



## *Michigan's Pound Seizure Fact Sheet (Koda's Law)*

### **1. The practice of “pound seizure,” the practice of selling or giving shelter cats and dogs for research or experimentation, has been overwhelmingly rejected by Michigan shelters and its citizens.**

All Michigan shelters, except Gratiot County Animal Control and Mecosta County Animal Control, have rejected the practice of pound seizure. In Michigan, pound seizure primarily involves U.S. Department of Agriculture Class B dealers (animal brokers) obtaining shelter cats and dogs and then reselling them for a profit for experimentation or research. When communities learn that their shelter engages in pound seizure, citizens make their voices heard to influence county leaders to end the practice. Due to outcry from citizens, pound seizure ended in these counties in recent years: Ingham County (2003), Jackson County (2006), Eaton County (2008), Montcalm County (2009). This bill is named after Koda, a 3-year-old Malamute and former family pet, who was surrendered to Gratiot County Animal Control on June 13, 2007 and was given to a Class B dealer on June 19<sup>th</sup> after the minimum 5-day required hold period. Koda was then resold for profit to the University of Michigan where he died during the Advanced Trauma Life Support class. Due to public outcry for what happened to Koda and numerous other shelter pets, University of Michigan ended using live dogs in their ATLS class.

### **2. There is no financial impediment to ending pound seizure by Class B dealers in Michigan.**

Of the two Michigan shelters that currently engage in pound seizure, both give cats and dogs **for free** to Class B Dealers. Both of the shelters engage in a quid pro quo agreement with the dealer where the dealer provides other “free” services to the shelter (such as dead animal body removal) in exchange for dealers having their pick of the shelter dogs and cats for research. This practice breeds concern about greed and whether the shelter will give preference to the dealer over an adoption or rescue of the pet. Such scenarios have been documented in several former pound seizure shelters in Michigan in recent years. Moreover, none of the shelters utilize the Michigan law (MCL 287.389) that allows a shelter to charge up to \$10 for each cat and dog sold to a dealer or research facility. Nonetheless, charging a fee would not bring a notable benefit to an economically challenged shelter. According to records from the Michigan Department of Agriculture, there has been a significant decline in the past 6 years of shelter animals that have been given to Class B Dealers. In 2004, animal shelters gave 2344 cats and dogs to Class B dealers whereas in 2009 the number decreased to 329 shelter cats and dogs. Thus, at the \$10 per pet limit, the maximum that could have been earned statewide in 2009 was \$3,290. That amount is negligible and not worth the negative cost to society in maintaining pound seizure.

### **3. Legislation to end pound seizure by USDA Class B dealers will not prevent life saving biomedical research. For those facilities that still wish to utilize animals, this bill will allow animals to be obtained. The bill will only prohibit USDA Class B dealers from obtaining shelter cats and dogs. For facilities utilizing alternative non-animal techniques, this bill does not impact that research.**

In a Congressional study from 2009, the Committee on Scientific and Humane Issues in the Use of Random Source Dogs and Cats for Research and the National Research Council found that random source animals from Class B dealers are not necessary for any federal research projects.<sup>1</sup> In fact, a vast majority of cats and dogs in research come from breeders and not from random sources, such as shelters.<sup>2</sup> If random source animals are needed, there are other avenues for obtaining them, as allowed in this bill, including: (1) Class A dealers that breed animals for

<sup>1</sup> <http://0-www.ncbi.nlm.nih.gov.library.law.suffolk.edu/bookshelf/br.fcgi?book=nap12641> or please contact Michiganders for Shelter Pets for a copy of the final report.

<sup>2</sup> From November 2007 through November 2008, there were 94,724 cats and dogs used in research. Only 2,863 dogs and 276 cats came from random source Class B dealers. Scientific and Humane Issues in the Use of Random Source Dogs and Cats (May 2009), p. 67-68.

research, (2) individuals who donate their pets for research, and (3) research facilities with breeding programs. This bill cuts out the Class B dealers “middlemen,” who have been investigated for acquiring random source animals from questionable sources (these include USDA investigations on stolen animals) and then resell them for hundreds of dollars each to laboratories. It also stops shelter animals from being used for experimentation, many of which are lost and/or abused pets, but still allows for certain veterinary training practices. Much of the conclusion of the Committee was based on the speculative practices and conditions of Class B dealer facilities. As a result of the Committee’s finding, the federal Pet Safety and Protection Act of 2009 (S. 1834 and H.R. 3907)<sup>3</sup> was filed in October 2009 to prevent research facilities from accepting animals from Class B dealers.

**4. In recent years, research and training facilities have moved away from live animal research toward simulated or in-vitro research techniques. An even greater number are choosing not to use shelter animals supplied by Class B dealers.<sup>4</sup>**

The bill allows for research facilities to still obtain shelter cats and dogs, so long as the owner surrendering the cat or dog indicates in writing that the pet can be used in research. The bill also allows for animal blood banking procedures on shelter cats and dogs. According to the Physicians Committee for Responsible Medicine, in 2008 the last U.S. medical school using dogs for medical education ceased this practice. Currently, 151 of 158 U.S. medical schools do not use any live animals for education, and 197 of 208 surveyed programs in the U.S. and Canada do not use live animals for Advanced Trauma Life Support (ATLS) courses.<sup>5</sup> Every medical school and ATLS program *in Michigan* has ended live animal use for these purposes. In fact, in February 2009, the University of Michigan stopped the use of shelter dogs obtained from Class B dealers in its ATLS program.<sup>6</sup> Of the 28 veterinary training schools in the U.S., twelve do not purchase random source animals from Class B dealers.<sup>7</sup> Many research and training institutions, including all Department of Defense programs and the intramural research program at National Institutes of Health have stopped using random source dogs and cats (pets commonly from animal shelters, found as strays, or other unverified sources). In 2008, following recommendations from the National Research Council of the Academy of Sciences, three national governmental agencies (Environmental Protection Agency, the National Toxicology Program and the National Institutes of Health) signed a memorandum of understanding to replace the use of animals with in vitro methods for chemical safety testing.<sup>8</sup> In January 2010, the American Physiological Society endorsed the 2009 Congressional Random-Source Study calling for Class B dealers to no longer provide random source animals.

**5. Due to Congressional concerns of lost and/or stolen pets ending up in research facilities, USDA has increased inspections of Class B dealers to include quarterly on-site inspections because they are deemed a “high risk” due to concerns about improper procurement of animals. One Michigan dealer has received repeated citations during USDA inspections and is under federal investigation.**

Illegality and abuse of Class B random source dealers are a continuing Congressional concern. One Michigan Class B dealer has been repeatedly cited for inspection violations, including chronic citations for improperly procuring animals.<sup>9</sup> USDA has referred those citations to federal prosecutors for review. Currently, 7 of the 9 licensed Random Source Class B Dealers have compliance issues that are under investigation.<sup>10</sup> In September 2010, the Government Accountability Office in Washington D.C. issued its findings as to whether USDA has the resources to properly oversee Class B dealers and the traceback protocol. GAO found that 13% of tracebacks are incomplete and, therefore, the traceback system is unable to detect problems in a timely manner to reduce the potential that lost or stolen dogs or cats are used in research.<sup>11</sup> In February 2010, Floyd and Susan Martin of Chestnut Grove Kennel in Pennsylvania (one of the nine random source dealers) were federally indicted for conspiracy, identity theft, mail

---

<sup>3</sup> [www.thomas.gov](http://www.thomas.gov)

<sup>4</sup> Laura Ducceschi and Nicole Green, *Dying to Learn: Exposing the supply and use of dogs and cats in higher education.* (Animalearn, the education division of the American Anti-Vivisection Society, 2009); <http://www.dyingtolearn.org/>

<sup>5</sup> Please contact American Humane for these documents.

<sup>6</sup> <http://www.pcrm.org/magazine/gm09spring/michigan.html>

<sup>7</sup> *Dying to Learn*, p. 11.

<sup>8</sup> Elizabeth Weise, “Three U.S. agencies aim to end animal testing,” *USA Today*, <[http://www.usatoday.com/tech/science/2008-02-14-animal-tests\\_N.htm?POE=click-refer](http://www.usatoday.com/tech/science/2008-02-14-animal-tests_N.htm?POE=click-refer)> (1 Nov. 2009); [http://www.usatoday.com/tech/science/2008-02-14-animal-tests\\_N.htm?POE=click-refer](http://www.usatoday.com/tech/science/2008-02-14-animal-tests_N.htm?POE=click-refer)

<sup>9</sup> Contact Michigananders for Shelter Pets for the most recent USDA inspection reports depicting citations.

<sup>10</sup> Animal Welfare Institute, <http://www.awionline.org/ht/d/sp/i/12974/pid/12974>

<sup>11</sup> Report of U.S. Government Accountability Office (September 24, 2010), p. 14.

fraud, and making false statements in wrongfully obtaining live dogs for resale to research facilities. It is this conduct that has caused a crack down by USDA on these animal brokers.

The number of USDA-licensed dealers decreased through enforcement from 100 in 1993 to only 9 in 2010.<sup>12</sup> In recent years, quarterly on-site inspections were implemented to include a “traceback” procedure that continues to verify that some random source animals were improperly obtained.<sup>13</sup> A USDA director has confirmed that, “We use a risk-based inspection system (RBIS) to target our inspections. RBIS encourages frequent inspections at types of facilities that, in our experience, have more problems and fewer inspections at types of facilities with consistent compliance. Random Source Class B Dealers are considered high risk in RBIS and are inspected at least quarterly. We had 10 licensed Random Source Class B Dealers in FY2008 and conducted 74 inspections.”<sup>14</sup>

#### 6. **Undercover investigations have revealed serious concerns about the business of Class B random source animal dealers.**

As an example of the nature of the Class B random source animal business, a 2006 HBO documentary called *Dealing Dogs* exposed similar illegal actions of C.C. Baird, an Arkansas Class B Dealer. An undercover investigation by Last Chance for Animals revealed that stolen animals were found being brokered by C.C. Baird, a Class B Dealer whose facility was shut down after subsequent criminal prosecution. Over the five month investigation, footage revealed that Baird paid “bunchers” (people who collect animals) to steal family pets or fraudulently acquire dogs and cats from “free to good home” ads. Baird faced felony charges relating to money laundering and mail fraud, and was charged with hundreds of violations of the Animal Welfare Act. Responding to the need to eliminate such illegal activities of Class B Dealers, the USDA authorized a Standard Operating Procedure in 2008 to strengthen inspections.

There have been several examples where family pets, with identification tags, have been in the possession of two random source Class B dealers in Michigan. These include:

- In the Fall of 2008, a dog named Rusty was in the possession of a Michigan B dealer and had an identification tattoo. The dealer contacted the tattoo registry, but was uncooperative and gave a false name to the registry. The tattoo registry identified the caller as a Michigan B dealer through their caller id and located Rusty’s actual owner, who lived in Florida and reported that Rusty was stolen from his front yard in 2005. Rusty was eventually retrieved from the B dealer and is now safe.<sup>15</sup>
- In 2005 the rabies identification tags were removed from a dog named Conan and thrown away by the dealer who seized the dog from Jackson County Animal control. The family traced Conan to a New York laboratory where after an experiment he was killed. No one had contacted the family to retrieve Conan.<sup>16</sup>
- In 2005, a dog named Echo was stolen from his yard in Fayetteville, AR and traveled through 5 states before ending up at a research facility in Minnesota. Echo was in the facilities of two Class B dealers (Michigan and Missouri) and neither scanned him for an identification chip. The research facility scanned Echo, located a microchip and returned Echo to his family.<sup>17</sup>
- In 1993 a dog named Sam from Ionia County was improperly obtained from the county shelter and concealed from the owner by a Michigan B dealer. Through a police investigation, Sam was eventually returned to his owner. A lawsuit filed by Sam’s owners against a Michigan Class B dealer and others resulted in the Judge Enslin of the U.S. District Court – Western District of Michigan stating in an opinion.” According to the allegations, the [Michigan Class B dealer was] operating their business by paying the county animal shelter workers to illegally deprive pet owners of their pets by dispensing with the pets prior to the expiration of the legal holding period. Proof of these allegations’ truthfulness is found in the report of the State Department of Agriculture, the testimony of the plaintiffs that the shelter workers confirmed that their pets were immediately removed from the shelter, and the alleged admissions of [the dealer] to the effect that he was cooperating with [the shelter director] in covering up the goings-on at the shelter.”<sup>18</sup>

<sup>12</sup> Email communication with USDA APHIS Animal Care of March 29, 2010.

<sup>13</sup> Report of the Committee on Scientific and Humane Issues in the Use of Random Source Dogs and Cats for Research.

<sup>14</sup> Email communication with USDA APHIS Animal Care of April 30, 2009.

<sup>15</sup> Email communication with Tatoon-A-Pet owner of October 8, 2008.

<sup>16</sup> Jackson County Citizens Against Pound Seizure, <http://www.s275870067.onlinehome.us/conan.html>

<sup>17</sup> Amylou Wilson and Susan Porter, “Why is this dog smiling?”, Fayetteville Free Weekly (Oct. 20, 2005).

<sup>18</sup> Synder, et al v. R&R Research and Breeders, et al. 1995 U.S. Dist. LEXIS 19302, Opinion, Defendants’

Motion for Summary Judgment, November 1, 1995.

**7. The USDA has insufficient resources to properly regulate random source Class B dealers.**

The USDA admits it spends too much of its limited resources in an attempt to regulate 9 random source Class B dealers who re-sell dogs and cats for research.<sup>19</sup> According to a report by the Government Accountability Office in September 2010, USDA does not maintain cost data on the oversight required of these 9 random source Class B dealers and, therefore, the financial burden of this small subsection of licensees is unknown. In a meeting held in January 2009 at the National Academies of Science, a USDA representative stated that USDA has prioritized its focus on Class B dealers because of allegations and investigations into “improperly obtaining animals”, but a loophole in the Animal Welfare Act prevents them from doing the necessary job no matter how much money they have. He stated, “The oversight of random source dealers is the single most important thing USDA does based on public and Congressional expectations. Random source dealers have always been an issue over the years, even with declining numbers of dealers and animals involved.” Each year, the USDA admits “it is expensive” to regulate 9 random source Class B dealers, who are each inspected in person more than four times yearly.<sup>20</sup> But USDA oversees about 10,000 total licensees and registrants that are in need of inspection and oversight.

**8. This bill will not put Class B Dealers out of business.**

Although this bill will prevent shelter animals, strays and other random source animals from being obtained for resale by Class B dealers, the bill still allows dealers to obtain animals from other sources such as breeders and dealers. Since only two counties in Michigan practice pound seizure, random source Class B dealers in Michigan are already seeing the decline in obtaining shelter animals and moving to other sources.

**9. Pound seizure is being rejected nationwide through the passage of laws and the creation of policies by national organizations.**

**The National Animal Control Association<sup>21</sup> and the Association of Shelter Veterinarians<sup>22</sup> oppose the practice of pound seizure, as do other national animal protection organizations.<sup>23</sup> Moreover, seventeen states plus the District of Columbia have passed laws banning the practice.<sup>24</sup>**

**10. Pound seizure is a betrayal of trust that undermines the purpose of an animal shelter.**

Michigan communities are outraged when they learn that their local shelter provides animals for experimentation. Shelter animals taken for research are former family pets that are the friendliest and most trusting because they are the easiest to handle during experiments. Taking these former family pets in this way angers communities and violates the growing body of research involving the human-animal bond. It also violates the purpose of an animal shelter to be a safe haven for animals.

While all but two Michigan shelters have banned pound seizure, this law is still needed to give Michigan communities a sense of security and trust in their local animal shelters. Given the economic difficulties facing Michigan families, thousands of pets are being surrendered to shelters. Their owners do so hoping that the pets will be adopted by people who are able to afford pet care. However, many of these pets are now being utilized in experiments unbeknownst to their former owners. This is a betrayal of trust even in the best of economic times. Michigan law requires that citizens report stray dogs to county or city officials in order to be reunited with their family (MCL 287.308). It also encourages citizens to call in complaints of animal abuse or neglect so that the pets can be brought to the shelter for safekeeping. Yet people will not comply with those laws when they realize a shelter practices pound seizure.

In April 2009, American Humane conducted a survey on how people feel about pound seizure.<sup>25</sup> Responses were received from 3044 individuals and responses included:

<sup>19</sup> Meeting at USDA APHIS on March 10, 2009.

<sup>20</sup> Meeting at USDA APHIS on March 10, 2009.

<sup>21</sup> <http://www.nacanet.org/guidelines.html#pound>

<sup>22</sup> <http://www.sheltervet.org/associations/4853/files/Pound%20seizure%20BPS.pdf>

<sup>23</sup> American Anti-Vivisection Society, American Humane Association, American Society for the Prevention of Cruelty to Animals, and The Humane Society of the United States.

<sup>24</sup> California, Connecticut, District of Columbia, Delaware, Hawaii, Illinois, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia and West Virginia.

<sup>25</sup> <http://www.americanhumane.org/assets/docs/advocacy/ADV-pound-seizure-survey-results.pdf>

- “Would you bring a lost animal you’d found to a shelter that released unclaimed animals to research?” Over 97% of the people survey responded by saying “No.”
- “If there were a stray dog in your neighborhood, would you be LESS likely to report it to animal control if you knew it might end up in a research laboratory?” Over 91% of those surveyed answered “Yes.”
- “If you knew of an animal that was being abused or neglected, would you be LESS likely to report it to animal control if you knew it might end up in a research laboratory?” Almost 80% of those surveyed said “Yes”.
- “Would you donate money to an animal shelter that voluntarily sold or gave animals to laboratories?” Almost 98% of people surveyed said “No”.

Shelters with high euthanasia rates do not need to rely on pound seizure. There is a growing movement in the United States to reduce shelter euthanasia rates via increasing foster care programs, spay-neuter programs, education, volunteer and rescue services, and general outreach. These efforts have proven to increase adoptions, pet ownership, reduce euthanasia (all of which increases revenue and reduces costs). Lastly, as more research and training facilities move toward simulated and alternative research methods (see #4), animals bred for research will also decline in need.

#### **11. Shelter cats and dogs that are given to the Class B Dealer are not unwanted pets, but are healthy and adoptable pets. Moreover, people are not informed that their pet could be sent to research.**

Due to the recession, many people who love their pets are unable to care for them. People believe that an animal shelter is where you take your pet to find a new home. People may be informed that their pet could be euthanized, but they are *frequently not informed* that their pet could be used in experimental research. One Michigan dealer has stated, “I’m sorry, they may have been a pet at one time, but at the point [a dealer] becomes involved, they are an unwanted, unclaimed animal about to be euthanized.”<sup>26</sup> That statement is simply false. This attitude is particularly egregious in our current economic climate where people are being forced to make difficult decisions, one of which may be to reluctantly relinquish a beloved pet in the hopes of finding a new home.

**For more information:**  
**Michiganders for Shelter Pets**  
[www.voiceless-mi.org/m4sp/](http://www.voiceless-mi.org/m4sp/)

---

<sup>26</sup> [http://www.wzzm13.com/news/most\\_popular\\_story.aspx?storyid=104611&provider=top](http://www.wzzm13.com/news/most_popular_story.aspx?storyid=104611&provider=top)

