

COMMITTEE STATEMENT

LB 825

HEARING DATE: March 2, 1999

COMMITTEE ON: Agriculture

TITLE: (Price, Bruning, Chambers, Crosby, Cudaback, Dierks, Hartnett, Hudkins, Janssen, Kiel, C. Peterson, Preister, Robak, Schimek, Schrock, Suttle, Thompson, Tyson, Wehrbein, Dw. Pedersen) Adopt the Commercial Dog and Cat Operator Inspection Act

ROLL CALL VOTE – FINAL COMMITTEE ACTION

Advanced to General File

X Advanced to General File with Amendments

Indefinitely Postponed

Vote Results:

7	Yes	Senators Chambers, Cudaback, Dickey, Dierks, Hilgert, Janssen, Schrock
0	No	
0	Present, not voting	
1	Absent	Senator Vrtiska

PROPOSERS

REPRESENTING

Senator Marian Price
Judy Varner
Jan Calame
Ann Witte

Lisa M. Zentz-Eager
Jim Kramer, D.V.M.
Robert Downey
Jim Weverka
Monica Barger
David Cygan
Delia M. Burchfield, D.V.M.
Ken Svoboda
Carol Wheeler
Dorothy E. Bush
Ellis Jensen, D.V.M.
Wally Martin
Janet Newell
Donald J. Martineau
Arthur E. Cox

Introducer, District #26
Nebraska Humane Society
American Dog Owners Association, Inc.
Nebraska Kennel Club
Great Plains Bearded Collie Club
Coalition for Pet Protection
Nebraska Veterinary Medical Association
Capital Humane Society
Lincoln Animal Control
Aussie Rescue
Self
Panhandle Humane Society
Self
Hearts United for Animals
Self
Self
Self, Representing Rebecca Arnold, D.V.M.
P.A.L.S.
Riverside Meadows Pet Motel, Inc.
Self

COMMITTEE STATEMENT

OPPONENTS	REPRESENTING
Clem Disterhaupt	Self
Angie Meyer	Self
Daniel Hawkins	Self
Tanya Naddux	Self
Van Lamb	Cotton Wood Kennels
Paul Nichols	PIJAC, and Countree Meadows

NEUTRAL	REPRESENTING
Dr. Larry Williams, State Veterinarian	Nebraska Department of Agriculture
Allen Tully	Tully's Kennel
Shelene Costello	Star City Agility Team

SUMMARY OF PURPOSE AND/OR CHANGES:

LB 825 creates the Commercial Dog and Cat Operator Inspection Act. It establishes a licensing and inspection program for commercial breeders and dealers of dogs and cats as defined in the bill, to be administered by the Dept. of Agriculture. Operation as a commercial breeder, dealer, boarding kennel or animal shelter would be prohibited unless licensed or registered. The Department of Agriculture is directed to establish a program of prelicense and annual inspection of commercial pet facilities. Operational and sanitary standards of licensed facilities would be established by rule and regulation of the Department. The Department would have various progressive authorities to discipline license holders for failure to comply with operational standards, including license suspension and revocation. Administrative due process is provided for applicants denied a license and those licensees found in violation of license standards. License fees are established according to type of facility and number of animals.

Section-by-section:

Section 1. Names the Act the Commercial Dog and Cat Operator Inspection Act

Section 2: Definitions

Sections 3 - 6: Requires persons operating as a commercial breeders, dealers, private pounds, boarding kennels and animal shelters to be licensed or registered beginning January 1, 2000. Prescribes procedures for license and registration application and approval by the Department, including payment of license fee and initial inspection, and annual renewal. The initial and annual fee and inspection requirements for license applicants and registrants is as follows:

Operation	Fee	Inspection	Type of permit
Breeders	\$100 + \$1 / animal	Prelicense	License

COMMITTEE STATEMENT

	in the breeders possession		
Dealers	\$100 + 25 cents / animal	Prelicense	License
	sold, exchanged or leased		
	in the previous calendar year;		
Private pounds	none	Prelicense	License
Public pounds	none	not required	Registration
Boarding kennel	\$10	not required	Registration
Animal shelter	\$20	prelicense	License

Boarding kennels are exempt from inspection unless the Department has cause to believe a kennel is actually a commercial breeder or dealer. Failure to register would be a Class II misdemeanor.

Section 7: Directs the Department of Agriculture to establish a program of inspection of the physical facilities and operational procedures of applicants and licensees under the Act. The Department would adopt rules for inspection procedures at least equal to those of the USDA under the federal Animal Welfare Act. Procedures for notice to licensee or license applicant upon a finding of noncompliance with the Act or the facility and care standards promulgated under the Act are prescribed.

Section 8: Authorizes the Dept. of Agriculture to request local law enforcement impoundment of animals according to the procedures of the animal cruelty statutes, if violations of the Act pose a significant threat to the animals' health and safety.

Section 9: Directs the Department to adopt and promulgate rules establishing minimal standards for facilities and care of animals in licensed facilities, inspection procedures, and recordkeeping.

Section 10: Requires the Department to conduct a prelicense inspection of an applicant's facilities to determine qualification to hold a license. Applicants which fail to qualify would be afforded an opportunity for administrative hearing in accordance with the Administrative Procedures Act.

Section 11: Authorizes progressively severe disciplinary actions upon initial and repeated noncompliance with the Act. The Department would be authorized to place licensees on probation, suspension, immediate suspension or revocation. In each case, administrative due process is provided regarding notice to licensee of the Director's findings of non-compliance and right to request a hearing to show cause why the Director's findings are in error. Proceedings may be terminated if the licensee corrects conditions leading to the disciplinary action.

COMMITTEE STATEMENT

Section 12: Prescribes substantive and procedural actions for proper service of notices or orders upon the licensee. Any notice of disciplinary action may be personally served or sent by certified or registered mail. The notice shall contain the acts or omission alleged, the disciplinary action to be taken, and notice of the licensee's right to an administrative hearing. The hearing date shall be included in the notice. Licensees are deemed to waive the right to hearing upon failure to attend the hearing or timely request rescheduling.

Section 13: Authorized the Department of Agriculture to seek enjoinder of known or anticipated violations of the Act.

Section 14: Provides that operation of regulated facilities without a license or while under suspension or revocation, or in nonconformity with the Act or its rules and regulations, is unlawful. Any such violation would be a Class I misdemeanor.

Section 15: Creates the Commercial Dog and Cat Operator Inspection Cash Fund consisting of license fee revenues, appropriations and other sources of revenue.

Section 16: Authorizes the Department to cooperate with the Secretary of Agriculture for purposes of carrying out the Act.

Section 17: Operative date – July 1, 1999]

Section 18: Emergency Clause

EXPLANATION OF AMENDMENTS, IF ANY:

The committee amendments replace the bill. The amendments provide that the inspection duties of the Department are permissive rather than mandatory. The Department of Agriculture retains authority to perform pre-license and spot inspection, but would not be required to do so. It is the intent that inspections would be on a complaint or referral basis, or upon information that a violation of the act is occurring. The amendment retains the requirement for a license to operate as a commercial breeder, dealer or boarding kennel, but eliminates pounds and animal shelters from licensure or registration requirements.

Specific changes from the original bill are discussed below:

Section 1: Names the Act the Commercial Dog and Cat Operator Inspection Act.

Section 2: Definitions section – the terms for “adequate feed”, “adequate water”, “animal shelter” and “pound” are no longer necessary and not included. The definition of boarding kennel is clarified to exclude veterinary clinics, animal control facilities and

COMMITTEE STATEMENT

non-profit animal shelters. The definition also excludes boarding kennels which house 30 or less dogs or cats over the course of a year.

Section 3: Requires persons operating as a commercial breeder, dealer or boarding kennel to be licensed beginning April 21, 2001. Prescribes procedures for application and approval by the Department, including payment of license fee. The Department may conduct an initial inspection but such prelicense inspection is not mandatory. The initial and annual license fee for all licensees is set at a flat \$100.

Section 4: Directs the Department of Agriculture to establish a program of inspection of the physical facilities and operational procedures of applicants and licensees under the Act. Procedures for notice to licensee or license applicant upon a finding of noncompliance with the Act or the facility and care standards promulgated under the Act are prescribed. LB 835 provided originally that premises were to be open to inspection “during daylight hours.” The amendment provide simply that licensed premises shall be open to inspection and more specifically grants authority of Dept. of Agriculture personnel to enter the premises for purpose of performing inspection.

Section 5: Directs the Department to adopt and promulgate rules for recordkeeping and other requirements of applicants, and other rules necessary for carrying out the purposes of the act. The Department shall adopt rules establishing standards for the care and treatment of dogs and cats in licensed facilities. The standards shall be based upon the standards of care established by the Animal and Plant Health Inspection Service under the Animal Welfare Act.

Sections 7 through 14: These sections are identical to sections 11 through 18 of the original bill.

Senator Merton L. Dierks, Chairman