



RACHAEL A. CABRAL-GUEVARA

STATE REPRESENTATIVE • 55TH ASSEMBLY DISTRICT

Testimony before the Assembly Committee on State Affairs

Representative Rachael Cabral-Guevara

June 8th, 2021

Hello, Chairman Swearingen and members of the committee. Thank you for allowing me to testify on AB 276, an important bill that provides retail establishments with limited annual food sales an exemption from rules prohibiting dogs on their premises.

Many hardware and multi-purpose establishments across the state have a customer base which owns animals for various purposes, including hunting. Under current law, service dogs are permitted on those premises, but this bill would allow a broader group of individuals to have their dogs accompany them while in the store.

One real world company this would impact is Fleet Farm, which currently operates 47 stores in the Midwest, including 22 stores in Wisconsin. All of their stores sell pre-packaged foods and some carry limited frozen and refrigerated food products behind closed-door coolers. Under this bill, upon passage, Fleet Farm is seeking to host pet vaccination days and other public functions in conjunction with local humane societies. This proposal creates a narrow exemption from rules prohibiting dogs on the premises of retail establishments with less than 5% of annual food sales. All of the other laws and rules regulating the sale of food items would still apply to these stores.

Thank you again for your time. I am hopeful you are able to support this bi-partisan piece of legislation.



State of Wisconsin
Governor Tony Evers

Department of Agriculture, Trade and Consumer Protection

June 8, 2021

FROM: Jim Kaplanek, Retail Food and Recreational Businesses Section Manager
Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP)

TO: Assembly Committee on State Affairs

RE: **Assembly Bill 276 relating to: allowing dogs on the premises of certain retail food establishments.**

Chairman Swearingen and members of the Assembly Committee on State Affairs:

Thank you for the opportunity to provide informational testimony on this bill. I am Jim Kaplanek, Manager of the Retail Food and Recreational Businesses Section at the Department of Agriculture, Trade and Consumer Protection.

The Department licenses and inspects thousands of retail food establishments across the state. It also oversees almost 60 local health departments that license and inspect retail food establishments as DATCP's agents. Retail food establishments include a wide range of business types, including full-service restaurants, grocery stores, convenience stores, food carts, and specialized businesses such as bakeries and coffee shops.

Licensing of retail food establishments is governed by chapter ATCP 75 in the Wisconsin Administrative Code, and operational requirements for retail food establishments are listed in an appendix to this chapter, commonly known as the Wisconsin Food Code. The Wisconsin Food Code is based on a federal document, the FDA Model Food Code, which serves as the benchmark for each state's regulation of retail food establishments. The FDA Model Food Code is revised every two years in a process involving regulators and industry. Most states either cite a particular year-publication of the FDA Model Food Code or base their own state code on a particular year-publication. The state codes have legal standing, the FDA Model Food Code does not.

Both the Wisconsin Food Code and the FDA Model Food Code currently prohibit animals (other than service animals) from being present in retail food establishments. This prohibition is intended to prevent direct or airborne contamination of food by disease-causing microorganisms as well as objectionable debris such as hair and dander. While we are not aware of problems in other states specifically linked to the mingling of animal services and food sales, the separation of animals and food is a basic public health principle.

The Department has worked closely with retail food establishments that wish to allow animals in specified parts of their businesses on a case by case basis. For example, we have approved variances for various pet services in businesses holding a retail food establishment license. These variances typically require separate outside entrances for animals, separation of the pet services from food-service or sale areas, and separate ventilation. In addition, the Department and its agents have worked

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closely with many businesses to allow them more flexibility for allowing pets in outdoor dining venues. This business model has been increasing in popularity.

The importance of separating animals from food increases to the degree that the food is exposed to the surrounding environment, and to the degree that the food supports microbial growth. Businesses selling candy, nuts, and other pre-packaged shelf-stable foods likely do not hold a retail food establishment license and would be considered low-risk. Businesses selling pre-packaged foods that require refrigeration for safety, for example sandwiches or entrees, do hold a retail food establishment license and are higher risk because these foods support microbial growth. Businesses selling exposed ready-to-eat foods such as roller dogs, fried chicken, or pizza would be licensed and pose the highest risk because these foods would be most easily contaminated and would support microbial growth.

The Department also has some questions about the intended scope and enforcement of AB 276 as it is currently written, particularly with regard to the percentage of a business' total revenues that are generated by food sales. DATCP does not regularly check the revenue levels from our licensees, and is unsure how total revenue information could be obtained to determine what rules related to dogs should be enforced. To enforce the bill as written, The Department would likely seek and accept voluntary disclosure of revenue information from the business operator.

In addition, while the bill appears to have a particular type of business venue in mind, other types of businesses, such as wineries, breweries, and some convenience stores, may also fit the bill's sales distribution profile, and we're not certain if these businesses were also meant to be exempted. As such, the Department recommends consideration of limiting the scope of the bill to retail food establishments selling only pre-packaged foods.

Thank you again for allowing us to testify on AB 276. I would be happy to answer any questions the committee may have.

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Wisconsin State Assembly Testimony
Mark A. Stelzl – Fleet Farm Group LLC
June 7, 2021

Good Afternoon. Mr. Chairman, Committee Members.

My name is Mark Stelzl. I am the Vice President of Farm and Pet Supplies for Fleet Farm Group, which owns and operates retail establishments in rural areas across Wisconsin, Minnesota, Iowa, North Dakota, and South Dakota.

As the Vice President of the Farm and Pet Divisions for Fleet Farm I work with vendor partners that provide goods and services to our retail stores. Part of my job also includes having regular contact with rural lifestyle customers and pet owners who live near to and shop our stores.

One of the main concerns facing our customers is the fact that many areas of our state are underserved due to a lack of veterinarians in their immediate area, especially in the rural areas of our state. This lack of access to veterinary care for their animals weighs heavily on their minds, especially the small animal owners who do not have access to veterinary care for their pets during the normal Monday through Friday office hours of a veterinary clinic or the availability of a vet who lives in close proximity to their home. Also, as more and more vets choose to practice in larger metropolitan areas with greater pet populations, the potential for increased customer bases, and greater income factors, few aspiring vets choose to live in rural markets.

This is where Fleet Farm could provide a service that would greatly help our rural communities and these pet owners. In an effort to fulfill this need, I contacted a company by the name of PetIQ who has an established traveling veterinary service in many states that is designed specifically to provide these desperately needed services. This company employs licensed veterinarians and technicians that travel to retailers such as Fleet Farm and provides low cost well care services for pet owners and their pets who may not have convenient access to this type of care.

For over a year and extensively since July 2020 PetIQ and I worked out a detailed program that would provide well pet care clinics in all of our Wisconsin and Minnesota Fleet Farm stores at a minimum of once a month and would expand in each market based on consumer demand as needed. Our plans were to open these clinic in our stores beginning in February 2021.

However, after continued negotiations and open dialog, PetIQ withdrew their finalized contract with Fleet Farm on April 5, 2021 due to concerns about the current laws of Wisconsin as it applied to pets in our stores. Without the access for the clinics in our Wisconsin stores, PetIQ was unable to justify the securing of assets such as dedicated equipment and vans to travel to any of our stores as they need to protect their profitability. As a result of the withdrawal of the contract we are not able to move forward in providing a much needed service to our customers in any of our markets.

After this withdrawal I had another brief conversation with a member of leadership at PetCo who was also willing to consider partnering with Fleet Farm for these type of clinics but also withdrew from consideration after reviewing the current Food codes of Wisconsin.

We ask you to join our customers and support this Bill. Pet owners, especially in our rural markets would be greatly served by having this type of clinic in our stores to ensure the wellbeing of their four legged family members. Thank you for your time and attention.

Good Afternoon. Mr. Chairman, Committee Members.

My name is Frank Steeves. I am Executive Vice President of Fleet Farm Group, which owns and operates retail establishments in rural areas across Wisconsin, Minnesota, Iowa, North Dakota, and South Dakota. As Governor Evers pointed out in his public statements at the beginning of the COVID crisis, Fleet Farm is an essential business in our state. In many places it is the only reliable source of day-to-day products for agriculture and rural living.

I am also Fleet Farm's General Counsel, and manage human resources, real estate, and new store construction – including the selection of where we build new stores. I am also deeply involved in customer relations, and am responsible for Company policies and procedures.

There is no single topic that causes more anguish and anger from our Wisconsin customers than have the Wisconsin laws impacting whether they can bring their dogs into our stores. Regularly we receive letters and calls demanding to know why, when they are able to bring their pets in other stores, pets are not allowed in our stores.

They have a hard time understanding, or believing us, when we tell them it is because a small amount of floor space – a fraction of what we dedicate to pets, tools, automotive, and farm – is used to sell pre-packaged snacks. Then, what happens, is that the occasional customer will leave their pet in their car while they shop, thereby endangering their pet. What also happens is that we are prohibited from establishing regular store animal welfare programs, such as serving as a host for pet adoptions, and providing the desperately needed veterinary services that many rural areas lack.

The issue is that Wisconsin law currently prohibits dogs from the premises of all food establishments. Unlike in other states, "Food Establishment" in Wisconsin is defined broadly. Any store that sells any food, of any type, in any amount, is a "Food Establishment." On one end of the spectrum – where grocery stores and restaurants reside, the law makes sense. On the other hand, it makes no sense in hardware, sporting goods, and Farm/Ag stores, which may sell some prepackaged snacks. Wisconsin law does not differentiate; and in this regard, Wisconsin law is at odds with the "model" Food code issued by the FDA.

This bill that Fleet Farm supports, and if letters and calls we get are any guide, is supported by the great majority of our customers, would bring Wisconsin's law in line with aspects of the Food Code, and with common sense. The bill would prohibit rules that would bar dogs from the premises of retail stores that receive less than 5% of revenues from the sale of food. Its intent is to allow dogs in businesses where food is only a small percent of the business. No other part of the Food Code is impacted, and there would be no impact on rules concerning grocery stores and restaurants. We cannot imagine that, from a practical standpoint, this change would present a hazard to customers.

We ask you to join our customers, and support this Bill. It's been a tough year for everyone. With pets in almost 70%, and dogs and dog-owners in 40% of all Wisconsin households, and with the companionship and comfort these pets provide, we think that this small change – one with no cost or budgetary impact – will make a lot of people and their pets happier and safer, and will also open a door for us and others to provide more adoption and veterinary services in rural areas. Thanks for your time and attention.