

E AND R AMENDMENTS TO LB 910

Introduced by Enrollment and Review Committee: Nordquist, 7,
Chairperson

1 1. Strike the original sections and all amendments
2 thereto and insert the following new sections:

3 Section 1. Section 28-1018, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 28-1018 (1) A person, other than an animal control
6 facility, animal rescue, or animal shelter, who sells a puppy or
7 kitten under eight weeks of age without its mother is guilty of a
8 Class V misdemeanor.

9 (2) For purposes of this section:

10 (a) Animal control facility means a facility operated by
11 the state or any political subdivision of the state for the purpose
12 of impounding or harboring seized, stray, homeless, abandoned, or
13 unwanted animals; ~~and~~

14 **(b) Animal rescue means a person or group of persons who**
15 **hold themselves out as an animal rescue, accept or solicit for dogs**
16 **or cats with the intention of finding permanent adoptive homes or**
17 **providing lifelong care for such dogs or cats, or who use foster**
18 **homes as defined in section 54-626 as the primary means of housing**
19 **dogs or cats; and**

20 ~~(b)~~ (c) Animal shelter means a facility used to house
21 or contain dogs or cats and owned, operated, or maintained by
22 an incorporated humane society, animal welfare society, society
23 for the prevention of cruelty to animals, or other nonprofit

1 organization devoted to the welfare, protection, and humane
2 treatment of such animals.

3 Sec. 2. Section 37-528, Revised Statutes Supplement,
4 2009, is amended to read:

5 37-528 (1) For purposes of this section, drug means any
6 chemical substance, other than food, that affects the structure or
7 biological function of any wildlife under the jurisdiction of the
8 commission.

9 (2) Except with written authorization from the secretary
10 of the commission or his or her designee or as otherwise provided
11 by law, a person shall not administer a drug to any wildlife under
12 the jurisdiction of the commission, including, but not limited to,
13 a drug used for fertility control, disease prevention or treatment,
14 immobilization, or growth stimulation.

15 (3) This section does not prohibit the treatment of
16 wildlife to prevent disease or the treatment of sick or injured
17 wildlife by a licensed veterinarian, a holder of a federal
18 migrating bird rehabilitation permit, a holder of a permit
19 regulated under the authority of section 37-316, a holder of a
20 permit regulated under the authority of section 37-4,106, or a
21 holder of a license regulated under the authority of section
22 37-4,108.

23 (4) This section shall not be construed to limit
24 employees of agencies of the state or the United States or
25 employees of an animal control facility, animal rescue, or animal
26 shelter licensed under section 54-627 in the performance of their
27 official duties related to public health or safety, wildlife

1 management, or wildlife removal, except that a drug shall not
2 be administered by any person for fertility control or growth
3 stimulation except as provided in subsection (2) of this section.

4 (5) A conservation officer may take possession or dispose
5 of any wildlife under the jurisdiction of the commission that
6 the officer reasonably believes has been administered a drug in
7 violation of this section.

8 (6) A person who violates this section is guilty of a
9 Class IV misdemeanor.

10 Sec. 3. Section 54-603, Revised Statutes Cumulative
11 Supplement, 2008, is amended to read:

12 54-603 (1) Any county, city, or village shall have
13 authority by ordinance or resolution⁷ to impose a license tax₁ in
14 an amount which shall be determined by the appropriate governing
15 body, on the owner or harbinger of any dog or dogs, to be paid
16 under such regulations as shall be provided by such ordinance or
17 resolutions.

18 (2) Every service animal shall be licensed as required
19 by local ordinances or resolutions, but no license tax shall be
20 charged. Upon the retirement or discontinuance of the animal as
21 a service animal, the owner of the animal shall be liable for
22 the payment of a license tax as prescribed by local ordinances or
23 resolutions.

24 (3) Any county, city, or village that imposes a license
25 tax on the owner or harbinger of any cat or cats or upon any dog
26 or dogs under this section shall, in addition to the license tax
27 imposed by the licensing jurisdiction, collect from the licensee

1 a fee of one dollar. The person designated by the licensing
2 jurisdiction to collect and administer the license tax shall act as
3 agent for the State of Nebraska in the collection of the fee. From
4 each one-dollar fee collected, such person shall retain three cents
5 to be placed in the general fund of the licensing jurisdiction and
6 shall remit the balance to the State Treasurer for credit to the
7 Commercial Dog and Cat Operator Inspection Program Cash Fund. Such
8 remittance shall be made at least annually at the conclusion of
9 the licensing jurisdiction's fiscal year, except that any licensing
10 jurisdiction that collects fifty dollars or less of such fees
11 during the fiscal year may remit the fees when the cumulative
12 amount of fees collected reaches fifty dollars.

13 Sec. 4. Section 54-611, Revised Statutes Cumulative
14 Supplement, 2008, is amended to read:

15 54-611 In counties having a population of eighty thousand
16 or more inhabitants and cities of the first class contained in such
17 counties, if upon final hearing the defendant is adjudged guilty
18 of any violation of section 54-601 or 54-608, the court may, in
19 addition to the penalty provided in section 54-613, order such
20 disposition of the offending dog as may seem reasonable and proper.
21 Disposition includes sterilization, seizure, permanent assignment
22 of the dog to a court-approved animal shelter or animal rescue as
23 such terms are defined in section 28-1018, or destruction of the
24 dog in an expeditious and humane manner. Reasonable costs for such
25 disposition are the responsibility of the defendant.

26 Sec. 5. Section 54-626, Revised Statutes Supplement,
27 2009, is amended to read:

1 54-626 For purposes of the Commercial Dog and Cat
2 Operator Inspection Act:

3 (1) Animal control facility means a facility operated by
4 or under contract with the state or any political subdivision of
5 the state for the purpose of impounding or harboring seized, stray,
6 homeless, abandoned, or unwanted animals;

7 (2) Animal rescue means a person or group of persons who
8 hold themselves out as an animal rescue, accept or solicit for dogs
9 or cats with the intention of finding permanent adoptive homes or
10 providing lifelong care for such dogs or cats, or who use foster
11 homes as the primary means of housing dogs or cats;

12 ~~(2)~~ (3) Animal shelter means a facility used to house
13 or contain dogs or cats and owned, operated, or maintained by
14 an incorporated humane society, an animal welfare society, a
15 society for the prevention of cruelty to animals, or ~~other~~ another
16 nonprofit organization devoted to the welfare, protection, and
17 humane treatment of such animals;

18 ~~(3)~~ (4) Boarding kennel means a facility which is
19 primarily used to house or contain dogs or cats owned by
20 persons other than the operator of such facility. The primary
21 function of a boarding kennel is to temporarily harbor dogs
22 or cats when the owner of the dogs or cats is unable to
23 do so or to provide training, grooming, or other nonveterinary
24 service for consideration before returning the dogs or cats to the
25 owner. A facility which provides such training, grooming, or other
26 nonveterinary service is not a boarding kennel for the purposes
27 of the act unless dogs or cats owned by persons other than the

1 operator of such facility are housed at such facility overnight.
2 Veterinary clinics, animal control facilities, animal rescues, and
3 nonprofit animal shelters are not boarding kennels for the purposes
4 of the act;

5 ~~(4)~~ (5) Cat means any animal which is wholly or in part
6 of the species *Felis domesticus*;

7 ~~(5)~~ (6) Commercial breeder means ~~any one of the~~
8 ~~following: a person engaged in the business of breeding dogs or~~
9 cats;

10 (a) ~~A person who~~ Who sells, exchanges, leases, or in
11 any way transfers or offers to sell, exchange, lease, or transfer
12 thirty-one or more dogs or cats in a twelve-month period beginning
13 on April 1 of each year;

14 (b) ~~A person engaged in the business of breeding dogs or~~
15 ~~eats who~~ Who owns or harbors four or more dogs or cats, intended
16 for breeding, in a twelve-month period beginning on April 1 of each
17 year;

18 (c) ~~A person whose~~ Whose dogs or cats produce a total
19 of four or more litters within a twelve-month period beginning on
20 April 1 of each year; or

21 (d) ~~A person who~~ Who knowingly sells, exchanges, or
22 leases dogs or cats for later retail sale or brokered trading;

23 ~~(6)~~ (7) Dealer means any person who is not a commercial
24 breeder or a pet shop but is engaged in the business of buying
25 for resale or selling or exchanging dogs or cats as a principal
26 or agent or who claims to be so engaged. A person who purchases,
27 sells, exchanges, or leases thirty or fewer dogs or cats in a

1 twelve-month period is not a dealer;

2 ~~(7)~~ (8) Department means the Bureau of Animal Industry
3 of the Department of Agriculture with the State Veterinarian in
4 charge, subordinate only to the director;

5 ~~(8)~~ (9) Director means the Director of Agriculture or his
6 or her designated employee;

7 ~~(9)~~ (10) Dog means any animal which is wholly or in part
8 of the species *Canis familiaris*;

9 (11) Foster home means any person who provides temporary
10 housing for twenty or fewer dogs or cats that are six months of age
11 or older in any twelve-month period and is affiliated with a person
12 operating as an animal rescue that uses foster homes as its primary
13 housing of dogs or cats. To be considered a foster home, a person
14 shall not participate in the acquisition of the dogs or cats for
15 which temporary care is provided. Any foster home which houses more
16 than twenty dogs or cats that are six months of age or older in any
17 twelve-month period or who participates in the acquisition of dogs
18 or cats shall be licensed as an animal rescue;

19 ~~(10)~~ (12) Housing facility means any room, building, or
20 areas used to contain a primary enclosure;

21 ~~(11)~~ (13) Inspector means any person who is employed
22 by the department and who is authorized to perform inspections
23 pursuant to the act;

24 ~~(12)~~ (14) Licensee means a person who has qualified for
25 and received a license from the department pursuant to the act;

26 ~~(13)~~ (15) Pet animal means an animal kept as a household
27 pet for the purpose of companionship, which includes, but is not

1 limited to, dogs, cats, birds, fish, rabbits, rodents, amphibians,
2 and reptiles;

3 ~~(14)~~ (16) Pet shop means a retail establishment which
4 sells pet animals and related supplies;

5 ~~(15)~~ (17) Premises means all public or private buildings,
6 kennels, pens, and cages used by a facility and the public or
7 private ground upon which a facility is located if such buildings,
8 kennels, pens, cages, or ground are used by the owner or operator
9 of such facility in the usual course of business;

10 ~~(16)~~ (18) Primary enclosure means any structure used to
11 immediately restrict a dog or cat to a limited amount of space,
12 such as a room, pen, cage, or compartment;

13 ~~(17)~~ (19) Secretary of Agriculture means the Secretary of
14 Agriculture of the United States Department of Agriculture;

15 ~~(18)~~ (20) Stop-movement order means a directive
16 preventing the movement or removal of any dog or cat from the
17 premises; and

18 ~~(19)~~ (21) Unaltered means any male or female dog or
19 cat which has not been neutered or spayed or otherwise rendered
20 incapable of reproduction.

21 Sec. 6. Section 54-627, Revised Statutes Supplement,
22 2009, is amended to read:

23 54-627 (1) A person shall not operate as a commercial
24 breeder, a dealer, a boarding kennel, an animal control facility,
25 ~~or~~ an animal shelter, or, beginning October 1, 2010, an animal
26 rescue unless the person obtains the appropriate license as a
27 commercial breeder, a dealer, a boarding kennel, an animal control

1 facility, ~~or an animal shelter, or, beginning October 1, 2010, an~~
2 animal rescue. If a licensee is operating as an animal shelter
3 as of the effective date of this act, he or she may apply for
4 licensure as an animal rescue before October 1, 2010, and shall
5 not be required to pay any licensing fee until October 1, 2010. A
6 person shall not operate as a pet shop unless the person obtains
7 a license as a pet shop. A pet shop shall only be subject to the
8 Commercial Dog and Cat Operator Inspection Act and the rules and
9 regulations adopted and promulgated pursuant thereto in any area or
10 areas of the establishment used for the keeping and selling of pet
11 animals. If a facility listed in this subsection is not located at
12 the owner's residence, the name and address of the owner shall be
13 posted on the premises.

14 (2) An applicant for a license shall submit an
15 application for the appropriate license to the department, on a
16 form prescribed by the department, together with the annual license
17 fee. Such fee is nonreturnable. Upon receipt of the application and
18 annual license fee and upon completion of a qualifying inspection
19 if required pursuant to section 54-630 for an initial license
20 applicant or if a qualifying inspection is deemed appropriate by
21 the department before a license is issued for any other applicant,
22 the appropriate license may be issued by the department. Such
23 license shall not be transferable to another person or location.

24 (3) (a) Except as otherwise provided in this subsection,
25 the annual license fee shall be determined according to the
26 following fee schedule based upon the daily average number of dogs
27 or cats housed by the licensee over the previous annual licensure

1 period:

2 (i) Ten or fewer dogs or cats, one hundred fifty dollars;

3 (ii) Eleven to fifty dogs or cats, two hundred dollars;

4 and

5 (iii) Fifty-one to one hundred dogs or cats, two hundred
6 fifty dollars;

7 (iv) One hundred one to one hundred fifty dogs or cats,
8 three hundred dollars;

9 (v) One hundred fifty-one to two hundred dogs or cats,
10 three hundred fifty dollars;

11 (vi) Two hundred one to two hundred fifty dogs or cats,
12 four hundred dollars;

13 (vii) Two hundred fifty-one to three hundred dogs or
14 cats, four hundred fifty dollars;

15 (viii) Three hundred one to three hundred fifty dogs or
16 cats, five hundred dollars;

17 (ix) Three hundred fifty-one to four hundred dogs or
18 cats, five hundred fifty dollars;

19 (x) Four hundred one to four hundred fifty dogs or cats,
20 six hundred dollars;

21 (xi) Four hundred fifty-one to five hundred dogs or cats,
22 six hundred fifty dollars; and

23 ~~(iii)~~ (xii) More than fifty five hundred dogs or cats,
24 two hundred fifty two thousand dollars.

25 (b) The initial license fee for any person required to
26 be licensed pursuant to the act shall be one hundred twenty-five
27 dollars.

1 (c) The annual license fee for a licensee that does not
2 house dogs or cats shall be one hundred fifty dollars.

3 (d) The annual license fee for an animal rescue shall be
4 one hundred fifty dollars.

5 ~~(d)~~ (e) The fees charged under this subsection may be
6 increased or decreased by the director after a public hearing is
7 held outlining the reason for any proposed change in the fee. The
8 maximum fee that may be charged shall not result in a fee for any
9 license category that exceeds the license fee set forth in this
10 subsection by more than one hundred dollars. The maximum fee shall
11 not exceed three hundred fifty dollars.

12 (4) A license to operate as a commercial breeder, a
13 license to operate as a dealer, a license to operate as a boarding
14 kennel, or a license to operate as a pet shop shall be renewed
15 by filing with the department ~~at least thirty days prior to~~ on or
16 before April 1 of each year a renewal application and the annual
17 license fee. A license to operate as an animal control facility,
18 animal rescue, or animal shelter shall be renewed by filing with
19 the department ~~at least thirty days prior to~~ on or before October
20 1 of each year a renewal application and the annual license fee.
21 Failure to renew a license prior to the expiration of the license
22 shall result in ~~an additional fee of twenty dollars required upon~~
23 ~~application to renew such license.~~ a late renewal fee equal to
24 twenty percent of the annual license fee due and payable each
25 month, not to exceed one hundred percent of such fee, in addition
26 to the license fee. The purpose of the late renewal fee is to pay
27 for the administrative costs associated with the collection of fees

1 under this section. The assessment of the late renewal fee shall
2 not prohibit the director from taking any other action as provided
3 in the act.

4 (5) A licensee under this section shall make its premises
5 available for inspection pursuant to section 54-628 during normal
6 business hours.

7 (6) The state or any political subdivision of the state
8 which contracts out its animal control duties to a facility not
9 operated by the state or any political subdivision of the state may
10 be exempted from the licensing requirements of this section if such
11 facility is licensed as an animal control facility, animal rescue,
12 or animal shelter for the full term of the contract with the state
13 or its political subdivision.

14 (7) Any fees collected pursuant to this section shall be
15 remitted to the State Treasurer for credit to the Commercial Dog
16 and Cat Operator Inspection Program Cash Fund.

17 Sec. 7. Section 54-627.01, Revised Statutes Supplement,
18 2009, is amended to read:

19 54-627.01 A dealer or pet shop licensed under section
20 54-627 shall maintain a written veterinary care plan developed
21 in conjunction with the attending veterinarian for the dealer or
22 pet shop. An animal control facility, an animal rescue, an animal
23 shelter, or a boarding kennel licensed under section 54-627 shall
24 maintain a written emergency veterinary care plan.

25 Sec. 8. Section 54-637, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 54-637 (1) Every dealer, commercial breeder, animal

1 shelter, animal rescue, animal control facility, or pet shop
2 or any other retailer, who transfers ownership of a dog or cat to
3 an ultimate consumer, shall deliver to the ultimate consumer of
4 each dog or cat at the time of sale, written material, in a form
5 determined by such seller, containing information on the benefits
6 of spaying and neutering. The written material shall include
7 recommendations on establishing a relationship with a veterinarian,
8 information on early-age spaying and neutering, the health benefits
9 associated with spaying and neutering pets, the importance of
10 minimizing the risk of homeless or unwanted animals, and the need
11 to comply with applicable license laws.

12 (2) The delivering of any model materials prepared by the
13 Pet Industry Joint Advisory Council or the Nebraska Humane Society
14 shall satisfy the requirements of subsection (1) of this section.

15 Sec. 9. Section 54-638, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 54-638 Provision shall be made for spaying or neutering
18 all dogs and cats released for adoption or purchase from any
19 public or private animal shelter, animal rescue, or animal control
20 facility operated by a humane society, a county, a city, or another
21 political subdivision. Such provision may be made by:

22 (1) Causing the dog or cat to be spayed or neutered by a
23 licensed veterinarian before releasing the dog or cat for adoption
24 or purchase; or

25 (2) Entering into a written agreement with the adopter or
26 purchaser of the dog or cat, guaranteeing that spaying or neutering
27 will be performed by a licensed veterinarian in compliance with an

1 agreement which shall contain the following information:

2 (a) The date of the agreement;

3 (b) The name, address, and signature of the releasing
4 entity and the adopter or purchaser;

5 (c) A description of the dog or cat to be adopted or
6 purchased;

7 (d) A statement, in conspicuous bold print, that spaying
8 or neutering of the dog or cat is required pursuant to this
9 section; and

10 (e) The date by which the spaying or neutering will be
11 completed, which date shall be (i) in the case of an adult dog or
12 cat, the thirtieth day after the date of adoption or purchase or
13 (ii) in the case of a pup or kitten, either (A) the thirtieth day
14 after a specified date estimated to be the date the pup or kitten
15 will reach six months of age or (B) if the releasing entity has a
16 written policy recommending spaying or neutering of certain pups or
17 kittens at an earlier date, the thirtieth day after such date.

18 Sec. 10. Section 54-645, Revised Statutes Supplement,
19 2009, is amended to read:

20 54-645 For purposes of the Dog and Cat Purchase
21 Protection Act:

22 (1) Casual breeder means any person, other than a
23 commercial breeder as defined in section 54-626, who offers for
24 sale, sells, trades, or receives consideration for one or more pet
25 animals from a litter produced by a female dog or cat owned by such
26 casual breeder;

27 (2) Clinical symptom means indication of an illness

1 or dysfunction that is apparent to a veterinarian based on the
2 veterinarian's observation, examination, or testing of an animal or
3 on a review of the animal's medical records;

4 (3) Health certificate means the official small animal
5 certificate of veterinary inspection of the Bureau of Animal
6 Industry of the Department of Agriculture;

7 (4) Pet animal means a dog, wholly or in part of the
8 species *Canis familiaris*, or a cat, wholly or in part of the
9 species *Felis domesticus*, that is under fifteen months of age;

10 (5) Purchaser means the final owner of a pet animal
11 purchased from a seller. Purchaser does not include a person who
12 purchases a pet animal for resale;

13 (6) Seller means a casual breeder or any commercial
14 establishment, including a commercial breeder, dealer, or pet
15 shop as such terms are defined in section 54-626, that engages
16 in a business of selling pet animals to a purchaser. A seller
17 does not include an animal control facility, animal rescue, or
18 animal shelter as defined in section 54-626 or any animal adoption
19 activity that an animal control facility, animal rescue, or animal
20 shelter conducts offsite at any pet store or other commercial
21 establishment; and

22 (7) (a) Serious health problem means a congenital or
23 hereditary defect or contagious disease that causes severe illness
24 or death of the pet animal.

25 (b) Serious health problem does not include (i)
26 parvovirus if the diagnosis of parvovirus is made after the
27 seven-business-day requirement in subsection (1) of section 54-647

1 or (ii) any other contagious disease that causes severe illness or
2 death after ten calendar days after delivery of the pet animal to
3 the purchaser.

4 Sec. 11. Original sections 28-1018, 54-637, and 54-638,
5 Reissue Revised Statutes of Nebraska, sections 54-603 and 54-611,
6 Revised Statutes Cumulative Supplement, 2008, and sections 37-528,
7 54-626, 54-627, 54-627.01, and 54-645, Revised Statutes Supplement,
8 2009, are repealed.

9 2. On page 1, line 3, strike "section" and insert
10 "sections 54-603 and"; in line 5 strike "54-625,"; in line 6
11 after the semicolon insert "to provide for a license fee;"; strike
12 beginning with "to" in line 7 through line 12 and insert "to
13 harmonize provisions; and to repeal the original sections."