

# CRS Report for Congress

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## The Animal Welfare Act: Background and Selected Legislation

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### Summary

The Animal Welfare Act was first passed in 1966 to prevent pets from being stolen and sold to research laboratories, and to improve the treatment and well-being of animals intended for research. Congress has amended the act five times since then to strengthen its provisions, expand coverage to more animals and activities, and curtail animal fighting, among other things. Some animal protection groups support measures to further expand federal regulation of animal treatment. Such bills in the 109<sup>th</sup> Congress include those addressing animal fighting (H.R. 817, S. 3820), dog and cat protection (H.R. 2669, S. 1139, H.R. 5229, S. 451), and pet evacuation in disasters (H.R. 3858, and S. 2548), among others. This report will be updated if significant developments ensue.

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 being 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 the animals not covered by the act, which nonetheless provides a broad set of statutory protections for animals.<sup>1</sup>

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 its scope or to clarify various provisions.

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<sup>1</sup> 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 94-731A, *Brief Summaries of Federal Animal Protection Statutes*, by Henry Cohen.

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.

## Key Provisions<sup>2</sup>

**Animals Covered.** The act applies to any live or dead dog, cat, nonhuman primate, guinea pig, hamster, rabbit, or other warmblooded 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.<sup>3</sup> 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 need a license but must still register with APHIS and undergo periodic inspections. Specific details are as follows.

**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.

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<sup>2</sup> Unless noted, sources on the AWA are various materials provided by USDA's Animal and Plant Health Inspection Service (APHIS).

<sup>3</sup> For example, rabbits for food are exempt from AWA coverage; those for pets are not.

**Animal fighting** generally is prohibited by the AWA. The ban includes dogfights and bear and raccoon baiting; sponsors and promoters are subject to penalties. The AWA also bans cockfights, except in the states where they are not prohibited by state law, namely Louisiana and New Mexico.

**Standards.** All licensed and registered entities must comply with all 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 more than 10,000 facilities were licensed or registered in FY2005. That year, AC had total staff of approximately 180 and an annual budget of nearly \$17 million.<sup>4</sup>

APHIS Animal Care 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 more than 18,000 inspections during FY2005, which included pre-licensing as well as compliance inspections, according to APHIS. The agency also formally investigated 575 alleged violations of the act in FY2005, which led to 391 cases submitted for civil administrative actions. Eighty-seven cases were resolved through civil penalty agreements and another 82 were resolved by an administrative law judge. Fines in these cases totaled \$1.1 million, APHIS reported.

In each of the past several fiscal years, about 70% of all facilities were in "complete compliance" with AWA requirements at the time of their most recent inspection, according to USDA budget documents.

## 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

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<sup>4</sup> A portion of these resources are also 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.

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 made 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 omnibus 1990 farm bill) extends pet protections. It requires public and private animal shelters and research facilities which 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 knowingly place any bird in a fight where 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 violations of the anti-fighting provisions of the AWA. 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 agreeing to essentially reverse 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.<sup>5</sup>

## Selected Bills and Issues

Congress has been asked to consider a variety of bills in recent decades which seek to improve the welfare of animals. Generally, those proposing to amend the AWA have been referred to the House and Senate Agriculture Committees. In the 109<sup>th</sup> Congress, the following AWA-related bills have been introduced.

**Animal Fighting Prohibition Enforcement Act.** Companion bills (H.R. 817 by Representative Mark Green and S. 382 by Senator Ensign) would move the animal fighting provisions of the AWA to Title 18 of the U.S. Code (Crimes and Criminal Procedure), make violations of federal animal fighting law a felony punishable by up to two years in prison, and prohibit interstate and foreign commerce in knives and gaffs designed for use in cockfighting. S. 382 was discharged by the Senate Judiciary Committee by unanimous consent on April 29, 2005; it passed the Senate on the same day, also by unanimous consent. On the House side, H.R. 817 is pending before the Agriculture Committee and the Committee on the Judiciary, where the Subcommittee on Crime, Terrorism, and Homeland Security held a hearing on May 18, 2006.

Proponents of the bills assert that in 2001, the House and Senate had approved strong animal fighting sanctions in their respective farm bills (H.R. 2646 and S. 1731) but that conferees on the final 2002 farm bill 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 argue. Opponents counter that the proposed measure would violate provisions in the U.S. Constitution which protect states' rights, including the Commerce Clause, and which 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 argue.

**Pet Animal Welfare Statute ("PAWS").** These companion bills (H.R. 2669 by Representative Gerlach and S. 1139 by Senator Santorum) would require commercial dog and cat breeders to obtain AWA licenses if they sell more than six litters or more than 25 dogs or cats directly to the public each year. The bills, which are pending in the respective Agriculture Committees, also would require more recordkeeping to ascertain the sources of the animals and would strengthen USDA's ability to correct AWA violations.

Supporters of the bills contend 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.

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<sup>5</sup> *Brief Summaries of Federal Animal Protection Statutes*, by Henry Cohen.

(Wholesale breeders are already covered by the AWA.) Opponents counter 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; some cat breeders in particular have argued that the six-litter limit is too low for their animals and threatens efforts to preserve some breeds.

**Pet Safety and Protection Act.** Legislation (H.R. 5229 by Representative English and S. 451 by Senator Akaka) would restrict where research facilities could obtain their dogs and cats. Such animals could be obtained only from licensed breeders, publicly operated shelters, other licensed research facilities, or donees that had bred and raised the animal or that had owned it for at least the previous year. Proponents assert that the bills are aimed at shutting down some 15 “Class B” dealers who collect dogs and cats from random sources including “free to a good home” classified advertisements, auctions, and flea markets, and who arguably are more concerned about profit than animal welfare. Those who oppose H.R. 5229 and S. 451 contend 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. Opponents add that the majority of Class B dealers are in compliance with the AWA. The bills are pending before the House and Senate Agriculture Committees.

**PETS Act.** Other legislation has addressed animal welfare concerns, often outside the confines of the AWA. For example, the House on May 22, 2006, passed the so-called Pets Evacuation and Transportation Standards (PETS) Act (H.R. 3858 by Representative Lantos). The bill amends the Robert T. Stafford Disaster Relief and Emergency Assistance Act (at 42 U.S.C. 5196b) to require the Federal Emergency Management Agency to ensure that state and local agencies address the needs of household pet owners and service animals in their disaster response plans. A similar but somewhat broader bill (S. 2548 by Senator Stevens) is pending in the Senate. H.R. 5441 (passed in Senate) and S. 3721 (reported in Senate) contain comparable provisions. (See also CRS Report RL33579, *The Public Health and Medical Response to Disasters: Federal Authority and Funding*, by Sarah A. Lister.)

**Agriculture-Related Measures.** Agricultural-related animal protection measures include S. 1779 by Senator Akaka and H.R. 3931 by Representative Ackerman, which would amend the Humane Methods of Slaughter Act (7 U.S.C. 1901 *et seq.*) to require that all nonambulatory livestock (called “downers” by the trade) are humanely euthanized; and H.R. 503 by Representative Sweeney and S. 1915 by Senator Ensign, which would amend the Horse Protection Act (15 U.S.C. §1821 *et seq.*) to prohibit the movement and slaughter of horses for food. In some recent years, USDA appropriations measures have included language and/or funding to address aspects of animal welfare. For more details on these and related measures, see CRS Report RS21978, *Humane Treatment of Farm Animals: Overview and Issues*, and CRS Report RS21842, *Horse Slaughter Prevention Bills and Issues*.