



September 14, 2022

The Honorable Bart Rowland, Chair
Property & Casualty Insurance Committee
National Council of Insurance Legislators
2317 Route 34 S, Suite 2B,
Manasquan, New Jersey 08736

RE: Dog Breed Insurance Underwriting Study & Breed Protection Model Act

Dear Chair Rowland and Members of the Committee:

On behalf of the American Society for the Prevention of Cruelty to Animals (ASPCA), I am writing today to provide comments on the draft “Dog Breed Insurance Underwriting Study & Breed Protection” Model Act (“Model Act”) that will be discussed at your September 29, 2022 meeting.

Founded in 1866, the ASPCA was the first humane society to be established in North America and is today one of the largest in the world. The ASPCA believes that pets and people belong together. As such, we have made a significant commitment to ensuring that unreasonable barriers to keeping pets in housing do not force devoted and responsible pet owners to surrender a beloved pet.

Over the last year, three state legislatures have adopted new laws that regulate how insurance carriers utilize breed in determining eligibility and/or premiums for property insurance coverage. Each of these laws differs in substantive ways. Currently, additional states are contemplating similar legislation.

The interest in legislating in this area is a natural outgrowth of the rejection of breed-based regulation by state and local governments. Barring ownership of a dog solely based on the breed (or appearance of breed) is illegal under a growing number of laws.¹ Instead, governments increasingly acknowledge the broad science-based consensus that breed restrictions are ineffective and ill-advised.² Instead, these governments require the use of objective facts in determining whether an individual dog poses a risk to public health and safety, as have been proposed by the Model Act.

These laws, however, do not extend to actions of the private sector. And yet, the impact of insurance breed restrictions is a de facto breed ban for families that have a prohibited breed in their households in that the practical effect is that the family will not be able obtain homeowner’s insurance, which is required for any home mortgage, or may not be able afford the increased premium for such insurance.

¹ Twenty-one states and over 700 local governments have enacted laws that prohibit breed specific bans.

<https://www.asPCA.org/animal-protection/public-policy/what-breed-specific-legislation>.

²https://avsab.org/wp-content/uploads/2019/01/Breed-Specific_Legislation_Position_Statement-FINAL.pdf;

<https://www.psychologytoday.com/us/blog/canine-corner/201902/do-breed-specific-laws-reduce-the-number-dog-bites>.

As the National Association of Mutual Insurance Companies (NAMIC) states in their July 16, 2022 letter to the Committee, “[e]ven friendly dogs can bite under particular circumstances.” Nonetheless, the vast majority of property insurance providers deny coverage, create policy exclusions, or place limitations on coverage for households with specified breeds of dogs in their homes. This practice is unjustified in that it is wholly unsupported by data that would normally support underwriting standards; nor is there sound evidence that insurance claims for the prohibited breeds are financially significant for insurance carriers relative to other paid losses. To this point, in the same letter, NAMIC cites to the American Veterinary Medical Association (AVMA), in order to substantiate the number of dog bites rather than using its members’ data.

Given NAMIC’s reliance on the authority of the AVMA, it is helpful to also cite the organization’s unequivocal stance on the correlation between dog aggression and breed. According to the AVMA, “any dog can bite, regardless of breed. It is the dog’s individual history, behavior, general size, number of dogs involved, and the vulnerability of the person bitten that determines the likelihood of biting and whether a dog will cause a serious bite injury.”³ Similar verbiage can be found on the webpage that NAMIC cites to in its letter.⁴

For all of these reasons, NCOIL is appropriate in considering model legislation to provide guidance and consistency in regulating in the area. We applaud the cosponsors in their efforts to date and offer the following recommendations to strengthen the model legislation.

Eliminate the use of breed in the evaluation of eligibility, coverage, and premium altogether.

- Breed is an inaccurate and detrimental criterion in evaluating potential aggression in a dog. Research has repeatedly shown that breed does not correlate to aggression. As recent as April of this year, an extensive study of breed and dog personality traits has shown definitively that “breed is not a reliable predictor of individual behavior.”⁵
- As discussed above, a number of objective factors have been shown by research to be much more accurate in evaluating potential liability. These include a dog’s individual history and behavior (asking about prior aggressive acts and/or insurance claims related to the pet), general size, number of dogs involved, whether a dog has been altered, and the vulnerability of the persons regularly interacting with a dog.
- Breed identification, even by experts, remains a subjective guessing game with no scientific formula.⁶ The inclusion of breed (or appearance of a breed) as a factor will absolutely lead to biased underwriting decisions and will continue the opaque and arbitrary practices that largely exist in this area of underwriting by insurance industry.
- Utilizing breed in evaluating insurance coverage is punitive to responsible pet owners and their well-behaved dog.

³ American Veterinary Medical Association, <https://www.avma.org/resources/pet-owners/why-breed-specific-legislation-not-answer> (September 13, 2022).

⁴ American Veterinary Medical Association, <https://www.avma.org/resources-tools/pet-owners/dog-bite-prevention>; “Remember, it is not a dog’s breed that determines whether it will bite, but rather the dog’s individual history and behavior.” (September 13, 2022).

⁵ Morrill, K., et al., Science Vol 376, Issue 6592, *Ancestry-inclusive dog genomics challenges popular breed stereotypes* at <https://www.science.org/doi/10.1126/science.abk0639> (April 2022).

⁶ <https://news.ufl.edu/2019/04/look-beyond-breed-labels-when-adopting-a-dog/>.

Expand the applicability of the Model Act to all households seeking property insurance coverage.

- As drafted, the Model Act only applies to homeowners' and renters' policies. We recommend expanded these protections to all households seeking property insurance coverage in order to avoid inequities among insureds. To be fully inclusive, the Model Act should include insurance which covers manufactured homes or a mobile homes, as well as any umbrella policy.

The ASPCA thanks the Committee for your consideration of our recommendations. We believe that the adoption of a Model Act integrating these recommendations are a productive step towards ensuring that fewer households are faced with the difficult decision of giving up their pet and keeping a roof over their head.

Sincerely,

A handwritten signature in black ink, appearing to read "Susan Riggs". The signature is fluid and cursive, with the first name "Susan" being more prominent than the last name "Riggs".

Susan Lea Riggs
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