

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 288

Introduced by Carlson, 38.

Read first time January 16, 2013

Committee: Agriculture

A BILL

1 FOR AN ACT relating to agriculture; to amend sections 54-626, 54-627,
2 54-630, and 54-641.01, Revised Statutes Cumulative
3 Supplement, 2012; to change provisions of the Commercial
4 Dog and Cat Operator Inspection Act; and to repeal the
5 original sections.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 54-626, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 54-626 For purposes of the Commercial Dog and Cat
4 Operator Inspection Act:

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

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

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

20 (4) Boarding kennel means a facility which is primarily
21 used to house or contain dogs or cats owned by persons other than the
22 operator of such facility. The primary function of a boarding kennel
23 is to temporarily harbor dogs or cats when the owner of the dogs or
24 cats is unable to do so or to provide training, grooming, or other
25 nonveterinary service for consideration before returning the dogs or

1 cats to the owner. A facility which provides such training, grooming,
2 or other nonveterinary service is not a boarding kennel for the
3 purposes of the act unless dogs or cats owned by persons other than
4 the operator of such facility are housed at such facility overnight.
5 Veterinary clinics, animal control facilities, animal rescues, and
6 nonprofit animal shelters are not boarding kennels for the purposes
7 of the act;

8 (5) Breeding dog means any sexually intact male or female
9 dog six months of age or older owned or harbored by a commercial dog
10 breeder;

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

13 (7) Commercial cat breeder means a person engaged in the
14 business of breeding cats:

15 (a) Who sells, exchanges, leases, or in any way transfers
16 or offers to sell, exchange, lease, or transfer thirty-one or more
17 cats in a twelve-month period beginning on April 1 of each year;

18 (b) Who owns or harbors four or more cats, intended for
19 breeding, in a twelve-month period beginning on April 1 of each year;
20 and whose ~~(e) whose~~ cats produce a total of four or more litters
21 within a twelve-month period beginning on April 1 of each year; or

22 ~~(d)~~ (c) Who knowingly sells, exchanges, or leases cats
23 for later retail sale or brokered trading;

24 (8) Commercial dog breeder means a person engaged in the
25 business of breeding dogs:

1 (a) Who sells, exchanges, leases, or in any way transfers
2 or offers to sell, exchange, lease, or transfer thirty-one or more
3 dogs in a twelve-month period beginning on April 1 of each year;

4 (b) Who owns or harbors four or more dogs, intended for
5 breeding, in a twelve-month period beginning on April 1 of each year;
6 and whose ~~(c) whose~~ dogs produce a total of four or more litters
7 within a twelve-month period beginning on April 1 of each year; or

8 ~~(d)~~ (c) Who knowingly sells, exchanges, or leases dogs
9 for later retail sale or brokered trading;

10 (9) Dealer means any person who is not a commercial dog
11 or cat breeder or a pet shop but is engaged in the business of buying
12 for resale or selling or exchanging dogs or cats as a principal or
13 agent or who claims to be so engaged. A person who purchases, sells,
14 exchanges, or leases thirty or fewer dogs or cats in a twelve-month
15 period is not a dealer;

16 (10) Department means the Bureau of Animal Industry of
17 the Department of Agriculture with the State Veterinarian in charge,
18 subordinate only to the director;

19 (11) Director means the Director of Agriculture or his or
20 her designated employee;

21 (12) Dog means any animal which is wholly or in part of
22 the species *Canis familiaris*;

23 (13) Foster home means any person who provides temporary
24 housing for twenty or fewer dogs or cats that are six months of age
25 or older in any twelve-month period and is affiliated with a person

1 operating as an animal rescue that uses foster homes as its primary
2 housing of dogs or cats. To be considered a foster home, a person
3 shall not participate in the acquisition of the dogs or cats for
4 which temporary care is provided. Any foster home which houses more
5 than twenty dogs or cats that are six months of age or older in any
6 twelve-month period or who participates in the acquisition of dogs or
7 cats shall be licensed as an animal rescue;

8 (14) Housing facility means any room, building, or areas
9 used to contain a primary enclosure;

10 (15) Inspector means any person who is employed by the
11 department and who is authorized to perform inspections pursuant to
12 the act;

13 (16) Licensee means a person who has qualified for and
14 received a license from the department pursuant to the act;

15 (17) Pet animal means an animal kept as a household pet
16 for the purpose of companionship, which includes, but is not limited
17 to, dogs, cats, birds, fish, rabbits, rodents, amphibians, and
18 reptiles;

19 (18) Pet shop means a retail establishment which sells
20 pet animals and related supplies;

21 (19) Premises means all public or private buildings,
22 kennels, pens, and cages used by a facility and the public or private
23 ground upon which a facility is located if such buildings, kennels,
24 pens, cages, or ground are used by the owner or operator of such
25 facility in the usual course of business;

1 (20) Primary enclosure means any structure used to
2 immediately restrict a dog or cat to a limited amount of space, such
3 as a room, pen, cage, or compartment;

4 (21) Secretary of Agriculture means the Secretary of
5 Agriculture of the United States Department of Agriculture;

6 (22) Stop-movement order means a directive preventing the
7 movement or removal of any dog or cat from the premises; and

8 (23) Unaltered means any male or female dog or cat which
9 has not been neutered or spayed or otherwise rendered incapable of
10 reproduction.

11 Sec. 2. Section 54-627, Revised Statutes Cumulative
12 Supplement, 2012, is amended to read:

13 54-627 (1) A person shall not operate as a commercial dog
14 or cat breeder, a dealer, a boarding kennel, an animal control
15 facility, an animal shelter, an animal rescue, or a pet shop unless
16 the person obtains the appropriate license. A pet shop shall only be
17 subject to the Commercial Dog and Cat Operator Inspection Act and the
18 rules and regulations adopted and promulgated pursuant thereto in any
19 area or areas of the establishment used for the keeping and selling
20 of pet animals. If a facility listed in this subsection is not
21 located at the owner's residence, the name and address of the owner
22 shall be posted on the premises.

23 (2) An applicant for a license shall submit an
24 application for the appropriate license to the department, on a form
25 prescribed by the department, together with the annual license fee.

1 Such fee is nonreturnable. Upon receipt of the application and annual
2 license fee and upon completion of a qualifying inspection if
3 required pursuant to section 54-630 for an initial license applicant
4 or if a qualifying inspection is deemed appropriate by the department
5 before a license is issued for any other applicant, the appropriate
6 license may be issued by the department. Such license shall not be
7 transferable to another person or location.

8 (3)(a) Except as otherwise provided in this subsection,
9 the annual license fee shall be determined according to the following
10 fee schedule based upon the daily average number of dogs or cats
11 housed by the licensee over the previous annual licensure period:

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

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

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

16 (iv) One hundred one to one hundred fifty dogs or cats,
17 three hundred dollars;

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

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

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

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

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

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

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

7 (xii) More than five hundred dogs or cats, two thousand
8 dollars.

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

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

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

16 (e) The annual license fee for a commercial dog or cat
17 breeder shall be determined according to the fee schedule set forth
18 in subdivision (a) of this subsection based upon the number of
19 breeding dogs or cats owned or harbored by the commercial breeder on
20 the breeder's annual license renewal date.

21 (f) The fees charged under this subsection may be
22 increased or decreased by the director after a public hearing is held
23 outlining the reason for any proposed change in the fee. The maximum
24 fee that may be charged shall not result in a fee for any license
25 category that exceeds the license fee set forth in this subsection by

1 more than one hundred dollars.

2 (4) A license to operate as a commercial dog or cat
3 breeder, dealer, boarding kennel, or pet shop shall be renewed by
4 filing with the department on or before April 1 of each year a
5 renewal application and the annual license fee. A license to operate
6 as an animal control facility, animal rescue, or animal shelter shall
7 be renewed by filing with the department on or before October 1 of
8 each year a renewal application and the annual license fee. Failure
9 to renew a license prior to the expiration of the license shall
10 result in a late renewal fee equal to twenty percent of the annual
11 license fee due and payable each month, not to exceed one hundred
12 percent of such fee, in addition to the license fee. The purpose of
13 the late renewal fee is to pay for the administrative costs
14 associated with the collection of fees under this section. The
15 assessment of the late renewal fee shall not prohibit the director
16 from taking any other action as provided in the act.

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

20 (6) The state or any political subdivision of the state
21 which contracts out its animal control duties to a facility not
22 operated by the state or any political subdivision of the state may
23 be exempted from the licensing requirements of this section if such
24 facility is licensed as an animal control facility, animal rescue, or
25 animal shelter for the full term of the contract with the state or

1 its political subdivision.

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

5 Sec. 3. Section 54-630, Revised Statutes Cumulative
6 Supplement, 2012, is amended to read:

7 54-630 (1) Before the department approves an application
8 for an initial license, an inspector of the department shall inspect
9 the operation of the applicant to determine whether the applicant
10 qualifies to hold a license pursuant to the Commercial Dog and Cat
11 Operator Inspection Act. Except as provided in subsection (2) of this
12 section, an applicant who qualifies shall be issued a license.

13 (2) The department may deny an application for an initial
14 or renewal license as a commercial dog or cat breeder, dealer,
15 boarding kennel, animal control facility, animal shelter, animal
16 rescue, or pet shop upon a finding that the applicant is unsuited to
17 perform the obligations of a licensee. The applicant shall be
18 determined unsuited to perform the obligations of a licensee if the
19 department finds that the applicant has deliberately misrepresented
20 or concealed any information provided on or with the application or
21 any other information provided to the department under this section
22 or that within the previous five years the applicant:

23 (a) Has been convicted of any law regarding the
24 disposition or treatment of dogs or cats in any jurisdiction; or

25 (b) Has operated a ~~breeder~~-facility under a license or

1 permit issued by any jurisdiction that has been revoked, suspended,
2 or otherwise subject to a disciplinary proceeding brought by the
3 licensing authority in that jurisdiction if such proceeding resulted
4 in the applicant having voluntarily surrendered a license or permit
5 to avoid disciplinary sanctions.

6 (3) In addition to the application, the department may
7 require the applicant to provide additional documentation pertinent
8 to the department's determination of the applicant's suitability to
9 perform the duties of a licensee under the act.

10 (4) An applicant who is denied an initial or renewal
11 license under this section shall be afforded the opportunity for a
12 hearing before the director or the director's designee to present
13 evidence that the applicant is qualified to hold a license ~~should a~~
14 ~~license be issued or renewed.~~ and should be issued a license. All
15 such hearings shall be in accordance with the Administrative
16 Procedure Act.

17 Sec. 4. Section 54-641.01, Revised Statutes Cumulative
18 Supplement, 2012, is amended to read:

19 54-641.01 (1) A commercial dog breeder shall provide dogs
20 with the opportunity for exercise as follows:

21 (a) A primary enclosure shall have an entry that allows
22 each dog unfettered access to an exercise area that is at least three
23 times the size of the requirements for a primary enclosure. The entry
24 may be closed during cleaning, under direction of a licensed
25 veterinarian, or in the case of inclement weather. The exercise area

1 shall have solid surface flooring or a flooring material that if of
2 mesh or slatted construction does not allow the dog's feet to pass
3 through any openings in the floor. Any exercise area suspended floor
4 constructed of metal strands shall be required to have strands that
5 are greater than one-eighth of an inch in diameter (nine gauge) or
6 coated with a material such as plastic or fiberglass. All suspended
7 flooring shall be strong enough so as not to sag or bend between any
8 structural supports and be of a surface that is easily cleaned and
9 disinfected. The exercise area shall have protection available from
10 wind, rain, and snow if access to the primary enclosure is
11 unavailable; and

12 (b) Any dog not housed in a primary enclosure that meets
13 the exercise area requirements of subdivision (a) of this subsection
14 shall be provided with the opportunity for exercise according to a
15 plan approved by the attending veterinarian, in writing. The
16 opportunity for exercise shall be accomplished by:

17 (i) Providing access to a run or open area at a frequency
18 and duration prescribed by the attending veterinarian; or

19 (ii) Removal of the dogs from the primary enclosure at
20 least twice daily to be walked, allowed to move about freely in an
21 open area, or placed in an exercise area that meets the requirements
22 of subdivision (a) of this subsection.

23 (2) Subsection (1) of this section shall not apply to:

24 (a) Any dog that is less than six months of age;

25 (b) The primary enclosure of a nursing facility that

1 houses any female dog that is due to give birth within the following
2 two weeks or a nursing dog and her puppies;

3 (c) Any dog that is injured or displays any clinical
4 signs of disease. In such case, any injury or clinical signs of
5 disease shall be noted in the dog's health records and the dog shall
6 be returned to exercise upon recovery from such injury or disease; or

7 (d) Any dog that is excluded from the exercise
8 requirements of subsection (1) of this section pursuant to a written
9 directive of a licensed veterinarian.

10 (3) ~~Any primary enclosure newly constructed~~ Housing
11 facilities utilized in the operation of a licensee newly constructed
12 or initially inspected on or after October 1, 2012, shall comply with
13 subdivision (1)(a) of this section. A primary enclosure in existence
14 ~~on~~ Facilities utilized in the operation of a licensee subject to
15 inspection prior to October 1, 2012, shall not be required to comply
16 with subdivision (1)(a) of this section for the life of such
17 facility, and such exemption shall extend to such facility upon
18 relocation of the facility or acquisition by a subsequent licensee.

19 Sec. 5. Original sections 54-626, 54-627, 54-630, and
20 54-641.01, Revised Statutes Cumulative Supplement, 2012, are
21 repealed.