

ONE HUNDRED FIRST LEGISLATURE - SECOND SESSION - 2010
COMMITTEE STATEMENT
LB910

Hearing Date: Tuesday February 09, 2010
Committee On: Agriculture
Introducer: Carlson
One Liner: Change the Commercial Dog and Cat Operator Inspection Act

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye: 8 Senators Carlson, Council, Dierks, Dubas, Karpisek, Price, Schilz, Wallman
Nay:
Absent:
Present Not Voting:

Proponents:

Senator Tom Carlson
Judy Varner
Laurie Foral
Carol Wheeler
Clem Disterhaupt
Don Wesely

Amy Lambrecht

Katie Zulkoski

Representing:

Introducer
Nebraska Humane Society
Nebraska Voters for Companion Animals
Hearts United for Animals
Nebraska Professional Dog Breeders Association
Humane Society of the United States, Capitol Humane Society
Nebraska Dog Breeders Association, United Pet Breeders Association
Nebraska Veterinary Medical Association

Opponents:

Michael Nolan
Tracie Jordan
Mary Stickney
Lorraine Rexroat

Representing:

League of Nebraska Municipalities
MidWest Rottweiler Rescue
Stickney's Toy Breed Rescue
Charlie's Angels Pet Store

Neutral:

Representing:

Summary of purpose and/or changes:

As introduced, LB 910 proposes a diversification in cash revenue funding base supporting the Department of Agriculture's inspection and enforcement program under the Commercial Dog and Cat Operator Inspection Act. Section 8 of the bill imposes a \$10 fee upon the transfer of a dog to an ultimate consumer. The bill would also add a new licensure category for animal rescues and defines "foster homes" and makes a clarification in the definition of "commercial breeder". The primary substantive provisions of the bill are contained in sections 5, 6 and 8 as follows:

Section 5 amends 54-626 containing defined terms utilized throughout the Commercial Dog and Cat Operator Inspection Act. LB 910 makes the following revisions:

-- Inserts a definition of "animal rescue" to mean a person or group holding themselves out as a rescue, which accept or solicit for dog or cats with the purpose of finding permanent adoptive home, or who utilize foster homes a primary means of housing dogs and cat.

-- The definition of commercial breeder is clarified to provide that it applies to persons "engaged in the business of breeding dogs and cats" that meet one or more of listed criteria. Currently, the test of commercial intention and engagement applies expressly only to the criteria of harboring 4 or more breeding animals.

--Inserts the new defined term "foster home" as a person providing temporary housing for ten or fewer dogs and cats, that is affiliated with an animal rescue and that does not participate in the acquisition of dogs or cats.

Harmonizing and conforming revisions are made to sections 28-1018, 37-528, and 54-611 by sections 1-3 of the bill, to sections 54-627.01, 54-637 and 54-638 of the Commercial Dog and Cat Operator Inspection Act by sections 7 and 9-10 of the bill, and section 54-645 of the Dog and Cat Purchase Protection Act by section 11 of the bill to include animal rescues within certain exemptions or authorizations described in these sections. In some cases, animal rescues as defined by the bill are currently included in the term "animal shelter" for purposes of these sections. Because "animal rescues" are differentiated from "animal shelters" under section 5, the harmonization's are needed to avoid inadvertently narrowing the existing exclusions or inclusion of animal rescues intended under current law.

Section 6 amends 54-627 to make the following revisions:

-- Incorporates animal rescues into the list of facilities subject to licensure and requirement for annual renewal on or before Oct. 1 of each year. The revisions clarify that any animal rescue facility currently licensed as an animal shelter on the effective date of the bill (and thus already having paid an annual license fee last October and not subject to renewal until October this year) may apply for reclassification of licensure before Oct. 1 but shall not be subject to paying the license fee until renewal occurs. As introduced, LB 910 carries the e-clause and thus would be effective upon the governor's signature. The clarification is intended to avoid animal rescues from having to pay a license fee twice in one licensure period. The fee for animal rescues is fixed at \$150.

-- Inserts a penalty for late license renewal. The penalty is accumulated at 20% of the annual license fee each month, up to the amount of the actual license fee. This is standard language that appears in other license programs to help encourage prompt payment and avoid the Department having to initiate other enforcement. The penalty increment also helps recover additional administrative cost associated with pursuing late fee payment. The purpose of the fee is identified as recovery of administrative costs.

Section 8 imposes a new fee that applies at the purchase or other manner of transfer of ownership of a dog in this state from entities licensed under the Act to an ultimate consumer. The fee is imposed on the person acquiring the animal and collected and remitted by the person selling or otherwise transferring the animal. The bulk of section 8 sets forth the amount of the fee and collection procedures as follows:

-- As written, the bill imposes a \$10 fee beginning on the effective date of the bill with authority for the Department to increase the fee within a statutory maximum \$25;

-- Each person required to collect the fee is to provide quarterly statements of transfer activity and to remit the appropriate fee amount;

-- Imposes late fee for failure to timely report or remit fee of 20% per month of the amount due and identifies the late fee as a recovery of administrative expense in collecting the fee;

--All fees remitted to the State Treasurer for credit to the Commercial Dog and Cat Operator Inspection Program Cash Fund;

-- Authorizes the Director to follow, to the extent applicable, provisions of the Nebraska Revenue Act of 1967 for

administration and collection of the fee and to promulgate rules and regulations and develop forms for documenting exempt transfers.

The emergency clause is attached by Section 13.

Explanation of amendments:

Explanation of Committee Amendments, if any:

The committee amendment (AM 1789) strikes section 8 of the bill, replacing the original fee mechanism collected at the point of transfer of ownership with a \$1 fee collected upon licensure of a dog or cat. A harmonizing deletion of section 4 of the bill as introduced is also made. The amendment inserts a new section 3 revising 54-603 by adding a new subsection that assigns a duty of jurisdictions that license cats or dogs to collect the \$1 fee. The revisions instruct that after retaining three cents of each fee as administrative reimbursement credited to the licensing jurisdiction's general fund, the remainder is remitted to the State Treasurer for credit to the Commercial Dog and Cat Operator Inspection Program Cash Fund. Remission is to be made at least annually except where a licensing jurisdiction collects less than \$50 annually. In such case, the remissions may be made when cumulative fee collection reaches \$50.

The amendment further inserts additional license fee stratification categories into 54-627. Currently, the fee schedule provides a top fee category of \$250 for entities housing a daily average of 50 or more dogs or cats. Existing statutory authority authorizes the Director of Agriculture to increase fees but within a statutory limitation that the highest fee may not exceed \$350, (i.e. fee adjustments may not result in maximum fee exceeding prescribed fee by more than \$100). AM 1789 makes the following revisions:

-- Inserts additional fee categories in increments of 50 with a top fee category of 450-500 dogs or cats and provides for a fee of \$2000 for licensees exceeding that number.

Tom Carlson, Chairperson