

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FOURTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 377**

Introduced by Kolterman, 24.

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 54-633, Reissue Revised Statutes of  
3 Nebraska, and section 54-625, Revised Statutes Cumulative  
4 Supplement, 2014; to change provisions and procedures relating to  
5 the disposition, care, custody, and costs associated with the  
6 impoundment of dogs or cats; to harmonize provisions; and to repeal  
7 the original sections.  
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 54-625, Revised Statutes Cumulative Supplement,  
2 2014, is amended to read:

3 54-625 Sections 54-625 to 54-643 and section 3 of this act shall be  
4 known and may be cited as the Commercial Dog and Cat Operator Inspection  
5 Act.

6 Sec. 2. Section 54-633, Reissue Revised Statutes of Nebraska, is  
7 amended to read:

8 54-633 (1) In order to ensure compliance with the Commercial Dog and  
9 Cat Operator Inspection Act, the department may apply for a restraining  
10 order, temporary or permanent injunction, or mandatory injunction against  
11 any person violating or threatening to violate the act, the rules and  
12 regulations, or any order of the director issued pursuant thereto. The  
13 district court of the county where the violation is occurring or is about  
14 to occur shall have jurisdiction to grant relief upon good cause shown.  
15 Relief may be granted notwithstanding the existence of any other remedy  
16 at law and shall be granted without bond.

17 The county attorney of the county in which such violations are  
18 occurring or about to occur shall, when notified of such violation or  
19 threatened violation, cause appropriate proceedings under this section to  
20 be instituted and pursued without delay.

21 (2) If alleged violations of the Commercial Dog and Cat Operator  
22 Inspection Act, the rules and regulations, or an order of the director or  
23 an offense against animals observed by an inspector in the course of  
24 performing an inspection under the act poses a significant threat to the  
25 health or safety of the dogs or cats harbored or owned by an applicant or  
26 licensee, the department may direct an inspector to impound the dogs or  
27 cats ~~pursuant to sections 28-1011 and 28-1012~~ or may request any other  
28 law enforcement officer as defined in section 28-1008 to impound the dogs  
29 or cats ~~pursuant to sections 28-1011 and 28-1012~~. The department shall  
30 cooperate and coordinate with law enforcement agencies, political  
31 subdivisions, animal shelters, humane societies, and other appropriate

1 entities, public or private, to provide for the care, shelter, and  
2 disposition of animals impounded by the department pursuant to this  
3 section.

4 (3) The department may impose an administrative fine of not more  
5 than five thousand dollars for any violation of the act or the rules and  
6 regulations adopted and promulgated under the act. Each violation of the  
7 act or such rules and regulations shall constitute a separate offense for  
8 purposes of this subsection.

9 Sec. 3. (1) After a dog or cat has been impounded pursuant to  
10 section 54-633, the department shall, within seven days after the date of  
11 impoundment, file a complaint with the district court in the county in  
12 which the animal was impounded for a hearing to determine the disposition  
13 and the cost for the care of the dog or cat. Notice of such hearing shall  
14 be given to the applicant or licensee from whom such dog or cat was  
15 impounded and to any holder of a lien or security interest of record in  
16 such dog or cat, specifying the date, time, and place of such hearing.  
17 Such notice shall be served by personal or residential service or by  
18 certified mail. If such notice cannot be served by such methods, service  
19 may be made by publication in the county where such dog or cat was  
20 impounded. Such publication shall be made after application and order of  
21 the court. The hearing shall be held as soon as practicable and not more  
22 than ten business days after the date of application for the hearing  
23 unless otherwise determined and ordered by the court.

24 (2) If the court finds that probable cause exists that there has  
25 been a violation as described in subsection (2) of section 54-633, the  
26 court may:

27 (a) Order immediate forfeiture of the dog or cat to the department  
28 and authorize appropriate disposition of the dog or cat, including sale  
29 at public auction, adoption, donation to a suitable shelter, humane  
30 destruction, or any other manner of disposition approved by the court.  
31 With respect to the sale of a dog or cat, the proceeds shall first be

1 applied to the cost of sale and then to the expenses for the care of the  
2 dog or cat and the remaining proceeds, if any, shall be paid to the  
3 holder of a lien or security interest of record in such dog or cat and  
4 then to the owner of the dog or cat;

5 (b) Issue an order to the applicant or licensee setting forth the  
6 conditions under which custody of the dog or cat shall be returned to the  
7 applicant or licensee from whom the dog or cat was impounded or to any  
8 other person claiming an interest in the dog or cat. Such order may  
9 include any management actions deemed necessary and prudent by the court,  
10 including reducing the number of dogs or cats harbored or owned by the  
11 applicant or licensee by sale, humane destruction, or forfeiture and  
12 securing necessary care, including veterinary care, sufficient for the  
13 maintenance of any remaining dog or cat; or

14 (c) Order the applicant or licensee from whom the dog or cat was  
15 impounded to post a bond or other security, or to otherwise order  
16 payment, in an amount that is sufficient to reimburse all reasonable  
17 expenses, as determined by the court, for the care of the dog or cat,  
18 including veterinary care, incurred by the department from the date of  
19 impoundment and necessitated by the possession of the dog or cat.  
20 Payments shall be for a succeeding thirty-day period with the first  
21 payment due on or before the tenth day following the hearing. Payments  
22 for each subsequent succeeding thirty-day period, if any, shall be due on  
23 or before the tenth day of such period. The bond or security shall be  
24 placed with, or payments ordered under this subdivision shall be paid to,  
25 the department. The department shall provide an accounting of expenses to  
26 the court when the dog or cat is no longer in the custody of the  
27 department or upon request by the court. The department may petition the  
28 court for a subsequent hearing under this subsection at any time. The  
29 hearing shall be held as soon as practicable and not more than ten  
30 business days after the date of application for the hearing unless  
31 otherwise determined and ordered by the court. When all expenses covered

1 by the bond or security are exhausted and subsequent bond or security has  
2 not been posted or if a person becomes delinquent in his or her payments  
3 for the expenses of the dog or cat, the dog or cat shall be forfeited to  
4 the department.

5 (3) If custody of a dog or cat is returned to the applicant or  
6 licensee prior to impoundment, any proceeds of a bond or security or any  
7 payment or portion of payment ordered under this section not used for the  
8 care of the dog or cat during the time the animal was held by the  
9 department shall be returned to the applicant or licensee.

10 (4) Nothing in this section shall prevent the humane destruction of  
11 an impounded dog or cat at any time as determined necessary by a law  
12 enforcement officer or as authorized by court order.

13 (5) An appeal may be entered within ten days after a hearing under  
14 this section. Any person filing an appeal shall post a bond or security  
15 sufficient to pay reasonable costs of care of the dog or cat for thirty  
16 days. Such payment will be required for each succeeding thirty-day period  
17 until the appeal is final.

18 (6) If the applicant or licensee from whom the dog or cat was  
19 impounded is not found to have committed a violation as described in  
20 subsection (2) of section 54-633, all funds paid for the expenses of the  
21 dog or cat remaining after the actual expenses incurred by the department  
22 have been paid shall be returned to the applicant or licensee.

23 (7) This section shall not preempt any ordinance of a city of the  
24 metropolitan or primary class.

25 Sec. 4. Original section 54-633, Reissue Revised Statutes of  
26 Nebraska, and section 54-625, Revised Statutes Cumulative Supplement,  
27 2014, are repealed.