

LEGISLATIVE BILL 233

Approved by the Governor April 16, 2003

Introduced by Price, 26; Aguilar, 35; Bourne, 8; Byars, 30; Chambers, 11; Engel, 17; Erdman, 47; Hartnett, 45; Hudkins, 21; Janssen, 15; Kruse, 13; Mossey, 3; D. Pederson, 42; Quandahl, 31; Redfield, 12; Schimek, 27; Schrock, 38; Smith, 48; Tyson, 19

AN ACT relating to animals; to amend sections 54-626 and 54-627, Revised Statutes Supplement, 2002; to change provisions in the Commercial Dog and Cat Operator Inspection Act; to require licensure and fees as prescribed; to change provisions relating to fees; to repeal the original sections; and to declare an emergency.

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

Section 1. 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) Animal control facility means a facility operated by the state or any political subdivision of the state for the purpose of impounding or harboring seized, stray, homeless, abandoned, or unwanted animals;

(2) Animal shelter means a facility used to house or contain dogs or cats and owned, operated, or maintained by an incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection, and humane treatment of such animals;

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

~~(3)~~ (5) 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)~~ (6) Dealer means any person who is not a commercial breeder 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)~~ (7) Department means the Bureau of Animal Industry of the Department of Agriculture with the State Veterinarian in charge, subordinate only to the director;

~~(6)~~ (8) Director means the Director of Agriculture or his or her designated employee;

~~(7)~~ (9) Dog means any animal which is wholly or in part of the species *Canis familiaris*;

~~(8)~~ (10) Housing facility means any room, building, or areas used to contain a primary enclosure;

~~(9)~~ (11) Inspector means any person who is employed by the department and who is authorized to perform inspections pursuant to the act;

~~(10)~~ (12) Licensee means a person who has qualified for and received a license from the department pursuant to the act;

~~(11)~~ (13) 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)~~ (14) Secretary of Agriculture means the Secretary of Agriculture of the United States Department of Agriculture; and

~~(13)~~ (15) Unaltered means any male or female dog or cat which has not been neutered or spayed or otherwise rendered incapable of reproduction.

Sec. 2. 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 and beginning October 1, 2003, a person shall not operate as an animal control facility or an animal shelter unless the person obtains the appropriate license as a commercial breeder, dealer, ~~or~~ boarding kennel, animal control facility, or animal shelter. 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 fifty 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) The fee charged under this section may be raised or lowered by the director after a public hearing is held outlining the reason for any proposed change in the rate. The maximum rate fixed by the director shall not exceed two hundred dollars.

~~(2)~~ (3) A license to operate as a commercial breeder, a license to operate as a dealer, or a license to operate as a boarding kennel 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. A license to operate as an animal control facility or animal shelter shall be renewed by filing with the department at least thirty days prior to October 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. 3. Original sections 54-626 and 54-627, Revised Statutes Supplement, 2002, are repealed.

Sec. 4. Since an emergency exists, this act takes effect when passed and approved according to law.