

ONE HUNDRED SECOND LEGISLATURE - FIRST SESSION - 2011
COMMITTEE STATEMENT
LB427

Hearing Date: Tuesday February 08, 2011
Committee On: Agriculture
Introducer: Cornett
One Liner: Provide enhanced requirements for commercial dog breeders

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

Vote Results:

Aye: 8 Senators Bloomfield, Brasch, Carlson, Harr, Karpisek, Larson, Lathrop, Wallman

Nay:

Absent:

Present Not Voting:

Proponents:

Senator Abbie Cornett
Mick Mines
Judy Varner
Diana Pankonin
Nikki Harris
Carol Wheeler
Amber Horn
Karen Payne
Laurie Foral
Robert A. Downey
Lawrence Shackman

Representing:

Introducer
Nebraska Humane Society
Nebraska Humane Society
Pankonin Farm Kennel
Nebraska Humane Society
Hearts United for Animals
Nebraska Humane Society
High Plains Kennel-Perkins County Veterinary Clinic
Nebraska Voters for Companion Animals
Lincoln Capital Humane Society
Self

Opponents:

Clem Disterhaupt
Casey Schaaf

Rob Hurd
Thomas A. Maneely
Judy Williamson

Cindy Johnson
Traci Christensen
Bob Yarnall Jr.
Kevin Peterson
Mark Christensen
Loren Pachta
Betty Disterhaupt
Shelene Costello

Representing:

Nebraska Professional Pet Breeders Association
Nebraska Dog Breeders Association - Nebraskaland
Pets Incorporated
America's Pet Registry
American Kennel Club - Executive Field Representative
Nebraska Dog Breeders Association - United Pet
Professionals Association
Nebraska Dog Breeders Association
Self
American Canine Association
Nebraska Farm Bureau
TLC Labradors
Lambriar, Inc.
Nebraska Professional Pet Breeders Association
Self

Summary of purpose and/or changes:

LB 427 amends the Commercial Dog & Cat Operator Inspection Act (Sections 54-625 - 56-643) by inserting certain new minimum statutory standards of care, housing and operating procedures that apply to all commercial dog breeders. The bill further creates a designation of outstanding breeder for facilities that meet both the minimum standards and additional performance standards.

The primary substantive provisions of the bill are found in sections 7 - 10 which are incorporated within the Commercial Dog and Cat Operator Inspection Act by section 2 of the bill. Sections 9 and 10 define standards applicable to all commercial dog breeders as follows:

Section 9 -- Enumerates a series of health care standards including that breeders shall meet the following:

Provide responsible medical care including the keeping of accurate breeding records;

Perform regular health assessment not less frequently than every sixty days, and that observed body condition and functional characteristics are noted in health records;

Identify breeding animals by microchip with identification coding maintained with health records;

Prove veterinary examination, including a dental exam, of each dog over six months of age at least once every three years. Breeders are to maintain a health plan prepared on forms provided by the Department with each animal's health records;

Regular inspections by the department shall include examination of random sampling of at least 5% of health records of breeding dogs for compliance with health records and accurate correspondence to microchip identification;

Breeding females may not be bred more frequently than once a year and not prior to 12 months of age or beyond 8 years of age unless by written exception by a licensed veterinarian after examination;

A veterinarian shall be consulted without delay for serious or life threatening injury or medical condition, and treated as prescribed;

Ear cropping, and surgical births and other surgical procedures may be performed only by a veterinarian. Tail docking and claw removal shall be performed within the first five days and dates of such procedures noted in health records;

Dogs may not be bred after 3 caesareans except upon written veterinary approval

All euthanasia are performed by a licensed veterinarian

Each dog is groomed at least monthly.

Section 10 - Enumerates a series of standards for primary enclosures as follows:

Prescribes minimal solid surface floor size to enable space for dogs to lay and turn about without touching another dog. Any solid surface shall be constructed not to sag and be readily cleanable. Non solid portions of a primary enclosure floor are required to be of a material that does not allow dogs' feet to fall through;

Primary enclosures shall permit free access to an exercise area of at least 10 times the size of the primary enclosure. Access may only be restricted as directed by a veterinarian or for inclement weather. Such access area and surface; material shall also comply with minimal floor area and construction specifications.

Each dog shall be provided at least twice daily exercise program outside its primary enclosure. Such program may be suspended due to inclement weather unless such suspension is in conflict with the veterinary care plan for the animal. Exercise areas are to be kept clean, in repair and free of defects that could cause injury;

Expectant or nursing females may be exercised separately from other dogs;

Tethering or chaining is not permitted in lieu of a primary enclosure;

The breeder's facility shall have a heating and cooling system and not exceed prescribed extremes of temperature,

Existing breeder facilities shall have until July 1, 2016 to comply with the minimal requirements primary enclosures have access to exercise areas and to provide an exercise program, that female dogs be provided separate exercise opportunity, and that tethering or chaining not be used in lieu of a primary enclosure.

Sections 7 & 8 create an "outstanding breeder" designation program. Section 7 directs that the Department shall

publish online designated breeders and present such breeders with appropriate written certification of the designation. Section 8 prescribes standards for breeders to meet the outstanding designation, as follows:

Successfully passes all inspection components and complies with all health recordkeeping and exercise requirements as prescribed by section 10;

Females are not bred more frequently than once in an 18-month period unless the dog is given a veterinary examination and the veterinarian gives written approval

Dogs are housed in a primary enclosure that is twice the minimal floor space requirement and meets other space and flooring specifications;

Each dog is provided mental stimulation to include interaction with humans and other dogs, and toys or other environmental enrichment;

All flooring of exercise areas shall be ground or solid surface,

Ammonia orders are controlled to not exceed 4 parts per million;

Each dog is bathed at least twice per year and matting is minimal.

The definition of a commercial breeder found in 54-626 is revised by Section 2 of the bill to distinguish commercial dog from commercial cat breeders. The new minimal facility and care standards and requisites for meeting outstanding breeder designation set forth in sections 7 - 10 apply only to commercial dog breeders. Existing statutory facility and care standards prescribed in section 54-640 and 54-641 of the Act are clarified as necessary to apply only to cat breeders where more stringent standards for dog breeders are prescribed elsewhere in the bill. Because of the definitional distinction now made between dog and cat breeders, non-substantive harmonization is inserted into sections 54-627, pertaining to requirements for licensure, and 54-637, pertaining to duties of breeders to provide spaying and neutering information, as well as in 54-645 and 54-646 of the Pet Purchase Protection Act to continue duties that apply to both dog and cat breeders. The bill also contains revisors removal of superfluous listings of various licensure categories throughout the act that are not related to the substantive purpose of the bill.

Explanation of amendments:

The committee amendment (AM 1576) strikes the original provisions and becomes the bill. A number of the substantive elements of the original bill are omitted, altered or rearranged as indicated below.

The primary revisions relate to veterinary and exercise standards applicable to commercial dog breeders. The bill retains applicability of facility and care standards of Section 54-640 and Section 54-641 to commercial dog breeders, with conforming revisions as necessary to changes elsewhere in the bill. The amendment would not require individual animal vet care plans and omits various associated duties contained in the original bill. However, the amendment sets forth statutory standards for vet care plans required under Section 54-640 for commercial dog breeders to include the following statutory elements:

- Codifies existing regulation that requires maintenance of individual health records for each dog (except that litter health records may be maintained where applicable);
- Codifies existing regulation that vet care plans include a health maintenance program including elements of disease and parasite control, nutrition, and euthanasia, etc. supervised by attending veterinarian. Such program shall include regularly scheduled visits to facility by attending veterinarian. Current law requires health maintenance programs to be updated annually. The amendment specifies that such program be updated annually at the time of on-site visit with walk-through and observation of dogs by attending vet.
- A basic physical and dental examination by a veterinarian of each breeding dog to be performed no less frequently than once every three years. Such exam may exclude lab analysis unless directed by veterinarian

The amendment makes other secondary revisions to the veterinary care standards of the original bill, including:

- Sets forth standard for identification as a separate section under what becomes section 10. Identification by microchip is established as the standard dogs identified by other approved means on effective date and existing licensee's continued utilization of other approved means are grandfathered. The ID is to be recorded in dog's corresponding health

record.

- Omits ear cropping as a procedure that must be performed by a vet and extends the period for performing dew claw removal and tail docking to 7 days.
- Replaces a requirement for monthly grooming with a performance standard that matting not exceed 10%
- Requires euthanasia to be performed by a veterinarian according to humane recommendations of the American Veterinary Medical Association.
- Breeding frequency restrictions are omitted

The amendment sets forth those provisions pertaining to construction and design of primary enclosures relating to the purpose of assuring dogs have exercise opportunity as a separate section. As amended, section 8 of the bill would set forth requirements for commercial dog breeders essentially replacing exercise standard currently located in section 54-640. Section 8 inserts a facility standard that new construction of primary enclosure facilities provide free access to an exercise area at least three times the size of a primary enclosure. Existing housing facilities would be grandfathered for the life of the facility but provides that dogs not housed in a primary enclosure that allows free access to an exercise area shall be provided opportunity for exercise as prescribed.

The amendment makes other secondary revisions to the facility standards contained in the original bill, including:

- Eliminates any requirement for solid surface area of primary enclosures. AM1576 retains applicability of Section 54-641 prescribing size and structural standards of primary enclosures. Sections 5-6 of the amendment revise Section 54-640 and Section 54-641 to consolidate provisions of Section 54-640 regarding primary enclosures into Section 54-641. Existing size and structural standards for primary enclosures are retained except to add specification that enclosures allow sufficient size to enable movements without touching another dog.
- Eliminates requirements for minimal solid surface area of exercise area but replicates standards of primary enclosures found in Section 54-641 that any non-solid surface area conform to flooring surface material and structural standards to protect dogs feet from injury. Retains that dogs in exercise area be provided protection from weather elements but clarifying that access to primary enclosure satisfies this requirement.
- Enumerates exemptions from housing or alternative exercise opportunity for pregnant and nursing females, puppies under six weeks and dogs showing signs of illness.
- Omits specific reference to tethering. and omits temperature standards, essentially deferring to existing regulatory standards.

The committee amendment deletes the outstanding breeder certification program contained in original sections 7 and 8.

Finally, AM 1576 Inserts new section amending 54-630 by inserting a bad actor provision modeled after bad actor provision of Livestock Waste Management Act. Specifically, AM1576 authorizes the Department to deny an application for licensure if the applicant has been convicted of an animal cruelty neglect offense in any jurisdiction, has held license in any jurisdiction subject to license discipline, or falsifies or withholds any information on the application or supporting documentation.

The amendment establishes an operative date of October 1, 2012.

Tom Carlson, Chairperson