely be more cost effective, flexible, and administratively feasible.

The American Kennel Club thanks the Texas Sunset Advisory Commission for its consideration of these comments and recommendations. We appreciate the Commission's recognition of the value of working with stakeholders to ensure that oversight of government programs takes into account accurate data and real-world implementation experiences to determine program efficacy.

This comment with citations may be viewed at <https://cqrengage.com/akc/file/tbhH3gu3dgp/AKC%20comment%20to%20TX%20Sunset%20Advisory%20Commission%208-19-20%20FINAL.pdf>.

Questions may be addressed to:

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Any Alternative or New Recommendations on This Agency:

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My Comment Will Be Made Public: I agree