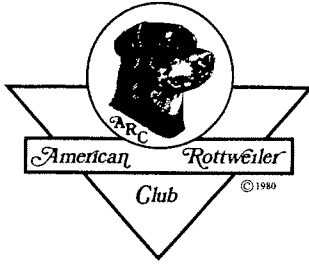


**American Rottweiler Club, Inc.**



**American Rottweiler Club, Inc.  
16005 Pine Creek Way  
Magnolia, TX 77358**

July 7, 2009

The Honorable Don Davis  
North Carolina Senate  
300 N. Salisbury Street, Room 525  
Raleigh, NC 27603-5925

VIA FAX: 916-327-2188

**RE: NORTH CAROLINA SB 460 - OPPOSED**

Dear Senator Davis:

The American Rottweiler Club, Inc. (ARC), the parent club of the American Kennel Club (AKC) for the Rottweiler breed in the United States, representing thousands of dog owners, is writing to express our grave concern over **North Carolina SB 460 - A Bill That Criminalizes Certain Dog Ownership**

Since its inception, the American Rottweiler Club has been deeply engaged in advancing animal welfare and the humane care and treatment of dogs. ARC members and supporters devote significant time, effort and resources in educating the public on responsible dog ownership, and supporting to scores of animal rescue and sheltering organizations across the United States through direct donations, grants and volunteer support.

The American Rottweiler Club is adamantly opposed to the cruel and inhumane treatment of dogs, the exploitation of innocent animals, and illegal, sub-standard breeding operations.

We therefore respectfully submit our official and unequivocal opposition to **North Carolina SB 460** and to any other bill which makes criminals out of law-abiding, tax-paying citizens and home and hobby breeders, or anyone owning intact dogs.

**North Carolina SB** sets a dangerous precedent for the type and scope of legislation including:

- NC SB 460 makes criminals of responsible, tax-paying pet owners based on the reproductive status and/or numbers of pets**
- NC SB 460 will escalate costs for the state and municipalities already in financial crisis**
- NC SB 460 deprives dog-owning citizens of Due Process**
- NC SB 460 creates the possibility of warrantless searches and seizures**

**NC SB 460 – Criminalizing Dog Ownership & Dog Breeding**

NC SB 460 seems to take aim at anyone engaged in the breeding of dogs, and makes criminals out of vast majority of breeders who are responsible, law-abiding and caring individuals or establishments, deeply dedicated to the welfare of dogs.

**NC SB 460 imposed higher standards for dog breeding than any other animal including pets such as cats**

Additionally, this bill requires a veterinarian's certification for suitability to breed – such certification does not exist and opinions could be very diverse. Accidental breedings could result in criminal penalties and revocation or failure to renew license.

This bill seems to stem from the misconception that owners of breeding stock, intact dogs, or multiple dogs are de facto “puppy mills” – which is certainly not the case.

We respectfully point out that the term, “puppy mill” is highly inflammatory and deliberately misleading.

Most home and hobby breeders – as well as the vast majority of commercial kennels – operate under a set of standards set forth not just by the state, but by the very organizations to which we belong, concerning the care, treatment, feeding, and training of healthy dogs.

We would like to make very clear that any substandard and inhumane conditions at kennels – whether they be commercial operations or privately-owned home or hobby kennels – are still substandard and inhumane, and therefore subject to the strict enforcement of North Carolina's anti-cruelty statutes.

Sadly, it is the lack of enforcement, and the lack of state or municipal funding for enforcement, combined with a lacking of understanding of basic animal husbandry, that often is to blame for allowing such conditions to exist.

We, therefore, recommend that strong enforcement of the State's animal cruelty laws are the correct remedy to such filthy and cruel establishments, but that criminalizing the ownership and breeding of dogs – or criminalizing the ownership or breeding of any animals for that matter – is a misguided approach.

### **NC SB 460 – Fails To Improve Upon Existing Animal Cruelty Statutes**

NC SB 460 does nothing to improve the state's current animal cruelty laws.

Furthermore, there ALREADY is **existing law to deal with puppy mills**:

- Cruelty laws (The Wayne County operation has been indicted for 12 criminal counts)
- Animal Welfare Act currently regulates commercial breeders who have more than 5 litters annually
- Adds *second duplicative level* of licensing for the target audience – the large scale commercial breeder who is currently covered as a dog Dealer

### **NC SB 460 – Vague and Unacceptable**

NC SB 460 carries the requirement for annual veterinary certification of “suitable health” for breeding. This vague and completely unacceptable.

Certification could require anything from routine physical exam to an expensive panel of blood tests and x-rays.

There are no standardized, specific laboratory tests or specialized reproductive examination procedures that are suitable for assessing the health status of bitches for breeding. No other species has this pre-breeding regulation in place.

This provision only serves to make breeding dogs more expensive and more complicated.

Finally, the decision to breed or not breed a dog should remain at the discretion of the owner and their veterinarian and not become a legislative mandate.

### **NC SB 460 - Fiscally Irresponsible**

Implementation of NC SB 460 adds greatly to the current state budget deficit.

## American Rottweiler Club, Inc.

**The State of North Carolina's Fiscal Research Division shows** in an analysis released on June 29, 2009, estimate the cost of annual licensing, inspections and enforcement will exceed \$425,000 per year.

In addition, the Fiscal Note indicates previous kennel takeovers have cost more than \$345,000 in *additional costs* for care of animals while in custody and the cost to Wayne County for assuming custody of seized dogs for less than a week was greater than \$100,000

There will be no "windfall" of underpaid sales taxes to accrue to the State North Carolina exempts the sale of animals from sales tax.

### **58-24 ANIMALS AND ANIMAL CAGES**

*Purchases of animals from a commercial animal breeder or producer by manufacturers, research laboratories, other businesses or individuals are exempt from tax.*

Furthermore, there is also no "windfall" of under-reported income tax from dog breeders as puppy farmers already pay income taxes just like pig or turkey farmers and other citizens

It would be fiscally irresponsible for the members of the North Carolina Legislature to impose new costs while at the same time cutting other social programs, cuts which hurt the citizens of North Carolina.

### **NC SB 460: Violations of the 14<sup>th</sup> Amendment & Constitutionality Of Imposing Limits On Animal Ownership**

It is the contention of the American Rottweiler Club that the State would exceed its authority by attempting to regulate the ownership or possession of property – a violation of the 14<sup>th</sup> Amendment.

The Committee of course is fully aware that the **14<sup>th</sup> Amendment** makes clear that:

***No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.***

NC SB 460 violates the 14<sup>th</sup> Amendment by predicating animal ownership upon compliance with these arbitrary and revokeable licensing requirements:

§ 19A 29.2. reads

*"Denial of access to the commercial breeding operation shall be grounds for revocation of the commercial breeders license." The law should be very clear that only the kennel area can be inspected. Entry and search of private residence should not be included as a requirement of inspection and licensure; to do so would be considered a warrantless search and invasion of privacy.*

In addition, § 19A 30. (3a) reads that a license can be revoked for failure to comply with the statutes and rules governing commercial breeding operations. This would include infractions of required paperwork and record-keeping. License revocation is far too severe a penalty for such mistakes.

Does the State of North Carolina intend to limit the ownership of property by making it "revokeable"?

We, therefore, ask if it is the intent of this Committee to see that the rights of tax-paying, law-abiding and dog-owning citizens in North Carolina be abridged, and is it the intent of NC SB 460 to deprive such citizens not only of Due Process but Equal Protection as well?

## **NC SB 460: Possible Warrantless Search & Seizure**

It should be noted that **NC SB 460** contains provisions making warrantless searches and seizures likely, seriously compromising the constitutional protections to which all citizens are entitled under the guise of animal protection.

- **Allows Inspections of private property at any time.** The bill allows law enforcement and local animal control to search the private property at any time of day or night of anyone who falls under the definition of “commercial breeder”.
- **Allowance for seizure of animals for those who do not comply with the new regulations, with no opportunity to come into compliance.** If a commercial breeder is unlicensed, animals will be subject to immediate seizure and impoundment and may be sold or euthanized with no opportunity to come into compliance with the law.

We respectfully ask the Committee Members just what would constitute “*probable cause*” under NC SB 460 – is it the appointed, authorized representative's word that pets “may” be intact?

## **Civil Rights & Constitutional Issues**

NC SB 460 presents a multitude of civil rights issues and constitution challenges, including but not limited to unequal protection, violation of due process, removal of the presumption of innocence, selective enforcement, interference with lawful activities and loss of personal rights.

NC SB 460 also sets the stage for unequal protection in that owners of subjectively targeted breeds or intact dogs of breeding stock are thus arbitrarily and subjectively held to a different and higher legal standard than other dog-owning citizens, for which the State Of North Carolina has not proven nor cannot prove a rational or legal basis.

## **Closing Thoughts**

In closing, the American Rottweiler Club rejects the potential criminalization of responsible dog ownership, the flawed concept of outlawing or eliminating through heavy-handed regulation the lawful breeding, ownership, and custody of dogs – or ANY animals.

We formally oppose the erosion of the rights and liberties guaranteed to all citizens of the United States under the guise of animal protection.

The American Rottweiler Club, having conducted a thorough analysis of this bill, concludes that North Carolina SB 460 would:

- **May criminalize dog ownership**
- **Fails to protect the welfare of ALL dogs**
- **Deprives citizens of Due Process**
- **Waste valuable tax-payer dollars**

## **NC SB 460: In Summary**

The American Rottweiler Club urges the members of the General Assembly of the State Of North Carolina to act appropriately and responsibly by voting NO on North Carolina SB 460.

We urge the Committee Members to reject NC SB 460 in its entirety, and not allow this misguided piece of legislation, no matter how well-intentioned, to bring about the destruction of innocent dogs, eliminate the responsible and ethical ownership of dogs, discriminate against owners of intact dogs, and deprive people of their rights.

**American Rottweiler Club, Inc.**

We thank you for your attention to this very important matter and remain committed to providing the State of North Carolina with expert advice in matters of animal husbandry and the humane care and treatment of dogs. We would be honored to be called upon to serve.

Very truly yours,



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cc: American Rottweiler Club Board, Peter Piusz, Delegate