



Dog Federation of Wisconsin
742 S. Indiana Ave.
West Bend, WI 53095
doglaw@dfow.net
www.dfow.net

Red Alert – November 10, 2010—DATCP Breeder Rules Draft for Act 90

We have issued this red alert in response to the rules draft that ATCP employees who were charged with writing the rules will put forward to the Board Members of ATCP. In order to fully understand the implications of what these rules mean, you will need the history of Act 90.

History of the bill/Act 90:

In February 2009, Representative Jeff Smith and Senator Krietlow authored a bill that targeted, in their language, “puppy mills”. Various groups were privy to this initial bill draft and DFOW was one of those groups. There were many alarming sections of that initial draft and thankfully, the bill that was put forth eliminated many of those concerns. Eventually, the bill was amended to remove even more onerous sections and to add individuals who were true experts in dogs to the committee that **would advise ATCP on relevant rules**. DFOW, along with WI Wildlife Federation, were promised by Representative Smith & Senator Krietlow, that they would have a “seat at the table” for the rules development. ACT 90 was signed into law and in December of 2009, DATCP sent letters to dog groups in the State asking for nominations of individuals **who would need to be licensed** to serve on the rules advisory committee. Act 90 did not have this requirement. ATCP stated that the reason they only wanted those that would be licensed to serve on the committee was because they needed to cut down on the number of people who could be nominated.

In March 2010, ATCP released the names of the individuals who would serve on the rules committee. DFOW and WI Wildlife Federations **were not represented**. The selection process they used heavily favored those individuals who had past or current ties with humane societies – in fact, **four of the individuals** on the named committee are **lobbyists for various humane groups**. Another individual did not meet the qualification of having to be licensed, but she had been a humane officer in Colorado; on the ATCP score sheets she was deemed not qualified under the small breeder representative, however she was ranked first for the sporting dog representative. The “technical advisor” on the committee is a veterinarian who volunteers for the Dane County Humane Society and has no background in breeding dogs.

Dog hobbyists had one sole voice on the committee, Jackie Fogel who is a dog expert and understands breed diversity. Jackie tried many times to explain the dog world to the advisory board members, but they refused to listen to an expert. The representative for large dogs, breeding more than 50 per year was Mike Marsch who is a musher. He agreed with many of Jackie’s concerns. Apparently breeding and showing dogs, as well as running a successful boarding and day care facility counts for naught – public opinion and animal rights are seemingly more credible resources in the eyes of ATCP.

Wisconsin Wildlife Federation tried to make the person representing sporting dogs aware of the issues they had with the rules draft, but at a November 8th meeting, this individual stated that “she really didn’t understand what their problems were with the rules”.

The fiscal analysis that was attached to the bill used “estimates” on the number of breeders that would be licensed and it was believed that the program would be self-funded. The estimated annual expense for the bill was \$510,600.00. It was estimated that there would be a total of 1000 breeders and facilities that would need to be licensed, generating an income of \$514,700.00 for the program. The draft rules, as they are currently written (and we understand that this will be what is put forth to the ATCP Board and then the house and senate on January 3, 2011) will cause individuals and businesses to totally stop breeding. Small breeders – those selling more than 25 dogs from more than 3 litters, will make sure that they don’t breed enough to have to be licensed. We believe that the only individuals and facilities that may stay in business are those that are already USDA licensed. Act 90 will cause a deficit in the ATCP budget which means your tax dollars will be used to pay for the program. Your tax dollars will also pay for those individuals who will now be unemployed.

Also, transportation standards of care have been added to the draft rules. This is not part of Act 90. We must be very naïve as we had no idea that there are apparently breeding trailers being hauled around the State to raise puppies in. Why else would it be necessary to regulate transportation as the purpose of the bill was to “get rid of the puppy mills”?

Not only are dog hobbyists impacted by these draft rules, but many rescue groups and smaller humane societies will not be able to afford the excessive crate sizes demanded by rule; many do not have a large enough facility to put in larger enclosures.

There will be a very limited supply of dogs available in the State of Wisconsin because of the fall out from these draft rules. Humane Societies currently import thousands of puppies into our State from over-run shelters in other parts of the country. Now they will import even more to meet the demand. What diseases will these dogs be bringing into our State? Yes they will all need a CVI before being **sold by the shelter** (they like to call it an adoption fee, but it is a sale – money changing hands for goods), but, by the time a Veterinarian actually checks these dogs, who knows what disease or parasites they are bringing with them and have been tracked by shelter workers to training facilities, dog parks, etc.? Shelters that import dogs into our State should be subject to the same fees as breeders, based on the volume of animals being sold.

Though DFOV had been assured by WI legislative council that there was no need for an false accusation clause in the bill as breeders would be protected by Section one of ATCP rules, we find that this may not be true. The only reference to dogs in existing DATCP rules is 10.80. Because of this, dog breeders will not have access to The Farm Mediation and Arbitration program. According to this document, 93.50(1)(d)

(d) "Farmer" means a farmer, as defined in s. 102.04 (3),

102.04(3)

(3) "Farmer" means any person engaged in farming as defined. Operation of farm premises shall be deemed to be the planting and cultivating of the soil thereof; the raising and harvesting of agricultural, horticultural or arboricultural crops thereon; the raising, breeding, tending, training and management of livestock, bees, poultry, fur-bearing animals, wildlife or aquatic life, or their products, thereon; the processing, drying, packing, packaging, freezing, grading, storing, delivering to storage, to market or to a carrier for transportation to market, distributing directly to consumers or marketing any of the above-named commodities.

As dog breeders are not specifically mentioned in 102.04 (3), there is a possibility that they will not have any recourse against over-zealous ATCP inspectors or false complaints.

Another major concern to hobby breeders is the fact that the training program for the inspectors has not yet been written, nor is there any qualifications listed for an individual to be considered as an inspector. The only statement made in Act 90 is that the inspectors will be trained by a program developed by ATCP and they will have to take the State Humane Officer Course. This course is 40 hours long and barely covers domestic animals. Due to the diversity of dogs, and their diverse husbandry methods, there is a great possibility that breeders will be subject to citations based on educational deficiencies on the part of the inspectors. The draft rules state **"Each dog shall be handled as carefully as practicable and in a humane manner that does not cause physical harm or trauma."** There are no exclusions for accepted husbandry practices such as dew claw removal or tail docking.

Individuals employed by WI Dept. of Agriculture, Trade & Consumer Protection, who have been overseeing the breeder licensing rules have apparently decided that "public opinion" is more important than listening to the experts in regards to dogs. They will move the rules draft forward to the Agricultural Board for a hearing on December 8th, 2010, without taking into consideration many of the concerns brought forth by dog experts.

DATCP had the opportunity to write fair rules that would not create undue hardship on the citizens and dogs in the State of Wisconsin. They have refused to hear our voices. Now you have some work to do. Due to the elections, there are many new faces at the State Capitol. It is up to you to educate those who are now in office and those that will take office on January 3, 2011. You must make them understand that Act 90 is going to end up costing the State half a million dollars due to the nature of the rules draft put forth by ATCP. Existing responsible breeders will not be able to afford the excessive housing requirements; in-home breeders cannot comply with commercial standards of care. These rules, supposedly created to eliminate the "bad actors", will instead force the credible, quality breeders out of business as they will not be able to afford the increase in infrastructure.

Link to the current rule—it is not yet up on ATCP's website (note that you may want to start on page 21 of the document as the prior pages are irrelevant as they **are not the actual rules**): http://www.dfow.net/ATCP16finaldraft11_2_10.pdf

Link to the current DATCP board members: Go to page 3 <http://www.datcp.state.wi.us/aboutus/leadership/pdf/ATCPBoardJune2009.pdf>

Link to WI Administrative Rulemaking Order: <https://health.wisconsin.gov/admrules/public/Rmo?nRmold=6723>

There will be additional concerns listed in the DFOV November newsletter and on the Yahoo email list.