

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 360

Introduced by Johnson, 23.

Read first time January 15, 2015

Committee:

1 A BILL FOR AN ACT relating to the Commercial Dog and Cat Operator
2 Inspection Act; to amend sections 54-626 and 54-627, Revised
3 Statutes Cumulative Supplement, 2014; to define a term; to change
4 license requirements; to change provisions relating to fees and
5 inspections; to harmonize provisions; and to repeal the original
6 sections.

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

1 Section 1. Section 54-626, Revised Statutes Cumulative Supplement,
2 2014, is amended to read:

3 54-626 For purposes of the Commercial Dog and Cat Operator
4 Inspection Act:

5 (1) Animal control facility means a facility operated by or under
6 contract with the state or any political subdivision of the state for the
7 purpose of impounding or harboring seized, stray, homeless, abandoned, or
8 unwanted animals;

9 (2) Animal rescue means a person or group of persons who hold
10 themselves out as an animal rescue, accept or solicit for dogs or cats
11 with the intention of finding permanent adoptive homes or providing
12 lifelong care for such dogs or cats, or who use foster homes as the
13 primary means of housing dogs or cats;

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

19 (4) Boarding kennel means a facility which is primarily used to
20 house or contain dogs or cats owned by persons other than the operator of
21 such facility. The primary function of a boarding kennel is to
22 temporarily harbor dogs or cats when the owner of the dogs or cats is
23 unable to do so or to provide training, grooming, or other nonveterinary
24 service for consideration before returning the dogs or cats to the owner.
25 A facility which provides such training, grooming, or other nonveterinary
26 service is not a boarding kennel for the purposes of the act unless dogs
27 or cats owned by persons other than the operator of such facility are
28 housed at such facility overnight. Veterinary clinics, animal control
29 facilities, animal rescues, and nonprofit animal shelters are not
30 boarding kennels for the purposes of the act;

31 (5) Breeding dog means any sexually intact male or female dog six

1 months of age or older owned or harbored by a commercial dog breeder;

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

4 (7) Commercial cat breeder means a person engaged in the business of
5 breeding cats:

6 (a) Who sells, exchanges, leases, or in any way transfers or offers
7 to sell, exchange, lease, or transfer thirty-one or more cats in a
8 twelve-month period beginning on April 1 of each year;

9 (b) Who owns or harbors four or more cats, intended for breeding, in
10 a twelve-month period beginning on April 1 of each year;

11 (c) Whose cats produce a total of four or more litters within a
12 twelve-month period beginning on April 1 of each year; or

13 (d) Who knowingly sells, exchanges, or leases cats for later retail
14 sale or brokered trading;

15 (8) Commercial dog breeder means a person engaged in the business of
16 breeding dogs:

17 (a) Who sells, exchanges, leases, or in any way transfers or offers
18 to sell, exchange, lease, or transfer thirty-one or more dogs in a
19 twelve-month period beginning on April 1 of each year;

20 (b) Who owns or harbors four or more dogs, intended for breeding, in
21 a twelve-month period beginning on April 1 of each year;

22 (c) Whose dogs produce a total of four or more litters within a
23 twelve-month period beginning on April 1 of each year; or

24 (d) Who knowingly sells, exchanges, or leases dogs for later retail
25 sale or brokered trading;

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

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

4 (11) Director means the Director of Agriculture or his or her
5 designated employee;

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

8 (13) Foster home means any person who provides temporary housing for
9 twenty or fewer dogs or cats that are six months of age or older in any
10 twelve-month period and is affiliated with a person operating as an
11 animal rescue that uses foster homes as its primary housing of dogs or
12 cats. To be considered a foster home, a person shall not participate in
13 the acquisition of the dogs or cats for which temporary care is provided.
14 Any foster home which houses more than twenty dogs or cats that are six
15 months of age or older in any twelve-month period or who participates in
16 the acquisition of dogs or cats shall be licensed as an animal rescue;

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

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

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

23 (17) Pet animal means an animal kept as a household pet for the
24 purpose of companionship, which includes, but is not limited to, dogs,
25 cats, birds, fish, rabbits, rodents, amphibians, and reptiles;

26 (18) Pet shop means a retail establishment which sells pet animals
27 and related supplies;

28 (19) Premises means all public or private buildings, kennels, pens,
29 and cages used by a facility and the public or private ground upon which
30 a facility is located if such buildings, kennels, pens, cages, or ground
31 are used by the owner or operator of such facility in the usual course of

1 business;

2 (20) Primary enclosure means any structure used to immediately
3 restrict a dog or cat to a limited amount of space, such as a room, pen,
4 cage, or compartment;

5 (21) Secretary of Agriculture means the Secretary of Agriculture of
6 the United States Department of Agriculture;

7 (22) Significant threat to the health or safety of dogs or cats
8 means:

9 (a) Not providing shelter or protection from extreme weather
10 resulting in life-threatening conditions predisposing to hyperthermia or
11 hypothermia in dogs or cats that are not acclimated to the temperature;

12 (b) Acute injuries involving potentially life-threatening,
13 hemorrhaging, medical emergencies in which the owner refuses to seek
14 immediate veterinary care;

15 (c) Not providing food or water resulting in conditions of potential
16 starvation or severe dehydration;

17 (d) Egregious human abuse such as trauma from beating, torturing,
18 mutilating, burning, or scalding; or

19 (e) Failing to maintain sanitation resulting in egregious situations
20 where a dog or cat cannot avoid walking, lying, or standing in feces;

21 (23 22) Stop-movement order means a directive preventing the
22 movement or removal of any dog or cat from the premises; and

23 (24 23) Unaltered means any male or female dog or cat which has not
24 been neutered or spayed or otherwise rendered incapable of reproduction.

25 Sec. 2. Section 54-627, Revised Statutes Cumulative Supplement,
26 2014, is amended to read:

27 54-627 (1) A person shall not operate as a commercial dog or cat
28 breeder, a dealer, a boarding kennel, an animal control facility, an
29 animal shelter, an animal rescue, or a pet shop unless the person obtains
30 the appropriate license. A pet shop shall only be subject to the
31 Commercial Dog and Cat Operator Inspection Act and the rules and

1 regulations adopted and promulgated pursuant thereto in any area or areas
2 of the establishment used for the keeping and selling of pet animals. If
3 a facility listed in this subsection is not located at the owner's
4 residence, the name and address of the owner shall be posted on the
5 premises.

6 (2) An applicant for a license shall submit an application for the
7 appropriate license to the department, on a form prescribed by the
8 department, together with a one-time ~~the annual~~ license fee of one
9 hundred twenty-five dollars. Such fee is nonreturnable. Upon receipt of
10 an the application and the ~~annual~~ license fee and upon completion of a
11 qualifying inspection ~~if required pursuant to section 54-630 for an~~
12 ~~initial license applicant or if a qualifying inspection is deemed~~
13 ~~appropriate by the department before a license is issued for any other~~
14 ~~applicant~~, the appropriate license may be issued by the department. The
15 department may enter the premises of any applicant for a license to
16 determine if the applicant meets the requirements for licensure under the
17 act. If an applicant does not at the time of inspection harbor any dogs
18 or cats, the inspection shall be of the applicant's records and the
19 planned housing facilities. Such license shall not be transferable to
20 another person or location and shall lapse automatically upon a change of
21 ownership or location.

22 (3)(a) In addition to the license fee required in subsection (2) of
23 this section, an annual fee shall also be charged. Except as otherwise
24 provided in this subsection, the annual ~~license~~ fee shall be determined
25 according to the following fee schedule based upon the daily average
26 number of dogs or cats harbored ~~housed~~ by the licensee over the previous
27 twelve-month ~~annual licensure~~ period:

- 28 (i) Ten or fewer dogs or cats, one hundred fifty dollars;
29 (ii) Eleven to fifty dogs or cats, two hundred dollars;
30 (iii) Fifty-one to one hundred dogs or cats, two hundred fifty
31 dollars;

1 (iv) One hundred one to one hundred fifty dogs or cats, three
2 hundred dollars;

3 (v) One hundred fifty-one to two hundred dogs or cats, three hundred
4 fifty dollars;

5 (vi) Two hundred one to two hundred fifty dogs or cats, four hundred
6 dollars;

7 (vii) Two hundred fifty-one to three hundred dogs or cats, four
8 hundred fifty dollars;

9 (viii) Three hundred one to three hundred fifty dogs or cats, five
10 hundred dollars;

11 (ix) Three hundred fifty-one to four hundred dogs or cats, five
12 hundred fifty dollars;

13 (x) Four hundred one to four hundred fifty dogs or cats, six hundred
14 dollars;

15 (xi) Four hundred fifty-one to five hundred dogs or cats, six
16 hundred fifty dollars; and

17 (xii) More than five hundred dogs or cats, two thousand dollars.

18 (b) If a person operates with more than one type of license at the
19 same location, the person shall pay only one annual fee based on the
20 primary licensed activity occurring at that location as determined by the
21 number of dogs or cats affected by the licensed activity ~~The initial~~
22 ~~license fee for any person required to be licensed pursuant to the act~~
23 ~~shall be one hundred twenty-five dollars.~~

24 (c) The annual ~~license~~ fee for a licensee that does not own or
25 harbor ~~house~~ dogs or cats shall be one hundred fifty dollars.

26 (d) The annual ~~license~~ fee for an animal rescue shall be one hundred
27 fifty dollars.

28 (e) The annual ~~license~~ fee for a commercial dog or cat breeder shall
29 be determined according to the fee schedule set forth in subdivision (a)
30 of this subsection based upon the total number of breeding dogs or cats
31 owned or harbored by the commercial breeder over the previous twelve-

1 month period.

2 (f) The fees charged under this subsection may be increased or
3 decreased by the director after a public hearing is held outlining the
4 reason for any proposed change in the fee. The maximum fee that may be
5 charged shall not result in a fee for any license category that exceeds
6 the license fee set forth in this subsection by more than one hundred
7 dollars.

8 (4) A ~~license to operate as a~~ commercial dog or cat breeder, dealer,
9 boarding kennel, or pet shop shall pay the annual fee to be renewed by
10 ~~filing with~~ the department on or before April 1 of each year. An a
11 ~~renewal application and the annual license fee.~~ A license to operate as
12 ~~an~~ animal control facility, animal rescue, or animal shelter shall pay
13 the annual fee to be renewed by filing with the department on or before
14 October 1 of each year ~~a renewal application and the annual license fee.~~
15 Failure to pay the annual fee by the due date ~~renew a license prior to~~
16 ~~the expiration of the license~~ shall result in a late ~~renewal~~ fee equal to
17 twenty percent of the annual ~~license~~ fee due and payable each month, not
18 to exceed one hundred percent of such fee, in addition to the annual
19 ~~license~~ fee. The purpose of the late ~~renewal~~ fee is to pay for the
20 administrative costs associated with the collection of fees under this
21 section. The assessment of the late ~~renewal~~ fee shall not prohibit the
22 director from taking any other action as provided in the act.

23 (5) A licensee, an applicant, or a person the department has reason
24 to believe is an operator and required to obtain a license under this
25 section shall make its premises available for inspection pursuant to
26 section 54-628 during normal business hours.

27 (6) The state or any political subdivision of the state which
28 contracts out its animal control duties to a facility not operated by the
29 state or any political subdivision of the state may be exempted from the
30 licensing requirements of this section if such facility is licensed as an
31 animal control facility, animal rescue, or animal shelter for the full

1 term of the contract with the state or its political subdivision.

2 (7) Any fees collected pursuant to this section shall be remitted to
3 the State Treasurer for credit to the Commercial Dog and Cat Operator
4 Inspection Program Cash Fund.

5 Sec. 3. Original sections 54-626 and 54-627, Revised Statutes
6 Cumulative Supplement, 2014, are repealed.