

109TH CONGRESS
1ST SESSION

S. 1139

To amend the Animal Welfare Act to strengthen the ability of the Secretary of Agriculture to regulate the pet industry.

IN THE SENATE OF THE UNITED STATES

MAY 26, 2005

Mr. SANTORUM (for himself and Mr. DURBIN) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Animal Welfare Act to strengthen the ability of the Secretary of Agriculture to regulate the pet industry.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Pet Animal Welfare
5 Statute of 2005”.

6 **SEC. 2. DEFINITIONS.**

7 Section 2 of the Animal Welfare Act (7 U.S.C. 2132)
8 is amended—

9 (1) by redesignating subsections (a), (b), (c),
10 (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), and

1 (o) as subsections (k), (o), (c), (p), (m), (e), (a), (f),
2 (j), (b), (g), (h), (l), (d), and (i), respectively and
3 moving the subsections so as to appear in alphabet-
4 ical order;

5 (2) in subsection (e) (as redesignated by para-
6 graph (1))—

7 (A) by striking “or (2) any” and all that
8 follows through “include—” and inserting “(2)
9 any dog for hunting, security, or breeding pur-
10 poses, or (3) any dog imported from outside the
11 United States, unless the dog is imported by
12 the person for the use and enjoyment of the
13 person, except that this term does not
14 include—”;

15 (B) in clause (i), by inserting “, or which
16 sells any dogs imported from outside the United
17 States” before the semicolon; and

18 (C) by striking clause (ii) and inserting the
19 following:

20 “(ii) any person who, during any cal-
21 endar year—

22 “(I)(aa) sells not more than 25
23 dogs or cats at wholesale or to the
24 public; or

1 “(bb) does not whelp more than
2 6 litters of dogs or cats and sells only
3 dogs or cats bred or raised on the
4 premises of the person directly at re-
5 tail to persons who purchase such ani-
6 mals for their own use and enjoyment
7 and not for resale; and

8 “(II) derives not more than \$500
9 gross income from the sale of other
10 animals;”); and

11 (3) by inserting after subsection (m) (as redes-
12 ignated by subsection (a)) the following:

13 “(n) RETAIL PET STORE.—

14 “(1) IN GENERAL.—The term ‘retail pet store’
15 means a public retail establishment that sells ani-
16 mals commonly kept as pets in households in the
17 United States, including—

18 “(A) dogs;

19 “(B) cats;

20 “(C) guinea pigs;

21 “(D) rabbits; and

22 “(E) hamsters.

23 “(2) EXCLUSION.—The term ‘retail pet store’
24 does not include—

1 “(A) a person breeding animals to sell to
2 the public as pets;

3 “(B) a person selling hunting, security, or
4 breeding dogs; or

5 “(C) a person selling wild animals.”.

6 **SEC. 3. ACCESS TO SOURCE RECORDS FOR DOGS AND**
7 **CATS.**

8 Section 10 of the Animal Welfare Act (7 U.S.C.
9 2140) is amended—

10 (1) in the first sentence, by inserting “(a) IN
11 GENERAL.—” before “Dealers”; and

12 (2) by adding at the end the following:

13 “(b) ACCESS TO SOURCE RECORDS FOR DOGS AND
14 CATS.—Notwithstanding any other provision of this Act,
15 all dealers and retail pet stores shall prepare, retain, and
16 make available at all reasonable times for inspection and
17 copying by the Secretary, for such reasonable period of
18 time as the Secretary may prescribe, a record of—

19 “(1) the name and address of the person from
20 whom each dog or cat was purchased or otherwise
21 acquired; and

22 “(2) whether the person from whom each dog
23 or cat was acquired is required to be licensed or reg-
24 istered under this Act.”.

1 **SEC. 4. EXTENSION OF TEMPORARY SUSPENSION PERIOD.**

2 Section 19(a) of the Animal Welfare Act (7 U.S.C.
3 2149) is amended—

4 (1) by inserting “(1)” after “(a)”; and

5 (2) by adding at the end the following:

6 “(2) **EXTENSION OF TEMPORARY SUSPENSION PE-**
7 **RIOD.**—If the Secretary has reason to believe that a viola-
8 tion that results in a temporary suspension pursuant to
9 paragraph (1) is continuing or will continue after the expi-
10 ration of the 21-day temporary suspension period de-
11 scribed in that paragraph, and the violation will place the
12 health of any animal in serious danger in violation of this
13 Act, the Secretary may extend the temporary suspension
14 period for such additional period as is necessary to ensure
15 that the health of an animal is not in serious danger, as
16 determined by the Secretary, but not to exceed 60 days.”.

17 **SEC. 5. AUTHORITY TO APPLY FOR INJUNCTIONS.**

18 Section 29 of the Animal Welfare Act (7 U.S.C.
19 2159) is amended—

20 (1) in subsection (a), by inserting “or that any
21 person is acting as a dealer or exhibitor without a
22 valid license that has not been suspended or revoked,
23 as required by this Act,” after “promulgated there-
24 under,”;

25 (2) in subsection (b), by striking the last sen-
26 tence; and

1 (3) by adding at the end the following:

2 “(c) INJUNCTIONS; REPRESENTATION.—

3 “(1) INJUNCTIONS.—The Secretary may apply
4 directly to the appropriate United States district
5 court for a temporary restraining order or injunction
6 described in subsection (a).

7 “(2) REPRESENTATION.—Attorneys of the De-
8 partment of Agriculture may represent the Secretary
9 in United States district court in any civil action
10 brought under this section.”.

11 **SEC. 6. CONFORMING AMENDMENT.**

12 Section 3 of the Animal Welfare Act (7 U.S.C. 2133)
13 is amended by striking “: *Provided however,*” and all that
14 follows.

15 **SEC. 7. EFFECT ON STATE LAW.**

16 Nothing in this Act or the amendments made by this
17 Act preempts any State law (including a regulation) that
18 provides stricter requirements than the requirements pro-
19 vided in the amendments made by this Act.

○