

LEGISLATIVE BILL 274

Approved by the Governor March 20, 2003

Introduced by Chambers, 11; Price, 26; Byars, 30; Hartnett, 45

AN ACT relating to the Commercial Dog and Cat Operator Inspection Act; to amend sections 54-625, 54-626, and 54-627, Revised Statutes Supplement, 2002; to require licensure of pet shops; to require the provision of dog and cat neutering and other information; to require neutering and spaying as prescribed; to define and redefine terms; to provide requirements for commercial breeders and primary enclosures as prescribed; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 54-625, Revised Statutes Supplement, 2002, is amended to read:

54-625. Sections 54-625 to 54-636 and sections 4 to 8 of this act shall be known and may be cited as the Commercial Dog and Cat Operator Inspection Act.

Sec. 2. Section 54-626, Revised Statutes Supplement, 2002, is amended to read:

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

(1) Boarding kennel means a facility which is primarily used to house or contain dogs or cats owned by persons other than the operator of such facility. The primary function of a boarding kennel is to temporarily harbor dogs or cats when the owner of the dogs or cats is unable to do so or to provide training, grooming, or other nonveterinary service for consideration before returning the dogs or cats to the owner. A facility which houses or contains thirty or less dogs or cats in a twelve-month period is not a boarding kennel. Veterinary clinics, animal control facilities, and nonprofit animal shelters are not boarding kennels for the purposes of the act;

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

(3) Commercial breeder means any person (a) engaged in the business of breeding dogs or cats and (b) who sells, exchanges, or leases dogs or cats in return for consideration or who offers to do so, whether or not the dogs or cats are bred, raised, trained, groomed, or boarded by such person. A person who owns or harbors three or less unaltered dogs or cats for breeding purposes which are at least six months of age shall not be a commercial breeder.

A person who sells, exchanges, or leases thirty or less dogs or cats in a twelve-month period shall not be a commercial breeder if all such dogs or cats are sold, exchanged, or leased to a final owner rather than for later retail sale or brokered trading. A person knowingly selling, exchanging, or leasing any dogs or cats for later retail sale or for brokered trading shall be classified as a commercial breeder;

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

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

(6) Director means the Director of Agriculture or his or her designated employee;

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

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

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

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

(11) Pet shop means a retail establishment whose primary function is to sell companion animals and related supplies and where such animals are bought, sold, exchanged, given away, raffled, or offered for raffle or retail sale to the general public;

(12) Primary enclosure means any structure used to immediately

restrict a dog or cat to a limited amount of space, such as a room, pen, cage, or compartment;

~~(12)~~ (13) Secretary of Agriculture means the Secretary of Agriculture of the United States Department of Agriculture; and

~~(13)~~ (14) Unaltered means any male or female dog or cat which has not been neutered or spayed or otherwise rendered incapable of reproduction.

Sec. 3. Section 54-627, Revised Statutes Supplement, 2002, is amended to read:

54-627. (1) Beginning April 1, 2001, a person shall not operate as a commercial breeder, a dealer, or a boarding kennel unless the person obtains the appropriate license as a commercial breeder, dealer, or boarding kennel. Beginning January 1, 2004, a person shall not operate as a pet shop unless the person obtains a license as a pet shop. An applicant for a license shall submit an application for the appropriate license to the department, on a form prescribed by the department, together with a nonreturnable license fee. Such fee shall be one hundred dollars. The license fee shall be paid annually. Additionally, the department may conduct an inspection of the facilities and sanitation and confinement practices of the applicant or any other practices that may affect the humane treatment of dogs and cats. Upon receipt of the application and initial license fee, the appropriate license may be issued by the department. Such license shall not be transferable to another person or location.

(2) A license to operate as a commercial breeder, a license to operate as a dealer, ~~or a license to operate as a boarding kennel, or a license to operate as a pet shop~~ shall be renewed by filing with the department at least thirty days prior to April 1 of each year a renewal application and the annual license fee. Failure to renew a license prior to the expiration of the license shall result in an additional fee of twenty dollars required upon application to renew such license.

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

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

Sec. 5. Provision shall be made for spaying or neutering all dogs and cats released for adoption or purchase from any public or private animal shelter or animal control facility operated by a humane society, a county, a city, or another political subdivision. Such provision may be made by:

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

(2) Entering into a written agreement with the adopter or purchaser of the dog or cat, guaranteeing that spaying or neutering will be performed by a licensed veterinarian in compliance with an agreement which shall contain the following information:

(a) The date of the agreement;

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

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

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

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

Sec. 6. An adopter or purchaser who signs an agreement under section 5 of this act shall cause the adopted or purchased dog or cat to be spayed or neutered on or before the date stated in the agreement. If such date falls on a Saturday, Sunday, or legal holiday, the date may be extended to the first business day following such date. The releasing entity may extend the date for thirty days upon presentation of a letter or telephone report from a licensed veterinarian, stating that the life or health of the

adopted or purchased dog or cat would be jeopardized by spaying or neutering, and such extensions may continue to be granted until such veterinarian determines that spaying or neutering would no longer jeopardize the life or health of the adopted or purchased dog or cat.

Sec. 7. A commercial breeder shall:

(1) Maintain housing facilities and primary enclosures in a sanitary condition;

(2) Enable all dogs and cats to remain dry and clean;

(3) Provide shelter and protection from extreme temperatures and weather conditions that may be uncomfortable or hazardous to the dogs and cats;

(4) Provide sufficient shade to shelter all the dogs and cats housed in the primary enclosure at one time;

(5) Provide dogs and cats with easy and convenient access to adequate amounts of clean food and water;

(6) Provide adequate space appropriate to the age, size, weight, and breed of dog or cat. For purposes of this subdivision, adequate space means sufficient space to allow each dog and cat to turn about freely, to stand, sit, and lie in a comfortable, normal position, and to walk in a normal manner without the head of such animal touching the top of the cage which shall be at least six inches above the head of the tallest animal when the animal is standing;

(7) Provide dogs with adequate socialization and exercise. For the purpose of this subdivision, adequate socialization means physical contact with other dogs and with human beings, other than being fed, and adequate exercise means providing the opportunity for exercise at least two times per day outside of a cage or similar small enclosure except during inclement weather that may be hazardous to dogs;

(8) Assure that a handler's hands are washed before and after handling each infectious or contagious dog or cat; and

(9) Provide veterinary care without delay when necessary.

Sec. 8. The primary enclosures of all licensees shall meet the following requirements:

(1) A primary enclosure shall have floors that are constructed in a manner that protects the dogs' and cats' feet and legs from injury and that, if of mesh or slatted construction, do not allow the dogs' and cats' feet to pass through any openings in the floor;

(2) If a primary enclosure has a suspended floor constructed of metal strands, the strands shall either be greater than one-eighth of an inch in diameter (nine gauge) or coated with a material such as plastic or fiberglass; and

(3) The suspended floor of any primary enclosure shall be strong enough so that the floor does not sag or bend between the structural supports.

Sec. 9. Original sections 54-625, 54-626, and 54-627, Revised Statutes Supplement, 2002, are repealed.