



AMERICAN  
KENNEL CLUB<sup>SM</sup>

December 6, 2011

Ms. Gayle Latham  
Presiding Officer  
Licensed Breeders Advisory Board  
P.O. Box 12157  
Austin, TX 78711

Dear Ms. Latham,

The American Kennel Club (AKC) was established in 1884 to promote the study, breeding, exhibiting, and advancement of purebred dogs. We now represent over 4,600 dog clubs nationally, including 398 licensed clubs in Texas. The American Kennel Club supports sound, enforceable, non-discriminatory legislation to govern dog ownership.

As you may know, we opposed House Bill 1451 during the 2011 legislative session because of concerns that the measure had the potential to harm responsible dog breeders and owners and not truly improve animal welfare. In drafting the implementing regulations for this statute, the advisory board now has a tremendous opportunity to protect responsible breeders and promote standards that are achievable and cost-effective.

Specifically, we are concerned about high license fees and imposition of rigid engineering standards that will force breeders to spend money on unnecessary infrastructure that will not result in a better quality of life for the animals. Every dollar a breeder spends in license fees and complying with arbitrary size and materials requirements is a dollar not spent on veterinary care, food, toys, additional staff or other investments that will improve the day-to-day lives of the animals in their care.

Attached please find a list of the specific sections in Chapter 802 that AKC believes need to be clarified in the regulations. Adoption of clear definitions and efficient licensing and inspection processes will be essential in creating an effective program in Texas.

On behalf of responsible dog owners and breeders in Texas, we thank you for your willingness to serve in this important capacity and we are pleased we to extend an offer to assist you in any way we can. By working together throughout this process, we can help achieve the goal we all share: improved animal welfare.

Sincerely,

Sheila Goffe  
Director, AKC Government Relations

Cc: Members of the Licensed Breeders Advisory Committee  
Brian Francis, Deputy Executive Director Texas Department of Licensing and Regulation

## **Chapter 802– Sections Needing Clarification in Regulation**

- **Sections 802.002 (8) and 802.004 – Clarification of threshold for number of adult intact female animals.** Section 802.002 (8) states that a “Dog or cat breeder” is a person “who possesses 11 or more adult intact female animals and is engaged in the business of breeding those animals for direct or indirect sale”. Testimony implied that ALL 11 females must be bred in a given year. However, Section 802.004 presumes that each adult intact female is used for breeding unless the breeder proves to the satisfaction of the department that the dog is not used for breeding. Statute is unclear as to what evidence would be acceptable in proving a female was not bred. If no litters are produced, there will not be any veterinary records for non-existent puppies, nor documentation on puppies that were not sold. Guidance is needed as to what evidence will be sufficient to prove that an animal was not used for breeding purposes and as to whether a minimum of 11 intact females must be bred in a given year for a license to be necessary.
- **802.005 – Purports to exempt persons who breed special purpose dogs.** It is unclear how a breeder’s “intent” would be determined. In subsection (3) it allows for exemption for field trials, hunting tests and other “similar organized performance events.” Does this include AKC conformation events or events such as agility, obedience, rally, lure coursing, tracking, Earthdog, Coonhound, or working dog sports? AKC believes that the inclusion of these events would be consistent with legislators’ intent to exempt responsible breeders who seek to improve their breeds and breed dogs to perform specific functions.
- **802.052 – Allows the department to set fees to cover all costs incurred in the administration and enforcement of this chapter.** The fiscal note projected that this program would cost the state \$565,242 annually. It estimated that 600 breeders will need to be licensed, making the cost of a license almost \$1000 per breeder. This is significantly higher than most other license fees in Texas. To ensure that responsible breeders can afford both the license fee and any changes to their facilities necessitated by the regulations, it is vital that license fees be kept to a reasonable level and be in line with other license fees currently charged by TDLR.
- **802.056 and 802.057 - Establish a public database of licensees and disciplinary actions.** The thresholds in this bill are so low as to include many who breed dogs in their homes. It is unreasonable for a small breeder to be required to post their name, address and other personal information on a public registry. Regulations should clarify what information will be published for the public.
- **802.059 - Establishes the “Dog or Cat Breeder Training and Enforcement Account” which may offer rewards for information leading to disciplinary action.** The statute does not address who pays the costs if an individual is accused of operating without a license and is found to not require a license. Since the entire financial burden of the program rests on licensed breeders, it appears that licensed breeders would also be forced to fund these investigations, further increasing the cost of a license. Clarification is needed as to how fraudulent or frivolous complaints will be handled and how breeders who do not meet the thresholds in the bill will prove that to inspectors short of allowing a warrantless search of

their property.

- **802.062 - Mandates an inspection, which “may” be unannounced, by the Texas Department of Licensing and Regulation (TDLR), or their designee every 18 months.** Due to the low thresholds in the bill, many of the breeders who will be licensed are not commercial operations and do not have regular business hours. Often, these people utilize their homes to breed their dogs. It is unclear what will happen if a breeder is not at home when an inspector has gone to the expense of traveling to visit them or what providing a “reasonable opportunity” for the breeder to be present will mean. Please clarify what criteria will be used to determine if it is appropriate to provide advance notice of an inspection as provided in subsection (c).
- **802.101 – Stipulates that a person may not act as or represent themselves as a dog or cat breeder unless they are licensed under this section.** There is concern among small breeders who do not meet the thresholds in this bill that they will be unable to advertise their services as a breeder, or even be listed in AKC event materials as participating in our “Breeder of Merit” programs or in AKC Bred-By-Exhibitor dog show competitions. Regulations should clarify that this section applies only to those who are required to be licensed under the act.