



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Sean McCullough, Director

MEMORANDUM

TO: Jacquelyn Keller-Potvin, Ohio Department of Agriculture

FROM: Ethan Wittkorn, Regulatory Policy Advocate

DATE: December 6, 2021

RE: CSI Review – Commercial Dog Breeding (OAC 901:1-5-12, 901:1-6-01, 901:1-6-02, 901:1-6-03, 901:1-6-04, 901:1-6-05, 901:1-6-06, 901:1-6-07, 901:1-6-08, 901:1-6-09, 901:1-6-10, 901:1-8-01, 901:1-8-02, 901:1-8-03, 901:1-8-04, and 901:1-8-05)

On behalf of Lt. Governor Jon Husted, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Department as provided for in ORC 107.54.

Analysis

This Ohio Department of Agriculture (Department) rule package consists of 14 amended, one new, and two rescinded rules. The rules were submitted to the CSI Office on May 11, 2021, and the public comment period was open through June 2, 2021. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on May 11, 2021.

The proposed rules provide requirements of operation for commercial dog breeders. This includes the required standards for disease testing, housing, socialization, exercise, and feeding of dogs kept by high volume dog breeders, along with licensing requirements, record keeping, inspections, and identification requirements for dog breeders or brokers. Amendments include new definitions, updates to enclosure sizes and standards, additional exercise and outdoor access requirements, clarification of other food and health requirements, and to require criminal records checks for applicants.

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During the early stakeholder outreach period the Department sought input on the proposed rules from stakeholders that included veterinarian organizations, lobbying organizations, government agencies, advocacy groups, and educational institutions. During this period the Department received comments that led amendments to the rule requiring tail docking be performed by a licensed veterinarian, updates to the definition of “access the outdoors” to be consistent with statute and allowing for Brucella Canis card testing as an approved testing method. Due to several comments submitted during the CSI public comment period, the Department provided additional clarification on testing requirements, facility requirements, and language updates to maintain consistency across rules. Additionally, comments on a rule that would require veterinarians to perform tail docking procedures in all circumstances led to the removal of the rule from this package, to be reviewed further.

The business communities impacted by the rules includes all retail establishments that sell dogs, dog brokers, and high-volume dog breeders operating in Ohio. Potential impacts of the rules may be the time required of business to complete application requirements, accomplish records maintenance requirements, and potential costs for facility and housing updates. The Department states that the impacts of the proposed rules on the business communities are justified as they provide needed health and safety standards for the care of dogs in their custody, and to provide consistent regulation throughout the state.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the Department should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.