

Task Force to Study Canine Breeding Facilities and Sourcing Standards

Final Report

Annapolis, Maryland

December 3, 2021

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Dear Governor Hogan, Senator Kelley, and Delegate Davis:

On behalf of the Task Force to Study Canine Breeding Facilities and Sourcing Standards, I respectfully submit the task force's final recommendations and report.

The Task Force to Study Canine Breeding Facilities and Sourcing Standards was established by Chapter 448 of 2021. The task force's charge is as follows: (1) Review any achievements made in the past 20 years in combating substandard canine breeding practices; (2) Identify and assess current efforts being taken in the State, other states, and the federal government to address substandard canine breeding practices; (3) Identify nongovernmental comprehensive standards for canine breeding and tour facilities in full compliance with those standards; (4) Determine if any gaps exist between current State, federal, and nongovernmental comprehensive standards for canine breeding; (5) Recommend actions necessary to harmonize canine breeding standards in the State with those of the U.S. Department of Agriculture (USDA); and (6) Recommend any legislative actions necessary to create standards for any person who sells or negotiates the sale or purchase of dogs in the State.

I would like to express our appreciation to the members who served on the task force. I am proud of the work that the task force members have put in on the important issue. I would also like to recognize the valuable staff support provided to the task force.

On behalf of the task force, I would like to thank you for providing the opportunity to examine canine breeding practices.

Sincerely,

Kathleen M. Dumais

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Co-Chair

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Background

The Task Force to Study Canine Breeding Facilities and Sourcing Standards (Task Force) was established by Chapter 448 of 2021. The Task Force's charge is as follows: (1) to review any achievements made in the past 20 years in combating substandard canine breeding practices; (2) to identify and assess current efforts being taken in the state, other states, and the federal government to address substandard canine breeding practices; (3) to identify nongovernmental comprehensive standards for canine breeding and tour facilities in full compliance with those standards; (4) to determine if any gaps exist between current state, federal, and nongovernmental comprehensive standards for canine breeding; (5) to recommend actions necessary to harmonize canine breeding standards in the State with those of the U.S. Department of Agriculture (USDA); and (6) to recommend any legislative actions necessary to create standards for any person who sells or negotiates the sale or purchase of dogs in the state. The Task Force held three meetings at which it discussed the charges and heard expert testimony. This report provides background information, findings, and/or recommendations in response to each of the six charges.

Task Force Membership

- Senate Representative¹
- Former Delegate Kathleen Dumais, co-chair
- Steve Connelly, Assistant Secretary, Maryland Department of Agriculture (MDA) Animal Industries and Consumer Services
- Michael Steadman, Jr., Assistant Attorney General, MDA
- Dr. Katie Withowski, Small animal veterinarian with significant experience working with canine breeders
- Susan Sarubin, Expert in canine behavior
- Charley Hall, American Kennel Club
- Sara Yassin, Bailing Out Benji
- Lisa Radov, Maryland Votes for Animals
- Dr. Tom Edling, American Humane
- Kathleen Summers, Humane Society of the United States (HSUS)
- Jeremy Krum, Attorney with a practice concentration in animal welfare law
- Jeff Shepherd, Supervisory Animal Care Specialist, USDA's Animal and Plant Health Inspection Service (APHIS) Animal Care Program
- Vacant, Owner of a small retail pet store* *Numerous attempts were made to fill this seat, but during the recruitment process no eligible candidates expressed interest.*²

¹While there was a Senate co-chair at the meetings, the Senator did not approve of the contents of this report and requested to be removed from it.

² While some pet store owners expressed interest, due to active court cases/ litigation from violations of existing Maryland laws, they were deemed ineligible.

Achievements Made in the Last 20 Years in Maryland

- [HB 667/Chapter 187 of 2014 - Crimes Relating to Animals - Unauthorized Surgical Devocalization of Cat or Dog - Penalties](#) - This bill prohibits a person, other than a licensed veterinarian, from “devocalizing” a dog or cat. A licensed veterinarian may surgically devocalize a dog or cat only if the veterinarian (1) administers anesthesia to the animal during the procedure and (2) provides the owner or keeper of the animal a written certification containing specified information.
- [HB 1113/Chapter 573 of 2016 - Commercial Sale of Dogs and Cats - Prohibited Acts \(Companion Animal Welfare Act\)](#) - This bill generally prohibits a person from “offering for sale” a dog or a cat at any public place. The prohibition does not apply to (1) an “animal welfare organization” or animal control unit under specified circumstances or (2) a dog breeder and a specific individual purchaser conducting a pre-arranged sale of a dog if the location of the pre-arranged sale is not at a regularly scheduled or recurring event. A person who violates this provision is subject to a civil penalty of up to a \$500 fine for a first violation and enhanced fines for a second or subsequent violation. Moreover, a retail pet store may only offer a dog or cat for sale if the animal is obtained from specified entities. A violation of this provision is an unfair or deceptive trade practice under the Maryland Consumer Protection Act (MCPA), subject to MCPA’s civil (but not criminal) penalty provisions. The bill alters the entities to which retail pet store laws do not apply.
- [HB 494/Chapter 267 of 2016 - Agriculture - Animal Shelters - Uniform Standards of Operation and Care \(Animal Shelters Standards Act of 2016\)](#) - This bill requires an animal shelter to establish and make publicly available by Jan. 1, 2017 (1) a veterinary care protocol; (2) a protocol for reclaiming animals from the animal shelter; and (3) an annual summary of intake and disposition data. The bill establishes a civil penalty for violations of the bill’s provisions.
- [HB 334/Chapter 414 of 2017 - Local Government - Regulation of Animals - Kennel Licenses](#) - This bill lowers the threshold applicable, statewide, to when a person must obtain a kennel license from a local licensing agency. Specifically, the bill requires a person to obtain a kennel license from the local licensing agency if the person either (1) owns or has custody of six (down from 15) or more unspayed female dogs over the age of six months kept for the purposes of breeding the dogs and selling their offspring or (2) sells dogs from six or more litters in a year. Under current law, only a kennel that meets both criteria must be licensed, unless the local licensing agency has more stringent

requirements.

- [**HB 626/Chapter 409 of 2017 - Agriculture - Animal Shelters - Standards of Care and Protocol Implementation and Enforcement**](#) - This bill requires MDA, by Jan. 1, 2018, to adopt minimum standards of care for dogs and cats in animal shelters. The standards must be consistent with the most recent (1) Association of Shelter Veterinarians' Guidelines for Standards of Care in Animal Shelters and (2) guidelines for standards of care in animal shelters prepared by the Professional Animal Workers of Maryland. An animal shelter must follow (1) those adopted standards and (2) the written protocol for reclaiming animals from the shelter, which it was required to establish under Chapter 267 of 2016. A violation of the bill's requirements is subject to an existing civil penalty established under Chapter 267.
- [**HB 781/Chapter 343 of 2017 - Retail Pet Stores - Animal Seller, Dog Cage Signs, and Records - Requirement Revisions**](#) - This bill alters signage and recordkeeping requirements for a retail pet store that sells dogs to include specified information for dogs obtained from an animal control unit or an animal welfare organization. Both the signs on each dog's cage and the records must include the name and address of the animal control unit or animal welfare organization, if applicable. The bill also broadens an existing prohibition against a retail pet store buying a dog or cat from a breeder or dealer unless the store has ensured that the breeder or dealer has not received a specified type of citation from the USDA under the federal Animal Welfare Act (AWA) in the last two years. Specifically, the prohibition also applies if the breeder or dealer receives a citation on a final inspection report for any critical violation, rather than only for a direct violation (a direct violation is a type of critical violation). If a dog is obtained from a breeder or dealer, a retail pet store must post the applicable USDA final inspection reports from the previous two years on or near the dog's cage. The reports must be retained by the retail pet store for two years.
- [**HB 455/Chapter 188 of 2017 - Criminal Law - Animal Cruelty - Applicability**](#) - This bill clarifies that a person is guilty of animal abuse or neglect if the person has charge or custody of an animal and unnecessarily fails to provide the animal with any one of the following: proper air, proper space, proper shelter, or proper protection from the weather. Similarly, the bill clarifies that a person is guilty of aggravated cruelty to animals if the person does any one of the following intentional acts: mutilates, tortures, cruelly beats, or cruelly kills an animal.
- [**HB 1662/Chapter 237 of 2018 - Business Regulation – Retail Pet Stores**](#) - This bill prohibits a retail pet store from offering for sale, transferring, or otherwise disposing of

cats or dogs. Existing provisions related to the conditions of their sale by a retail pet store are repealed. The bill may not be construed to prohibit a retail pet store from collaborating with an animal welfare organization or animal control unit to offer space for or showcase cats or dogs for adoption. Violation of the bill is an unfair or deceptive trade practice under the MCPA, subject to MCPA's civil (but not criminal) penalty provisions. The bill does not limit the ability of the state or a local government to prosecute the owner or operator of a retail pet store for any other violation of law.

- [SB103/Chapter 448 of 2021 - Domestic Animals - Retail Pet Stores and the Task Force to Study Canine Breeding Facilities and Sourcing Standards](#) - This bill alters the definition of a “retail pet store” that is prohibited from selling cats or dogs to (1) include brokers; (2) no longer specify that the store must be open to the public; and (3) exclude an establishment at which the animals being sold were born. Additionally, the bill establishes a Task Force to Study Canine Breeding Facilities and Sourcing Standards to be staffed by the MDA.

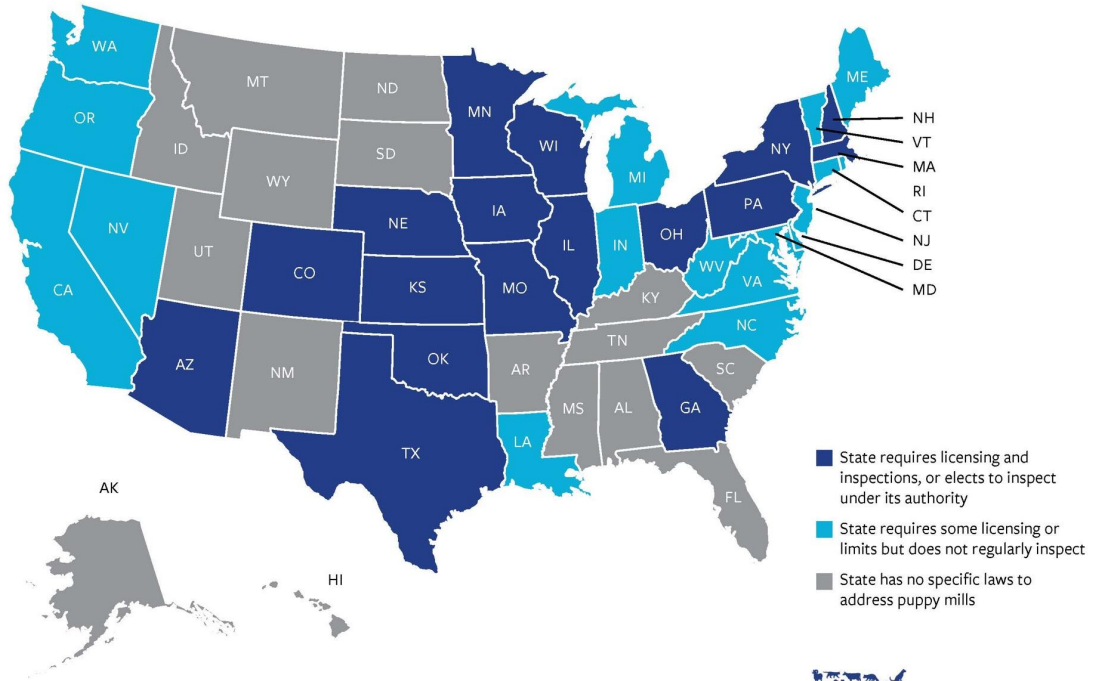
Current Efforts in Other States and by Federal Government

Other States

The HSUS provided the Task Force with the graphics below that provide an overview of which states have puppy mill laws in the United States as well as states with commercial breeder laws and states that have no laws to combat substandard canine breeding practices.

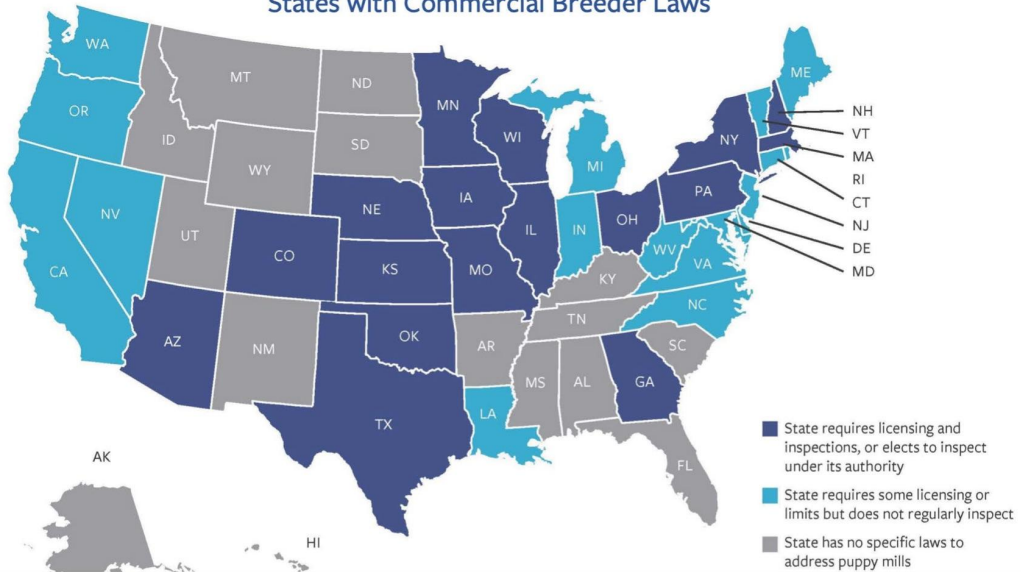
State puppy mill laws in the U.S.*

March 2020



*This graph does not rank the quality or enforcement of the laws.

States with Commercial Breeder Laws



In addition to the graphic above, the Michigan State University College of Law Animal Legal and Historical Center has an extensive breakdown of state commercial pet breeders laws that covers state laws and administrative regulations affecting commercial dog breeders.³

Several states also limit the number of dogs a breeder can have on a property:

- Virginia: 50 dogs
- Louisiana: 75 dogs
- Michigan (the license *may* specify a limit)
- Washington: 50 dogs
- Oregon: 50 dogs

It's also important to note that five states have banned the sale of puppies in retail pet stores:

- California
- Maryland
- Maine*
- Washington*
- Illinois (signed recently)

**Grandfathers a few current stores, but will prohibit new ones from selling puppies.*

Federal

USDA Animal Care, a unit within the APHIS, administers the AWA, which became law in 1966. This federal law establishes requirements concerning the transportation, sale, and handling of certain animals and includes restrictions on the importation of live dogs under six months of age for purposes of resale, prohibitions on animal fighting ventures, and provisions intended to prevent the theft of personal pets.

Regulations established under the AWA set standards for the humane care and treatment for certain animals that are exhibited to the public, sold for use as pets, used in research, or transported commercially. Facilities using regulated animals for regulated purposes must provide their animals with adequate housing, sanitation, nutrition, water and veterinary care, and they must protect their animals from extreme weather and temperatures. The regulations also establish specific requirements that must be met prior to the importation of dogs for resale purposes.

Breeders who sell only to buyers they meet in person do not require a USDA license. Pet breeders who have five or more breeding female dogs (or other covered species) must obtain a USDA license and undergo regular inspections if they sell the animals wholesale, such as to brokers, pet stores or online.

³ animallaw.info/topic/table-state-commercial-pet-breeders-laws

USDA inspectors located throughout the U.S. conduct routine, unannounced inspections of all facilities licensed or registered under the AWA to assess these facilities compliance with AWA.⁴

Nongovernmental Voluntary Standards for Canine Breeding

The American Kennel Club (AKC) is a not-for-profit organization dedicated to upholding the integrity of its registry and is the only purebred registry in the U.S. with an ongoing routine kennel inspection program. The AKC has a team of field inspectors who visit some high volume breeding kennels to help breeders while ensuring the proper care and conditions of AKC-registered dogs and verify that breeders are maintaining accurate records for their dogs. Since 2000, AKC field inspectors have conducted approximately 80,000 inspections nationwide. The task force notes that the AKC does not inspect every breeder who sells or registers AKC dogs, and does not inspect breeders who use other types of dog registries. The AKC does not have any law enforcement powers and the results of its inspections are not available to the public.

Routine AKC field inspections involve several steps. Field agents begin every visit with a tour of the overall facility checking that the dogs as well as the condition of their environment are in good order. AKC randomly selects breeders for inspection yearly. In addition, to the random selection AKC inspects some breeders based on written, signed and substantiated complaints.

According to the AKC, through kennel visits, inspectors seek to work with breeders to help correct any deficiencies, as well as help new breeders develop effective practices and procedures.

The AKC also stated that if an inspector finds minor deficiencies, the issues are noted and discussed with the breeder in an effort to help the breeder while at the same time meeting AKC's requirements in the future. While the AKC does not have penal or regulatory authority, breeders who have major kennel deficiencies will lose AKC privileges. In some cases, fines will be imposed, AKC privileges may be suspended and appropriate law enforcement authorities contacted.⁵

The task force notes that a suspension of registration privileges with the AKC does not prevent breeders from breeding and selling dogs, nor registering them with other dog registries. In addition to having no enforcement powers, the AKC also has no oversight of breeders who sell dogs who are registered with other registries in the U.S., or those who produce mixed-breed “designer” dogs, which are very commonly sold.

Gaps Between Current State, Federal, and Nongovernmental Standards

⁴https://www.aphis.usda.gov/aphis/ourfocus/animalwelfare/sa_awa

⁵ <https://cqrcengage.com/akc/file/wNRE46jEoOX/AKC%20Kennel%20Inspections%20Program%20Highlights.pdf>

Based upon the presentations and questioning provided to the Task Force by USDA, HSUS, and AKC it was found that there does appear to be gaps between what is required and what is able to be enforced at the federal, state, and local levels of government. While the USDA has certain minimum standards for kennels in the U.S., a program seeking to enforce such standards on a national level appears to only be able to enforce and regulate the most egregious of claims and violations. Only a very small number of the total number of dog kennels are able to be inspected by the USDA, county level animal control facilities, or even non-governmental membership organizations such as the AKC. In addition, breeders who sell dogs only directly to the public face-to-face are not required to be inspected or licensed by USDA at all.

Though Maryland does have their own licensing requirement for any dog breeder with six or more breeding females, the enforcement and licensing is handled on the county level. Each county has their own processes for the licensing, certification, and inspection of such facilities. Some county's programs are more robust than others, leaving significant gaps and unclear standards of enforcement across the board.

The Task Force was unable to find solid information about the number of animals being sourced into the state from other states. This raised concerns about the regulation and enforcement of sourcing standards for animals that are imported from other states. There does not appear to be any entity that is tracking the number of animals that are imported from other states, nor the breeders from which they are being imported.

Recommend Actions for Canine Breeding Standards

There are currently many examples of regulation that the state could consider for guidelines to base Canine Breeding Standards upon. The Task Force recommends using a combination of current USDA guidelines, the Maryland *HB 626/Chapter 409 of 2017 - Agriculture - Animal Shelters - Standards of Care and Protocol Implementation and Enforcement*, and the current federal legislation *H.R. 2840 the Puppy Protection Act of 2021* was also recommend by some members of the Task Force.

Current USDA guidelines provide regulations for housing standards, recordkeeping, and medical care of animals being bred for sale as pets (as well as for animals used in research and exhibition. The USDA requires licensing for any breeder utilizing five or more breeding females, if they sell wholesale to buyers they do not meet in person. They also have standards for inspections of such breeders. The current federal legislation, the Puppy Protection Act of 2021, would set stricter requirements for USDA-licensed dog breeders in relation to the care of the animals and the breeding practices.

HB 626/Chapter 409 of 2017 established in Maryland minimum standards of care that animal shelters (both county run and nonprofit shelters that receive grant funding from the state) must

follow to ensure the health and safety of the animals and the public. While some of the guidelines outlined here are specific to the sheltering of animals that are available for adoption, there are many guidelines that would be relevant to canine breeding facilities. These include regulations for building requirements, primary animal enclosures, sanitation practices, medical standards, and recordkeeping.

The Task Force would recommend evaluating the existing guidelines when deciding on future legislation for the State of Maryland and use them as a minimum standard, while considering stricter rules and regulations to ensure puppy mills do not find haven in Maryland and that Maryland businesses do not outsource from puppy mills located in other states.

Recommended Actions for Sale and Purchase of Canines

While no specific legislation proposals were discussed by the Task Force, there are some suggestions that the findings have brought about. Based upon the inconsistencies within the county level licensing programs brought about by HB 334, it is recommended that this bill be amended to strengthen the licensing requirements within the counties, setting minimum standards of care and recordkeeping requirements that all counties must enforce as part of the licensing process. These minimum standards should coincide with the existing HB 626/Chapter 409 of 2017 guidelines for standards of care placed on animal shelters in the State of Maryland. The current guidelines ensure animals are kept in an area safe from hazards, with adequate ventilation and at a habitable temperature, in cages and enclosures that allow for sufficient space, and receive adequate food, water and medical care. All of these are necessary for the healthy development of the canine and helps to ensure not only that the dogs are treated humanely, but also helps to protect consumers from the purchasing of animals that are ill, unsocialized and/or predisposed to medical conditions later in life.

Some members of the Task Force also recommend placing a limit on the number of intact breeding dogs that can be kept on a single property. Some numbers proposed were 25 to 50 adult breeding dogs per location. Similar laws already exist in Virginia and several other states. This measure will prevent the escalation of extremely large-scale breeding operations that result in cases that outstrip localities' abilities and financial resources to deal with them

The Task Force also recommended proposing legislation that would ban canine (and feline) breeding for the purposes of animal testing. In 2021, the Maryland General Assembly passed *HB 611- Public Health - Prohibition on Testing Cosmetics on Animals*, which prevents the sale of new cosmetic supplies having been tested on animals. A bill preventing breeding of animals for the purposes of use in testing would solidify Maryland's stance against animal testing going forward.