

The Puppy Industry in Missouri

*A Study of the Buyers, Sellers, Breeders
and Enforcement of the Laws*

Executive Summary



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Introduction

One of the responsibilities of the BBB is to monitor the marketplace, rooting out questionable activities affecting consumers. The four-fold reasons for this study are 1) The large number of complaints filed with the three BBBs in Missouri alleging improper conduct in the puppy marketing industry; 2) The resolution rate of those complaints which is well below the national average for resolving complaints; 3) The purchase online or in pet stores of ill puppies; and 4) The expenditure of money for veterinarian fees by consumers who unknowingly bought sick puppies.

The puppy industry sprouted in the post-World War II era when farmers were seeking alternative cash crops, according to some Web sites. "Through indifference or ignorance many puppies were left unsocialized or exposed in existing chicken coops or rabbit hutches," the Web site Wikipedia notes.

Missouri is often referred to as the "puppy mill" capital of the country. The term "puppy mill" is not a legal one and consequently lacks a common definition. For some it may be any place where puppies are raised for profit. For others, it may be a kennel where the emphasis is on profit rather than the welfare of the dogs. Because the interpretation of "puppy mill" lies with the individual, this study will refrain from using the term, allowing the reader to draw his or her own conclusions from the facts.

Sources

Sources used in this study include: BBB databases including complaints; responses to surveys sent to authorities in 50 states; the U.S. Department of Agriculture (USDA); the Missouri Department of Agriculture (MDA); inspection reports of federally licensed breeders, wholesalers, and intermediate handlers located in Missouri; the Internet sites of Missouri dog breeders; state and federal audits of animal care agencies; classified ads; court suits involving retailers and suppliers of puppies; U.S. Department of Transportation records; news reports; and shoppings by BBB personnel. The data in this study is accurate as of the date of the study's publication.

The BBB was hindered in its investigation by failure of Missouri and federal authorities to make timely responses to requests for information. For example, a questionnaire with 15 questions was sent to the Missouri Department of Agriculture on Sept. 13, 2009. The BBB did not receive answers to the 15 questions until two-and-a-half months later, several weeks after other states had responded to the survey. A request for additional information was made Dec. 7, 2009. The BBB has yet to receive the information. At the federal level, the BBB requested information from the USDA on Sept. 16 and was referred to the office that responds to Freedom of Information Act (FOIA) requests. The BBB was told by the FOIA office that it does not respond to questions, only to requests for records. The FOIA office referred the BBB back to the initial contact person to respond to the questions and four months after the original request, he has yet to respond.

Missouri—The National Hot Spot of the Puppy Industry

Under the federal Animal Welfare Act (AWA), the USDA licenses and inspects dog breeding facilities. There are about 4,000 breeders licensed by the USDA nationally. About 30% of these (1,200) are in Missouri, and more than two-thirds are in five contiguous states including Missouri. Surveys were sent to 50 states regarding dog breeders and 40% responded. Six of the states responding to a question reported one kennel per 100,000 residents, while Missouri has about one per 3,000 residents. Missouri has four times as many USDA-licensed breeders as Nebraska, the next highest. And within Missouri, the southwest corner of the state is the hub of the puppy industry. The largest wholesaler of puppies is located in Goodman, a small town in Southwest Missouri. Goodman is near the Oklahoma and Arkansas borders, two states which, with Missouri, are among the top five in terms of breeders licensed by the USDA.

Complaints

A total of 352 complaints and reports against dog breeders and sellers have been filed with the three Missouri BBBs in

the past three years. While more than three-fourths of all complaints filed with BBBs nationally are resolved, more than half of the complaints filed against Missouri dog breeders and sellers were unresolved. Of those who complained after they had bought a puppy, more than a third said their puppies were ill when they purchased them or became ill soon thereafter, and that several of them had died. Many of the buyers spent thousands of dollars on veterinarian fees that weren't reimbursed by the seller. The lack of registration papers that were promised when they purchased the puppies was cited by 37 of the complainants.

The Breeders and Inspectors

The federal AWA and the Missouri's Animal Care Facilities Act (ACFA) govern dog breeding and the marketing of puppies. The laws and regulations of both require breeders who have more than three female dogs capable of breeding to be licensed, although federal laws do not require pet stores or a breeder who engages solely in retail sales to be licensed. Licensees are subject to annual inspections by both federal and state authorities. Inspection records raise the question whether these inspections by themselves are effective in policing the marketplace.

A prominent example is the case of Tim King Jr., who operated Doo Little Kennel near Rolla, Mo. On July 24, 2007, federal inspectors found 13 violations including excessive excreta and feces, weeds and trash, unclean facilities, and no shade for some dogs. A month later inspectors found eight violations, including six repeated ones. In the meantime, King continued in business, for example, once sending 32 dogs to an auction at which 23 were sold. Inspections continued, and repeated violations were found. On Sept. 15, 2009, officials raided his kennel and confiscated about 100 dogs and puppies, many sick and malnourished, according to news reports. In all, King had amassed 103 violations in seven inspections spanning less than two years. King is still licensed as a breeder according to the USDA's Web site, but reportedly never held a state license. On Oct. 5, 2009, King was cited the second time for animal abuse or neglect with the maximum penalty now a \$1,000 fine and a year in jail. That case is pending. The question arises why King was allowed to operate for nearly two years without strict enforcement action by federal and state authorities, even though they knew of his dismal track record.

But the King case is not alone in raising the question of whether inspections, by themselves, are effective. For example, the USDA made 130 inspections of 20 breeders in Missouri in the past three years. During those inspections 987 violations were cited, an average of 7.6 per inspection. The license of one of the breeders was cancelled and reinstated three times before being cancelled a fourth time. Another breeder was cancelled two months ago after racking up 138 violations during 13 inspections in less than three years. Twelve of the 20 breeders are still licensed, although three of them had their licenses cancelled at one time or other.

In 2004, State Auditor Claire McCaskill reported that not only were state authorities not inspecting breeders annually as required by law, but that they were not citing violations when they were observed. She pointed out that the problems that existed in her 2001 audit still existed in 2004. The same situation continued in 2008, according to a report by State Auditor Susan Montee.

While inspections, limited as they are, may find and correct some violations, the use of enforcement tools appears to be lacking. A 2005 audit of the federal program noted: ". . . inspectors believe the lack of enforcement action undermines their credibility and authority to enforce the AWA." Similarly, McCaskill noted in 2004, "Although the division has taken actions to penalize licensed facilities, some facilities with chronic poor performance may never be penalized."

The Marketplaces

Consumers wanting to buy a puppy have several marketplaces to choose from—a kennel, classified ads, the Internet, and auctions, although auctions are geared more toward breeders seeking additional stock to breed or sell.

Consumers also may "adopt" a pet from an animal shelter, although these dogs may be older than the consumer is seeking. Most shelters charge fees for "adopted" animals to cover medical expenses.

Buying a puppy from a breeder who advertises on the Internet is perhaps the most risky choice, with contracts weighted heavily in favor of the breeder. Said one Missouri breeder on its Web site: "We have considered a contract to cover all of the above, but have yet to read one that is not 90% in favor of the breeder/seller. Actually not worth the paper they are written on."

Ten contracts of Missouri breeders selling on the Internet were examined.

- Eight of the contracts offered to replace a sick or dead puppy, but noted that the customer would have to pay the shipping costs, both for sending the ill puppy back to the breeder and for obtaining a replacement.
- Three breeders reserved the right to determine whether the puppy were ill when shipped.
- Nine of the 10 contracts said that the breeder would not pay for any veterinarian costs, even if the customer bought an ill puppy. Six contracts prohibit a refund of a deposit under any conditions.
- If a buyer wanted to sue the breeder for providing an ill puppy, four contracts specified that the suit would have to be filed in the county in which the breeder is located, even though the customer may be located thousands of miles away.

Buying a puppy through a classified ad in the newspaper also poses problems unless the prospective buyer is able to view the kennel and see the condition of the facilities, along with the parents of the puppy. A breeder may ask that the prospective buyer meet him or her on a parking lot to see the dog rather than at the kennel. The BBB shopped 22 classified ads in the newspaper by telephone. A few were reluctant to furnish the addresses of their kennels, although most did. BBB shoppers made appointments to meet with the breeders at locations other than the kennels on three occasions. Once, the breeder failed to show. Another invited the shopper to visit her kennel. But the third shopper seeking a dachshund puppy for her daughter met a breeder on a parking lot in St. Charles. Two dachshund puppies that were shown to the shopper appeared to be underweight, inactive and with very thin coats. When the shopper told the breeder that she wanted to check with other sources, the breeder angrily told her she had wasted his time, slammed the door of his station wagon and drove away.

Pet stores are another marketplace for consumers seeking a puppy. However, there are numerous reports of puppies being purchased that were ill or became sick shortly thereafter. Animal welfare activists have waged a national campaign against Petland, an international chain doing business in 26 states and six countries. A class action suit has been filed against Petland and The Hunte Corporation (see below) claiming the stores sold ill puppies. BBBs received 657 complaints nationally against Petland stores in the past three years.

The Middle Men

One of the largest sales outlets for breeders in Missouri and other states is The Hunte Corporation, located in Goodman, Mo. According to news reports, Hunte buys and sells 90,000 puppies a year, transporting them by 18-wheeler to pet stores across the country. Hunte's 25 trucks logged 2 million miles in 2007, according to the U.S. Department of Transportation. Hunte refused to verify the sales figures. In glowing terms on its Web site, the company describes how well it takes care of the puppies once they are in its possession. However, many sources disagree with the words of self-adulation.

For example, the Web site notes: "All Hunte puppies come from USDA licensed and AKC inspected professional breeders and hobby breeders." But in January 2008, an administrative law judge in Washington, D.C. found that a division of Hunte had paid \$3,036 for 19 puppies to a Missouri dealer between March and October 2003, although the dealer had not had a required USDA license since September 2002. The dealer is now selling puppies on the Internet.

(Two other Missouri dealers—Mid-America Pet Broker of Neosho and Hidden Valley Farms of Greencastle—also ran afoul of federal inspectors when they purchased puppies without obtaining certification that the breeders did not require a license.)

The Hunte Web site also states: "They (the puppies) receive the best food and veterinary care and constant attention from a highly-trained support staff focused solely on the puppy's wellbeing." This is disputed by several sources. Hunte is a principal supplier of puppies to Petland, the national chain pet store. The former owners of three Petland stores in Tennessee, Indiana and Ohio, in separate suits, charged that they received sick puppies from Hunte. One franchisee said that prior to his grand opening on Aug. 5, 2006, he received 60 to 65 puppies from Hunte, more than half of them sick when they arrived. Another said three puppies in the initial shipment for his opening on March 31, 2007, died within weeks and others were sick. The third franchisee said in a class action suit that he had to spend about \$40,000 in veterinarian bills because puppies from Hunte were sick. The three suits are pending.

In a class action suit filed in September 2009 in Arizona against Petland and Hunte, 31 consumers alleged that they had purchased sick puppies from Petland, four of them traced back to Hunte. In its denial of the accusations, Hunte noted: "It is clear that HSUS (Humane Society of the U.S.) desires a public forum in which it can advocate its position that pet stores should not sell puppies. Trying to squeeze their allegations into an actionable claim appears to have been simply an afterthought." The suit is pending.

Breeders also market directly to pet stores, relying on other companies to transport the puppies to the stores. These "intermediate handlers" are licensed by the USDA. Eighteen individuals or companies in Missouri hold such licenses, and are subject to inspection by authorities. One of these is Puppy Ship LLC of Monett, Mo. On July 8, 2009, a driver for Puppy Ship, was arrested in Massachusetts for cruelty to animals. Authorities confiscated 27 puppies that were on their way to pet stores. Seven of the puppies needed veterinary care, three for dehydration or infections, and have incurred \$14,000 in vet bills, according to news reports. The driver's attorney told a judge that his client delivers puppies to Massachusetts once a week.

Missouri Compared With Other States

Surveys were sent by the BBB to the Departments of Agriculture in all of the states regarding their programs for licensing dog breeders and sellers. Forty percent of the states responded. The surveys showed that while Missouri's inspectors have more work than their counterparts in other states, they are paid better. Missouri inspectors are paid between \$30,000 and \$36,600 while those in other states responding to the question are paid an average of \$22,700 to \$31,000. But Missouri employees must inspect well over twice as many kennels per inspector as inspectors in other states. Inspectors usually have duties in addition to inspecting licensed kennels.

Four of 13 states responding to a question said there were no efforts made to identify non-licensed breeders, while eight said there were some efforts. Missouri, apparently echoing its Operation Bark Alert program through which it seeks help from the public in identifying non-licensed breeders, responded "many." Of those states responding to the question whether they regularly inspected breeders' kennels, eight, including Missouri, said yes and eight said no. The frequency of inspections varied from only at the time of initial licensing to annually and in response to a complaint.

The number of enforcement actions taken against pet stores in the past three years averaged 23 in states responding to the question while Missouri reported only three. Enforcement actions against kennels as a percentage of licensed kennels averaged 15.7% for the states responding to the question, while Missouri averaged 8.3%.

Financing

Missouri's program of regulating dog breeders is financed in part by the Animal Welfare Fund into which fees paid by breeders and others in the industry are deposited. The money is to be used only for enforcement of the ACFA. The state spends about \$785,000 annually on inspections. Nine respondents to a survey, including Missouri, said that lack of funding hinders efforts to properly regulate and inspect kennels. The annual fees for licensing in 24 states range from \$48 to \$179. Missouri's fees range from \$100 to \$500 depending on the breeder's report on the number of dogs sold the past year. In 2004, McCaskill criticized the method of verifying the per capita fee in which the Department multiplied the number of females by eight puppies sold (two litters of four each). If the number reported by the kennel was close to this estimate, it was accepted. McCaskill recommended a more exact procedure to ensure breeders were paying the proper amount. A 2008 audit of the Department of Agriculture by Montee noted that fees had not been adjusted since the beginning of the program in 1993 and recommended that the Department consider increasing them through regulation or legislation.

Legislation

In the past, a few Missouri legislators have tried unsuccessfully to put more restrictions on the puppy industry. A current bill in the Senate would increase regulations governing the purchase of puppies. Identical bills failed in the 2008 and 2009 sessions of the Legislature. A bill with increased restrictions on breeders is pending in the current session of the House of Representatives. A few other states have recently passed more stringent regulations of dog breeders. A new tact has been taken by a coalition of animal welfare activists, backed by a \$450,000 contribution by the Humane Society of the United States, which is seeking 100,000 signatures to put a measure with major changes

in kennel requirements on the Missouri ballot this year. The measure would limit the number of breeding females a breeder may have to 50, require solid flooring for cages instead of the common wire mesh, prohibit stacking of cages, require constant access to outdoor exercise areas, increase the minimum amount of space for animals, require daily cleaning of cages, require annual veterinarian visits, and limit the breeding cycle for females to two litters every eighteen months. These provisions of the proposed law would apply only to breeders with more than 10 females capable of reproducing and would not apply to animal shelters, pet shops, transporters or hobby breeders. However, a counter measure in the form of a proposed constitutional amendment has been passed by the House and if approved by the Senate, will be on the ballot in November. A key sentence in the proposed amendment would prohibit any law regulating domesticated animals unless it is based on scientific principles and enacted by the Legislature. The proposed amendment also gives citizens the right to raise domesticated animals without the state imposing “an undue economic burden on animal owners.”

Conclusions

Because the largest wholesaler of puppies is located in Southwest Missouri, dog breeders proliferate in Missouri and other states in the area. The bottom line for the puppy industry in Missouri is that the state's job of policing the industry properly is overwhelmed by the lack of available resources. Rightly or wrongly, the policing of dog breeders and sellers seems to be a lower priority in Missouri and elsewhere. Missouri, along with nine other states responding to a survey question, said that lack of funding hinders efforts to properly regulate and inspect kennels. While the efforts of the Missouri Department of Agriculture to identify unlicensed dog breeders through Operation Bark Alert and its follow-up, Prosecution Bark Alert, are commendable, the program siphons resources from the legal mandate of inspecting all licensees annually, including breeders, pet sitters, intermediate handlers, dealers, pet stores, and animal shelters. And in effect, state officials are caught in a Catch-22 dilemma—to commit more resources to identifying unlicensed breeders on the one hand, or to commit more resources to regulating licensed breeders and others more rigorously.

The lack of more vigorous enforcement of the laws and regulations has allowed many breeders to continue operating substandard kennels as the case of Tim King Jr. amply illustrates. The lack of aggressiveness in penalizing breeders for violations of the law would seem to contribute to a *laissez-faire* attitude toward regulations on the part of breeders.

At least in the past there appears to have been a dichotomy in the philosophies of state officials and auditors—basically a carrot and stick conundrum. While auditors were critical of the lack of stricter enforcement of the laws and regulations, the Department of Agriculture responded that bringing wayward licensees into compliance through persuasion was a more meritorious approach. McCaskill's 2001 audit noted that several inspectors “stated that it is their duty, or ‘it is best’ to get breeders into compliance rather than to fine them.” But as a federal auditor noted, “As a result, violators consider the (reduced fines for federal violations) as a normal cost of conducting business rather than a deterrent for violating the law.” Meanwhile, breeders and others in Missouri, with seeming impunity, will continue to send sick puppies to be purchased by unwary consumers.

Recommendations

- That the Missouri and U.S. Departments of Agriculture pursue penalties against repeat offenders more aggressively.
- That, if necessary, legislation be sought to streamline the process for penalizing repeat offenders, while still allowing for due process.
- That the Missouri Department of Agriculture and General Assembly consider an auditor's recommendation to increase the annual license fees and more accurately assess them thereby providing more resources for the inspection and regulation program.
- That consumers consider “adopting” a spayed pet from a shelter.

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