

▶ Factsheet #3

Few Legal Protections for Many Animals Sold in Stores

The federal Animal Welfare Act (AWA) is the country's primary animal protection law. It regulates animals used in research or exhibited (such as in zoos or circuses), animal transporters, and commercial animal breeders. It is administered by the US Department of Agriculture (USDA).

The AWA has been consistently criticized for setting minimal welfare requirements and chronic underenforcement.

- Instead of shutting down licensees in violation of the law, the USDA frequently uses "warnings" and minor penalties instead.^{1,2}
- In 2021, the USDA's Office of Inspector General released a scathing audit report of the agency's implementation of the AWA with a focus on dog breeding facilities. It found that the Animal and Plant Health Inspection Service (APHIS) did not consistently address complaints or adequately document the result of its follow-up. The report concluded that "APHIS is not able to ensure the overall health and humane treatment of animals at these facilities."³

The AWA does not protect reptiles, amphibians, fish, or birds.⁴ As a result, many species of animals sold in stores are sourced from vendors that are unregulated.

- Vendors may voluntarily adhere to a pet store's internal standards but there's no enforcement mechanism.⁵ In other words, the bird, reptile, and amphibian industry is regulating itself without any guardrails.
- Opponents to retail pet sale bans often argue that these bans push people to seek certain animals from "unregulated" sources. The reality is that virtually all sources of these species are unregulated.

Severe cruelty also occurs at federally regulated commercial breeding facilities.

- Holmes Farm, a massive mill in Pennsylvania that bred thousands of small animals including hamsters, rabbits, and chinchillas, made national news for maintaining animals in poor conditions and killing animals with carbon dioxide or leaving them to die in freezers.⁶ The USDA investigation revealed numerous AWA violations, including dead animals decomposing next to live animals, filthy cages, and animals in desperate need of veterinary care.⁷ Holmes Farm supplied animals to both PetSmart and Petco.

In addition to the lack of legal protections for animals bred in mills and sold in stores, there are few welfare protections for animals being imported into the US.

- While the Lacey Act prohibits the importation of wildlife under inhumane conditions, it is underenforced, and conditions have only been stipulated for mammals and birds.⁸
- In 1995, a wildlife inspector in New York City found a shipment of dozens of dead and dying frogs packed without water. The animals were imported by Bronx Reptiles, Inc., an animal dealer that had already received three citations from the U.S. Fish and Wildlife Service for inhumane and improper shipment of wildlife. The government brought criminal charges, and the owner was found guilty, but the decision was reversed on appeal after he successfully argued that he didn't knowingly import animals in poor conditions.
- Likely as a result of the Bronx Reptiles case, there have not been any similar prosecutions in the last 20 years.



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- 1 Delcianna J. Winders, *Administrative License Renewal and Due Process: A Case Study*, 45 Fla. St. U. L. Rev. 439 (2019). <https://ir.law.fsu.edu/cgi/viewcontent.cgi?article=2608&context=lr>
 - 2 Karin Brulliard and William Wan. *Caged raccoons drooled in 100-degree heat. But federal enforcement has faded*. Washington Post, August 22, 2019. https://www.washingtonpost.com/science/caged-raccoons-drooled-in-100-degree-heat-but-federal-enforcement-has-faded/2019/08/21/9abf80ec-8793-11e9-a491-25df61c78dc4_story.html
 - 3 United States Department of Agriculture. 2021. *Animal Care Program Oversight of Dog Breeders*. https://www.usda.gov/sites/default/files/audit-reports/33601-0002-31_final_distribution.pdf
 - 4 The USDA has failed to protect birds under the AWA for almost two decades despite its legal obligation to do so. In 2002, the AWA was amended to include birds not bred for use in research. The USDA failed to develop standards and is now under court order to draft rules for birds in the pet trade or exhibited, as well as wild-caught birds used in research.
 - 5 Katheleen Conti. *Cambridge bans retail sales of commercially bred pets*. The Boston Globe, August 8, 2017. <https://www.bostonglobe.com/business/2017/08/08/cambridge-bans-retail-sales-commercially-bred-pets/q3HC7InBjffRbA2ktA92I/story.html>
 - 6 Chris Perez. *Horrifying video shows Petco supplier killing pets*. New York Post, January 21, 2016. <https://nypost.com/2016/01/21/horrifying-video-catches-petco-supplier-gassing-freezing-pets/>
 - 7 United States Department of Agriculture Animal and Plant Health Inspection Service. *Inspection Report of Martha Holmes*. January 6, 2016.
 - 8 Rachel Nuwer. *Many exotic pets suffer or die in transit, and beyond—and the U.S. government is failing to act*. National Geographic, March 2, 2021. <https://www.nationalgeographic.com/animals/article/exotic-pets-suffer-wildlife-trade>

