

AMENDMENTS TO LB360

(Amendments to E and R amendments, ER90)

Introduced by Johnson, 23.

1 1. Strike sections 22 and 23 and insert the following new sections:

2 Sec. 20. Section 54-632, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 54-632 (1) Any notice or order provided for in the Commercial Dog
5 and Cat Operator Inspection Act shall be properly served when it is
6 personally served on the applicant, licensee, or violator or on the
7 person authorized by the applicant or licensee to receive notices and
8 orders of the department or when it is sent by certified or registered
9 mail, return receipt requested, to the last-known address of the
10 applicant, licensee, or violator or the person authorized ~~by the licensee~~
11 to receive such notices and orders. A copy of the notice and the order
12 shall be filed in the records of the department.

13 (2) A notice to comply with the act or the rules and regulations
14 adopted and promulgated pursuant to the act ~~conditions set out in the~~
15 ~~order of the director provided in section 54-631~~ shall set forth the acts
16 or omissions with which the applicant, licensee, or violator is charged.

17 (3) A notice of the ~~licensee's~~ right to a hearing ~~provided for in~~
18 ~~sections 54-630 and 54-631~~ shall set forth the time and place of the
19 hearing except as otherwise provided in subsection (4) of this section
20 and section 54-631. A notice of the ~~licensee's~~ right to such hearing
21 shall include notice that such right to a hearing may be waived pursuant
22 to subsection (6) of this section. A notice of the licensee's right to a
23 hearing shall include notice to the licensee that the license may be
24 subject to sanctions as provided in section 54-631.

25 (4) A request for a hearing under subsection (2) of section
26 54-628.01 shall request that the director set forth the time and place of

1 the hearing. The director shall consider the interests of the violator in
2 establishing the time and place of the hearing. Within three business
3 days after receipt by the director of the hearing request, the director
4 shall set forth the time and place of the hearing on the stop-movement
5 order. A notice of the violator's right to such hearing shall include
6 notice that such right to a hearing may be waived pursuant to subsection
7 (6) of this section.

8 (5) The hearings provided for in the act shall be conducted by the
9 director at the time and place he or she designates. The director shall
10 make a final finding based on the complete hearing record and issue an
11 order. If the director has suspended a license pursuant to subsection (4)
12 of section 54-631, the director shall sustain, modify, or rescind the
13 order after the hearing. If the department has issued a stop-movement
14 order under section 54-628.01, the director may sustain, modify, or
15 rescind the order after the hearing. All hearings shall be in accordance
16 with the Administrative Procedure Act.

17 (6) A applicant, licensee, or violator waives the right to a hearing
18 if such applicant, licensee, or violator does not attend the hearing at
19 the time and place set forth in the notice described in subsection (3) or
20 (4) of this section, without requesting that the director, at least two
21 days before the designated time, change the time and place for the
22 hearing, except that before an order of the director becomes final, the
23 director may designate a different time and place for the hearing if the
24 applicant, licensee, or violator shows the director that the applicant,
25 licensee, or violator had a justifiable reason for not attending the
26 hearing and not timely requesting a change of the time and place for such
27 hearing. If the applicant, licensee, or violator waives the right to a
28 hearing, the director shall make a final finding based upon the available
29 information and issue an order. If the director has suspended a license
30 pursuant to subsection (4) of section 54-631, the director may sustain,
31 modify, or rescind the order after the hearing. If the department has

1 issued a stop-movement order under section 54-628.01, the director may
2 sustain, modify, or rescind the order after the hearing.

3 (7) Any person aggrieved by the finding of the director has ten days
4 after the entry of the director's order to request a new hearing if such
5 person can show that a mistake of fact has been made which affected the
6 director's determination. Any order of the director becomes final upon
7 the expiration of ten days after its entry if no request for a new
8 hearing is made.

9 Sec. 23. Sections 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, and 25 of
10 this act become operative on December 1, 2015. The other sections of this
11 act become operative on their effective date.

12 Sec. 24. Original sections 28-1011 and 54-603, Reissue Revised
13 Statutes of Nebraska, and sections 28-1006, 28-1008, 28-1012, 28-1013,
14 28-1014, 28-1015, 28-1016, 28-1019, and 29-818, Revised Statutes
15 Cumulative Supplement, 2014, are repealed.

16 Sec. 25. Original sections 54-628, 54-628.01, 54-632, and 54-633,
17 Reissue Revised Statutes of Nebraska, and sections 54-625, 54-626,
18 54-627, and 54-630, Revised Statutes Cumulative Supplement, 2014, are
19 repealed.

20 2. On page 10, line 27, strike "on", show as stricken, and insert
21 "in".

22 3. On page 16, line 28, strike "a licensee, an applicant," and
23 insert "an applicant, a licensee,".

24 4. On page 17, line 3, strike "or" and the second "facility" and
25 insert "an" before each incidence of "animal"; and in line 4 insert "a"
26 before each incidence of "commercial" and before "dealer" and "pet".

27 5. On page 18, line 5, strike "or removal" and show as stricken and
28 after "cat" insert "onto or".

29 6. On page 20, line 22, strike "license"; in line 25 strike "housed"
30 and insert "owned or harbored" and strike "annual licensure" and insert
31 "twelve-month"; and in line 26 after "cats" insert "subject to

1 subdivision (g) of this section".

2 7. On page 21, line 1, strike the second "license", show as
3 stricken, and insert "annual"; in line 6 after "dollars" insert "times
4 the number of dogs or cats harbored by the licensee over the previous
5 twelve-month period numbering more than ten dogs or cats"; in line 22
6 strike "A licensee" and show as stricken and strike ", an applicant," and
7 insert "An applicant, a licensee,"; and in line 24 strike "its", show as
8 stricken, and insert "any applicable".

9 8. On page 25, line 14, after "exists" insert "(a)"; in line 16
10 strike "reasonable cause to believe" and show as stricken; in line 17
11 strike "(a)", "exist", and "(b)" and show the old matter as stricken; in
12 line 19 strike "(c)" and strike "(d)" and insert "or"; in line 20 strike
13 "(e)" and insert "(b)"; in line 21 strike "exists that" and insert
14 "that,"; and in line 23 after "intervention" insert an underscored comma.

15 9. On page 26, line 9, strike ", or that any management
16 intervention" and insert "or if any management intervention imposed by
17 the stop-movement order is being implemented"; in lines 11 and 12 strike
18 "imposed by the stop-movement order is being implemented"; in line 21
19 strike "A" and insert "If applicable, a"; in line 26 strike "and" and
20 insert "or, if applicable,"; in line 29 after the first "or" insert
21 "any"; and in line 30 strike "persist" and "if".

22 10. On page 30, line 31, after "that" insert "any".

23 11. On page 31, strike "violations" in lines 1, 2, and 3 and insert
24 "violation" and before "alleged" in lines 1 and 2 insert "any"; in line 3
25 after "or" insert "any" and strike "conditions" and insert "condition";
26 and in line 5 strike "constitute" and insert "constitutes".

27 12. Renumber the remaining sections and correct internal references
28 accordingly.