



AKC'S GOVERNMENT RELATIONS DEPARTMENT LEGISLATIVE ANALYSIS SERVICE

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Throughout the United States, radical attempts to change public policy governing dog ownership increasingly threaten the rights and liberties of purebred dog fanciers. This is by no means a new phenomenon. For the past several years, the number of legislative issues monitored and/or addressed by the AKC's Government Relations Department (GR) has continued to increase. In fact, while the department dealt with just over 800 issues in all of 2008; in 2009 GR had already surpassed that number by June! Since the momentum of this legislative onslaught is expected to continue growing at its current pace, it is imperative that dog fanciers work with GR to ensure that the rights of all responsible breeders and owners continue to be honored and protected by the law. One of the best ways to do that is to take advantage of GR's legislative analysis service.

It is the job of GR's legislative analyst to scrutinize federal and state bills and local ordinance proposals for context, content, and legislative intent; then provide reasoned opinions to GR's Director and AKC executive staff regarding the potential impact of the proposal on AKC and its constituent groups. A secondary role for the Legislative Analyst is to offer the same service for fanciers should they need assistance with interpreting proposed legislation in order to be successful grassroots advocates.

Bills are drafted in ways that may make it difficult for the general public to understand how proposed changes may affect them, yet those challenges must be overcome. While bills in some states make it easy for readers to appreciate what changes are sought, other states' bills do not. Take Louisiana, for example. Louisiana's legislation drafting rules require that proposed language changes to a statute be incorporated into that statute's existing language. As a result, once filed and published for the public's consumption, a Louisiana bill will show both current and proposed language. Existing law to be deleted by a Louisiana bill will be stricken through (~~like this~~), while proposed new language will be underscored. These rules help a reader more easily see exactly where proposed language changes occur in a bill and better understand the context of the proposed changes within existing law. Other states that follow similar

drafting conventions include Texas, Colorado, and Montana.

Other legislative bodies, including the United States Congress and the Massachusetts General Court, feature more complex bill drafting rules that generally make it more difficult for readers to determine what a bill seeks to accomplish. Bills of these types usually begin by featuring a starting reference point where new language may be amended, then quoting the proposed language change. Case in point: In dealing with a bill of this type, a fancier contacted GR in 2007 asking for assistance with understanding the substance of Massachusetts House Bill 1339, which began with:

"Section 77 of Chapter 272 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by inserting, after the word "weather," in line 12, the following words: or knowingly, intentionally, or recklessly and unjustifiably fails to provide veterinary care that a reasonably prudent person knows or should know is necessary to prevent suffering to an animal."

On its face, the proposed additional language in the bill looked like a supportable attempt to add additional instances of criminal behavior under Massachusetts' animal cruelty statute. When reviewing proposals, it is helpful to first manually insert the proposed new language into the current law to more fully understand the context of the proposal. By doing so in this instance, the initial suspicion was confirmed—it was apparent that the bill sought to strengthen the criminal statute by adding behaviors that would have qualified as animal cruelty. Therefore, these contextual changes were supportable.

However, when one looked at the content of the proposal, matters were not so clear. Words and phrases like "recklessly", "reasonably prudent person", and "should know", as proposed by the bill, are not germane to the *criminal* law where animal cruelty statutes appear, although they are relevant to *tort* law. Criminal law and tort law are two different

fields of law that should never be confused by legislation.

Criminal law seeks to address behaviors society has determined to be most egregious. Because conviction under criminal law results in society's most severe punishments (i.e., a taking away of one's liberty or death), criminal law requires that the strongest burden of proof be satisfied to determine that someone is guilty "beyond a reasonable doubt". In contrast, tort law addresses and provides remedies for civil wrongs (not criminal behavior) and only requires that "a preponderance of the evidence" establish liability. This burden of proof is significantly easier to meet because the defendant in a torts case has much less at stake if he loses (i.e., only a financial penalty).

The inherent problem with the content of the Massachusetts bill was that, if passed and signed into law, the new language would have had far-reaching ramifications. Not only would it have included a lessening of the criminal burden of proof in Massachusetts (in-and-of itself an earth-shattering change in legal philosophy), but it would have also affected much larger legal topics, including due process, personhood, insurance, veterinary medical care, and the integrity of the law. In the end, GR determined that the bill should be opposed based on this overarching reason, supplied fanciers with talking points, and wrote letters of opposition that helped to successfully defeat the bill.

The Massachusetts example is an excellent example of how AKC's Government Relations Department can help. Concerned fanciers asked GR for assistance in analyzing a confusing bill. In turn, the department provided analysis and support materials to assist those fanciers' successful grassroots efforts. If you or your fellow club members are confronted with a difficult-to-understand proposal, contact GR at (919) 816-3720. GR is here to serve you.

For more information or assistance, call the AKC GR Department at 919-816-3720, email doglaw@akc.org, or visit www.akc.org/canine_legislation.

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