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Statement by Cori A. Menkin for The American Society
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Testimony before the Pennsylvania House of Representatives Agriculture and Rural
Affairs Committee on HB 2525, a bill to amend the Dog Law

June 12, 2008

Good morning. My name is Cori Menkin, Senior Director of Government Affairs of the American Society for the Prevention of Cruelty to Animals (ASPCA). I'd like to thank Chairman Hanna and the Agriculture and Rural Affairs Committee for the opportunity to speak on the proposed amendments to the Dog Law.

I am speaking on behalf of the over 651,000 Pennsylvania residents who are members of the ASPCA or the Humane Society of the United States (HSUS). The ASPCA is fully aware of what is required to humanely care for and house large numbers of dogs, as we run a fully operation shelter. I am here to encourage passage of HB 2525 in order to ensure humane standards of care for dogs confined in large commercial breeding operations in the Commonwealth. We are more than willing to work with this Committee and interested parties to develop standards that we can all be happy with.

House Bill 2525 seeks to put into place changes that would dramatically improve the lives of dogs housed in the State's commercial kennels. HB 2525 creates separate standards of care for large commercial kennels that sell or transfer more than 60 dogs in a calendar year or sell dogs to dealers or pet shops. Currently, dogs housed in Pennsylvania's commercial kennels can legally be kept in conditions that most people would consider inhumane. For many dogs living in Pennsylvania's commercial kennels, legal is not synonymous with humane.

HB 2525 creates much needed changes, including:

- **Require that every dog be examined by a licensed veterinarian at least once a year or at every pregnancy.** - This is perhaps the most important change to be made to the current law. Our undercover investigators consistently see dogs suffering and languishing in commercial kennels due to untreated injuries and illnesses.
- **Increase the necessary cage space required for each dog, and provide each dog with access to an outdoor exercise area.**
- **Require solid flooring for dogs.**
- **Prohibit the stacking of cages.**
- **Provide clear and concise language on the authority of the Department of Agriculture to close down substandard kennels and kennels that choose to operate without a license.**
- **Establish temperature requirements to protect dogs from temperature extremes by requiring kennels to maintain the temperature between 50 and 85 degrees.**
- **Ensure that dogs unable to reproduce are not brutally killed or left to starve to death.** – Right now it is legal for kennel owners in Pennsylvania to shoot their breeding dogs when they are no longer productive. One notorious Pennsylvania breeder breaks their necks with his bare hands.

Many of the provisions that I mention may seem like obvious, simple changes to ensure the well-being of Pennsylvania's dogs. However, some of them have actually become quite controversial, and I'd like to address some concerns that have been raised.

Increased cage size. HB 2525 would require that for dogs over the age of twelve weeks in commercial kennels, existing floor space must be double the current requirement. For the first two dogs in an enclosure it would be doubled and for each dog thereafter, it would increase by 1.5 times.

By contrast, under current law, a dog the size of a beagle can legally be kept in a cage about the size of your dishwasher for her entire life. A 90 pound Golden Retriever can legally be kept in an enclosure measuring approximately 3 feet by 3 feet for her entire

life. It is absolutely legal to confine a golden retriever to a cage this size for every minute of her entire life, and that is, in fact, what many large breeding facilities do. It is important to remember that the cage is the space in which dogs in commercial kennels spend their **entire existence**, 24 hours a day, 7 days a week, 365 days a year.

Some of those opposing this bill have argued that the minimum size required for primary enclosures should remain as it has always been. Opponents argue again and again that the standards of the Animal Welfare Act (“AWA”) are adequate and that there is no need to increase these standards. It is interesting to note that commercial breeders opposed the Animal Welfare Act in 1970 and the adoption of the original Pennsylvania Dog Law in 1982. And yet, USDA standards (pursuant to AWA) are no better than survival standards for dogs.

Responsible breeders would agree that Pennsylvania’s dogs deserve better than mere survival standards. In fact, the USDA has specifically stated that “[t]he AWA requires that *minimum* standards of care and treatment be provided for certain animals bred for commercial sale...Although federal requirements establish acceptable standards, they are not ideal. Regulated businesses are encouraged to exceed the specified minimum standards” (emphasis added).¹ The USDA has repeatedly asserted that their regulations and standards are *minimum* requirements and can be built upon by the states.² The drafters of the Dog Law did not intend simply to bring Pennsylvania up to USDA standards. Rather, the Dog Law was originally enacted in 1982 because of the failure and inadequacies of the Animal Welfare Act in addressing the problems associated with commercial kennels. To now argue that Pennsylvania need not adopt stricter standards than the Animal Welfare Act is to argue against the intent of the Dog Law. HB 2525 simply provides the dogs with enough space for full range of movement to enhance the quality of life and physical and psychological well-being of the dogs and their puppies.

According to an article published in the *Journal of Applied Animal Welfare Science* (JAAWS), “Dogs raised in cell-like conditions can develop abnormal behaviors of extreme fear, kennel shyness, and atypical aggression, or become involved in acute

¹ www.aphis.usda.gov/lpa/pubs/awact.html, last visited June 9, 2008.

² See 7 U.S.C. § 2143(A)(8), stating that the federal Animal Welfare Act does not preempt state laws.

stereotypies. Stereotypies...are indicators of psychologically deprived animals.”³ Additionally, “[c]ramped enclosures are associated with a higher prevalence of circling and other stereotypies than relatively large enclosures...This indicates that too small living areas affect the dogs’ behavioral health and hence their general well-being.”⁴ An article published in *Laboratory Animal Science* is often cited by opponents to support the idea that smaller cage size actually leads to *more* movement by the dogs. However, it is well established that an increase in movement by closely confined animals is usually the result of stereotypic behavior, such as pacing, spinning, or wall-bouncing.⁵ As a result, an increase in movement is not synonymous with increased well-being of the animal. Additionally, a study published in *Applied Animal Behavior Science* found that “a study of mixed breed dogs housed in pens with spacious, outdoor runs has shown that both the activity of the animals and their range of species-typical locomotory behaviors was greater than that shown by dogs in small standard pens.”⁶ That is, the larger the area of confinement, the more varied and species-appropriate the behavior. Thus, it is in the best interest of the dogs and the people caring for them to reduce the frequency and severity of stereotypic behaviors by increasing the amount of space and exercise that the dogs are given.

Additional Exercise Opportunity. HB 2525 would also require that all dogs over 12 weeks of age in commercial kennels have continuous access to an outdoor exercise run. Once again, the opposition argues that Pennsylvania should simply stay on

³ See Coppinger, Raymond and Jule Zuccotti, Kennel Enrichment: Exercise and Socialization of Dogs, JAAWS, 2(4), 281-296, 1999.

⁴ See Hubrecht RC. 2002. Comfortable quarters for dogs in research institutions. In: Reinhardt V, Reinhardt A, eds. *Comfortable Quarters for Laboratory Animals*. 9th ed. Washington DC: Animal Welfare Institute.

⁵ Hubrecht RC. 2002. Comfortable quarters for dogs in research institutions. In: Reinhardt V, Reinhardt A, eds. *Comfortable Quarters for Laboratory Animals*. 9th ed. Washington DC: Animal Welfare Institute. p 56-64, citing Hubrecht RC, Serpell JA Poole TB 1992. *Correlates of pen size and housing conditions on the behavior of kenneled dogs*. *Applied Animal Behaviour Science*, 34, 365-383.

⁶ Hubrecht RC. 2002. Comfortable quarters for dogs in research institutions. In: Reinhardt V, Reinhardt A, eds. *Comfortable Quarters for Laboratory Animals*. 9th ed. Washington DC: Animal Welfare Institute. p 56-64, citing Hubrecht RC, Serpell JA Poole TB 1992. *Correlates of pen size and housing conditions on the behavior of kenneled dogs*. *Applied Animal Behaviour Science*, 34, 365-383.

par with the requirements of the AWA. That argument fails to recognize the minimal nature of those standards.

The JAAWS article mentioned earlier states that exercise affects conformation. "There is ample embryological evidence that organ systems cannot grow normally if they do not function normally. Legs not only can run but must run in order to grow."⁷ Requiring that dogs have access to an outdoor exercise area will help prevent the debilitating muscle atrophy common in dogs kept in close confinement for long periods of time.

Solid Flooring Requirement. HB 2525 would also require that dogs over the age of twelve weeks living in commercial kennels be given solid flooring instead of wire flooring. Wire flooring is now commonplace at commercial kennels. The current law allows dogs to spend their entire lives on wire, never even experiencing a solid surface. Recently released footage shown on the Oprah Winfrey Show documented that dogs removed from commercial kennels in Pennsylvania sometimes do not know how to walk on solid ground because they have lived their entire lives balancing on wire flooring.

A review of inspection records of commercial kennels shows that inspectors frequently note dogs feet are falling through wire flooring, which can cause serious leg and foot injuries. Infected feet and toenails that curl into the foot due to lack of pressure on the nail are not uncommon. Additionally, in the sweltering summer heat, where the vinyl coating has worn off the wires, dogs are forced to stand on scorching wire, "branding" the imprint of the wire on their paw pads. Imagine putting your hand on the handle of a car door that has been heated by the direct sun. The difference is that you can pull your hand away. These animals cannot escape the burn as they are forced to stand on this wire continually. By contrast, when the weather is extremely cold, wire flooring allows for drafts, while solid flooring provides a draft-free surface which enables the dogs to retain their body heat. I have provided the Committee with some photographs of dogs housed on wire mesh flooring for your reference. A solid surface that is impervious to moisture is necessary to provide for the comfort, safety, and well-being of the dogs.

⁷ Id.

The opposition to HB 2525 argues that solid flooring will be “detrimental” because it creates unsanitary conditions. Wire flooring has not been proven to be more sanitary than solid flooring. In fact, feces do not readily fall through wire mesh. The only way it goes through is when the dogs grind it through the wire with their feet, which creates shockingly unsanitary conditions. Both the dogs themselves and the wire become caked in feces and debris. As a compromise, HB 2525 would permit kennel owners to provide an area with wire flooring, as long as it is in addition to the required solid floor space.

It is also important to note that compliance with the sanitation requirements of the Dog Law will ensure that dogs are not housed in unsanitary conditions, even with solid flooring. Kennel owners are required to remove excreta from primary enclosures at least daily. If kennel owners are in compliance with this provision of the law, then solid flooring will not create an unsanitary living environment for the dogs. Actually, solid flooring along with daily removal of waste would provide more sanitary conditions than wire flooring where feces is caked on the wire and cannot be removed without substantial effort.

Additionally, there is ample scientific evidence to indicate that solid flooring is superior to wire flooring for caged dogs. In an article published in the *International Journal of Laboratory Animal Science and Welfare*, the Joint Working Group on Refinement stated that “[t]he preferred flooring for dog accommodations is a solid continuous floor ... Slatted flooring systems [different from wire flooring in that it is sturdier and easier to clean] are sometimes preferred over solid floors because they are easier to maintain and clean, but the majority of the Working Group members recommend solid, or at least only partially-slatted, floors and agree that dogs prefer solid flooring.”⁸

Prohibition on Stacking Cages. HB 2525 would prohibit the stacking of primary enclosures for dogs over twelve weeks of age. For puppies under twelve weeks

⁸ The International Journal of Laboratory Animal Science and Welfare, *Refining dog husbandry care*, Volume 38, Supplement 1, July 2004.

of age, cages could not be stacked higher than two rows, with the bottom of the top row being no higher than four and one-half feet above the ground.

Currently, commercial kennel owners generally stack cages on top of one another. In reality is forces the dogs to defecate on one another and excuses the kennel operator from having to actually remove the dogs and clean the cages. Additionally, breeders sometimes stack cages so high that inspectors are unable to even see the dogs on top. It is more difficult to observe the structural soundness, sanitary condition of cages, and physical condition of dogs located high above the ground. Although the AWA requires breeders to observe every dog, every day, that is clearly not happening if dogs are stacked so high that you would need a ladder to see them. In stark contrast, HB 2525 would ensure that breeders and inspectors are able to see every dog every day.

Enforcement of Dog Law Against Unlicensed Breeders. HB 2525 would also give the Bureau of Dog Law Enforcement the tools it needs to enforce the law against unlicensed breeders. Last March, when this committee was considering regulatory change on this issue, one of the arguments raised by the breeders was that dogs will not conceive or carry litters to term if they are not properly cared for, and therefore the breeders must already be providing adequate care for their dogs. I stated at that time that dogs are extremely resilient animals and can conceive in even the harshest of conditions. An undercover investigator for the ASPCA recently rescued an Italian Greyhound from a commercial breeding facility in Pennsylvania. Her owner had decided that Italian Greyhounds were simply not selling this year, so he decided to starve her to death inside a barn rather than waste any food on her. At the time she was rescued, she was on death's door. She was also pregnant. In fact, she gave birth to a litter of seven puppies the night she was rescued (four of which survived). I've provided you with some before and after pictures of her and her puppies. Clearly, dogs are able to conceive and carry litters to term, even when not receiving adequate care. Don't let the breeders convince you otherwise.

This case also illustrates the need for the Bureau to be able to follow up after a breeder voluntarily surrenders a license or has a license revoked. The breeder in this case had voluntarily relinquished his license eight months prior to the time our

investigator went in, so the Bureau had no authority to enter the property again to determine if he was still breeding dogs. It also demonstrates the need for adequate veterinary care. This Italian Greyhound had never been seen by a veterinarian in her entire life. HB 2525 would ensure that this never happens again.

Pennsylvania has come to be known as the “Puppy Mill Capital of the East.” This image has tarnished the State’s reputation and has impacted the tourist trade, especially in Lancaster County. There is abundant evidence to prove that dogs housed in Pennsylvania’s large-scale commercial breeding facilities are not receiving humane care. House Bill 2525 will help ensure that in the future, they do.











