

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 389

Introduced by Kuehn, 38.

Read first time January 16, 2015

Committee: Agriculture

1 A BILL FOR AN ACT relating to the Commercial Dog and Cat Operator
2 Inspection Act; to amend section 54-628, Reissue Revised Statutes of
3 Nebraska, and section 54-627, Revised Statutes Cumulative
4 Supplement, 2014; to change license and inspection fees as
5 prescribed; and to repeal the original sections.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 54-627, Revised Statutes Cumulative Supplement,
2 2014, is amended to read:

3 54-627 (1) A person shall not operate as a commercial dog or cat
4 breeder, a dealer, a boarding kennel, an animal control facility, an
5 animal shelter, an animal rescue, or a pet shop unless the person obtains
6 the appropriate license. A pet shop shall only be subject to the
7 Commercial Dog and Cat Operator Inspection Act and the rules and
8 regulations adopted and promulgated pursuant thereto in any area or areas
9 of the establishment used for the keeping and selling of pet animals. If
10 a facility listed in this subsection is not located at the owner's
11 residence, the name and address of the owner shall be posted on the
12 premises.

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

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

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

28 (ii) Eleven or more dogs or cats, one hundred fifty dollars, plus an
29 additional ten dollars for each dog or cat numbering more than eleven
30 dogs or cats. to fifty dogs or cats, two hundred dollars;

31 ~~(iii) Fifty-one to one hundred dogs or cats, two hundred fifty~~

1 dollars;

2 ~~(iv) One hundred one to one hundred fifty dogs or cats, three~~
3 ~~hundred dollars;~~

4 ~~(v) One hundred fifty-one to two hundred dogs or cats, three hundred~~
5 ~~fifty dollars;~~

6 ~~(vi) Two hundred one to two hundred fifty dogs or cats, four hundred~~
7 ~~dollars;~~

8 ~~(vii) Two hundred fifty one to three hundred dogs or cats, four~~
9 ~~hundred fifty dollars;~~

10 ~~(viii) Three hundred one to three hundred fifty dogs or cats, five~~
11 ~~hundred dollars;~~

12 ~~(ix) Three hundred fifty-one to four hundred dogs or cats, five~~
13 ~~hundred fifty dollars;~~

14 ~~(x) Four hundred one to four hundred fifty dogs or cats, six hundred~~
15 ~~dollars;~~

16 ~~(xi) Four hundred fifty-one to five hundred dogs or cats, six~~
17 ~~hundred fifty dollars; and~~

18 ~~(xii) More than five hundred dogs or cats, two thousand dollars.~~

19 (b) The initial license fee for any person required to be licensed
20 pursuant to the act shall be one hundred fifty ~~twenty-five~~ dollars.

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

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

25 (e) The annual license fee for a commercial dog or cat breeder shall
26 be determined according to the fee schedule set forth in subdivision (a)
27 of this subsection based upon the number of breeding dogs or cats owned
28 or harbored by the commercial breeder.

29 (f) The fees charged under this subsection may be increased or
30 decreased by the director after a public hearing is held outlining the
31 reason for any proposed change in the fee. The maximum fee that may be

1 charged shall not result in a fee for any license category that exceeds
2 the license fee set forth in this subsection by more than one hundred
3 dollars.

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

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

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

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

29 Sec. 2. Section 54-628, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 54-628 (1) The department shall inspect all licensees at least once

1 in a twenty-four-month period to determine whether the licensee is in
2 compliance with the Commercial Dog and Cat Operator Inspection Act. Any
3 additional inspector or other field personnel employed by the department
4 to carry out inspections pursuant to the act that are funded through
5 General Fund appropriations to the Bureau of Animal Industry shall be
6 assigned to the Bureau of Animal Industry and shall be available for
7 temporary reassignment as needed to other activities and functions of the
8 Bureau of Animal Industry in the event of a livestock disease emergency
9 or any other threat to livestock or public health. When an inspection
10 produces evidence of a violation of the act or the rules and regulations
11 of the department, a copy of a written report of the inspection and
12 violations shown thereon, prepared by the inspector, shall be given to
13 the applicant or licensee, together with written notice to comply within
14 the time limit established by the department and set out in such notice.
15 If the department determines a subsequent reinspection is required, the
16 applicant or licensee shall pay a reinspection fee of one hundred fifty
17 dollars together with the mileage of the inspector at the rate provided
18 in section 81-1176 for state employees.

19 (2) If deemed necessary under the act or any rule or regulation
20 adopted and promulgated pursuant to the act, the department may, for
21 purposes of inspection, enter the premises of any applicant or licensee
22 during normal business hours and in a reasonable manner, including all
23 premises in or upon which dogs or cats are housed, sold, exchanged, or
24 leased or are suspected of being housed, sold, exchanged, or leased. For
25 purposes of this subsection, premises includes all buildings, vehicles,
26 equipment, cages, kennels, containers, and pens and all records on such
27 premises. The department shall not be subject to any action for trespass
28 or damages resulting from compliance with this subsection. Pursuant to an
29 inspection under this subsection, the department may:

30 (a) Enter the premises of any applicant for a license under the act
31 to determine if the applicant meets the requirements for licensure under

1 the act;

2 (b) Access all premises and examine and copy all records pertaining
3 to compliance with the act and the rules or regulations adopted and
4 promulgated under the act. The department shall have authority to gather
5 evidence, including, but not limited to, photographs;

6 (c) Inspect or reinspect any vehicle or carrier transporting or
7 holding dogs or cats that is in the state to determine compliance with
8 the act or any rules or regulations adopted and promulgated under the
9 act;

10 (d) Obtain an inspection warrant in the manner prescribed in
11 sections 29-830 to 29-835 if any person refuses to allow the department
12 to conduct an inspection pursuant to this section; or

13 (e) Issue and enforce a written stop-movement order pursuant to
14 section 54-628.01.

15 (3) For purposes of this section, the private residence of any
16 applicant or licensee shall be available for purposes of inspection only
17 if dogs or cats are housed in a primary enclosure as defined in 9 C.F.R.
18 1.1 within the residence, including a room in such residence, and only
19 such portion of the residence that is used as a primary enclosure shall
20 be open to an inspection pursuant to this section.

21 Sec. 3. Original section 54-628, Reissue Revised Statutes of
22 Nebraska, and section 54-627, Revised Statutes Cumulative Supplement,
23 2014, are repealed.