



WISCONSIN LEGISLATIVE COUNCIL INFORMATION MEMORANDUM

Regulation of Dog Sellers and Dog Facility Operators

Most people or organizations that sell or shelter 25 or more dogs per year must obtain a license from the Department of Agriculture, Trade and Consumer Protection (DATCP). Licensees must comply with specified standards of care for dogs, must have each dog examined by a veterinarian before it is sold and must maintain certain records. The law requires DATCP to inspect most locations where licensees operate before issuing a license and at least once every two years after an initial license is issued.

This Memorandum summarizes the licensing requirement in s. 173.41, Stats., and ch. ATCP 16, Wis. Adm. Code.

PERSONS AND ENTITIES REQUIRED TO BE LICENSED; FEES

This section describes the persons and entities who must obtain an annual license from DATCP and pay the indicated annual license fee. DATCP must act upon an application for an initial license within 30 days after the application is complete and the applicable fees have been submitted.

DATCP may issue a temporary license to any person applying for a license before June 1, 2012. DATCP is not required to conduct an inspection of the premises at which the person operates before issuing a temporary license. A temporary license remains in force until DATCP takes final action on the person's license application, including conducting an inspection of the premises. There is no limit on how long a temporary license may remain in effect.

ANIMAL SHELTERS AND ANIMAL CONTROL FACILITIES

An **animal shelter** is a facility that is operated for the purpose of providing for and promoting the welfare, protection, and humane treatment of animals, that is used to shelter at least 25 dogs in a year, and that is operated by a humane society, animal welfare society, animal rescue group, or other nonprofit group.

An **animal control facility** is a facility for the care of animals operated under a contract with a city, village, town, or county.

An individual providing **foster care** to a dog in the individual's home at the request of a licensed animal rescue group or animal shelter is **not** required to obtain a license.

The annual license fee for a person who operates an animal shelter, animal control facility, or animal rescue organization is \$125, regardless of the number of dogs involved. If a person operates a combined animal shelter and animal control facility at the same location, the \$125 fee covers the combined operations.

DOG BREEDERS AND DEALERS; DOG BREEDING FACILITIES

A **dog breeder** is a person who sells 25 or more dogs from four or more litters in one year that the person has bred and raised in Wisconsin. A person who sells only dogs that the person bred and raised is not required to be licensed if the person sells dogs from no more than three litters in one year.

A **dog dealer** is any of these:

- A resident of Wisconsin who sells 25 or more dogs in a year that the person owns but has not bred and raised.
- A person who, in any year, brokers or arranges the sale in Wisconsin of at least 25 dogs that are under that person's custody or control but that the person does not own and has not bred or raised.
- An auctioneer or auction company registered in Wisconsin which operates one or more auctions at which a combined total of 50 or more dogs are sold or offered for sale in any year.
- A person who is not a resident of Wisconsin who brings 25 or more dogs into Wisconsin for sale in a year, regardless of whether the dogs were bred or raised by that person. DATCP may not issue a license to a nonresident dog dealer unless the person provides a copy of any license required by the person's state of residence and any license required under federal law.

A **dog breeding facility** is a place at which dogs are bred and raised and from which 25 or more dogs from four or more litters are sold in a year. A place at which dogs are bred and raised is not required to be licensed if all of the dogs that are sold in a year are from no more than three litters.

Annual license fees for dog breeders and dealers and dog breeding facilities are set forth below. DATCP may promulgate rules specifying higher license fees if necessary to cover the costs of administering the regulatory program.

- For a person who sells or offers to sell at least 25 but fewer than 50 dogs per year, \$250.
- For a person who sells or offers to sell at least 50 but fewer than 100 dogs per year, \$500.
- For a person who sells or offers to sell at least 100 but fewer than 250 dogs per year, \$750.

- For a person who sells or offers to sell 250 or more dogs per year, \$1,000.
- For an out-of-state dog dealer, 150% of the fee that would apply for an in-state dealer, as set forth above, based on the number of dogs sold in Wisconsin.

PERSONS AND ENTITIES NOT REQUIRED TO BE LICENSED

The following persons and entities are not required to be licensed:

- A veterinarian who keeps dogs for the purpose of providing care or treatment in the normal course of veterinary practice, within the scope of the veterinarian's license.
- A person who sells his or her dogs at a one-time liquidation sale if certain requirements are met.
- The operator of a temporary dog market, if the operator meets certain requirements, including arranging for a veterinarian to examine all dogs kept at the market on each day of operations if the market operates for two or more consecutive days.

GROUND FOR DENIAL OR SUSPENSION OF A LICENSE

DATCP may deny, refuse to renew, suspend, or revoke a license if the applicant or license holder fails to comply with applicable licensing requirements; is not fit, qualified, or equipped to conduct the activity for which the license is required; has violated or failed to obey a relevant law, order, or regulation; or has misrepresented or failed to disclose any material fact in a license application.

The department may issue any license conditioned upon pertinent circumstances or acts. If a license is conditioned upon compliance with specific requirements within a specified period and the conditions are not met within the specified period, the license is void.

With written notice, a license may be suspended if DATCP finds any of the following:

- That the license holder or the license holder's employee or agent has violated any of the requirements of ch. ATCP 16, Wis. Adm. Code, and that the violation imminently threatens the health, safety, or welfare of any dog.
- That the license holder or the license holder's employee or agent has committed an act of animal cruelty in violation of ch. 951, Stats. Chapter 951, Stats., generally prohibits mistreatment of animals.

DATCP may at any time reinstate a license that has been summarily suspended if it finds that circumstances warrant reinstatement. A licensee may request a hearing contesting a license suspension. DATCP must describe the right of hearing in the notice of suspension. If a hearing is requested, DACTP must promptly initiate proceedings to hear the appeal.

INSPECTIONS

DATCP must inspect the premises at which a license applicant operates before issuing the initial license and at least once every two years thereafter. In addition, DATCP may at any time during reasonable hours inspect any place at which a person who is required to be licensed engages in any activity for which that license is required, regardless of whether that person owns or operates that place.

The inspector must examine compliance with licensing requirements, including applicable requirements related to recordkeeping, dog health, and standards of care, and must provide the license applicant or license holder with a written inspection report.

The requirement to inspect premises prior to issuance of an initial license and at least once every two years thereafter does not apply to the residence of an individual providing foster care to a dog in the individual's home at the request of a licensed animal rescue group or animal shelter. Also, DATCP is not required to inspect the out-of-state premises at which an out-of-state dog dealer operates.

DATCP may charge a fee of \$150 for a follow-up inspection that it undertakes to determine whether a previous violation noted on a previous inspection report has been corrected. DATCP may not charge a reinspection fee for a required, routine, or regularly scheduled inspection.

HEALTH REQUIREMENTS FOR DOGS THAT ARE SOLD

A licensee must provide both of the following to the purchaser of a dog:

1. A certificate of veterinary inspection from a licensed veterinarian, which must contain the following information:
 - Identifying information about the dog and the person selling the dog.
 - Whether the dog is spayed, neutered, or sexually intact.
 - The dog's vaccination record.
 - A statement by the veterinarian that he or she has examined the dog and found that it has no signs of infectious, contagious, or communicable diseases, except as otherwise noted on the certificate, as of the date of the examination.
2. For a dog that is sold at public auction and is not spayed or neutered, documentation that the dog has tested negative for brucellosis using a test approved by DATCP that was conducted no more than 30 days before the day of sale.

MINIMUM AGE FOR TRANSFER OF PUPPY

A licensee may not transfer a dog to the physical custody of a buyer until the dog is seven weeks of age, unless the dog is accompanied by its mother or DATCP approves the transfer in writing.

STANDARDS OF CARE

The following standards of care must be followed by licensees. [For specific details consult ch. ATCP 16, Wis. Adm. Code.]

FOOD

Each dog must be fed at least once a day, unless another schedule is needed to maintain or restore the dog's health. The size and nutritional content of a dog's daily food ration must be based on the dog's age, condition, size, and weight.

WATER

Each dog must be provided adequate access to fluid water during the course of the day to keep the dog well-hydrated at all times.

VETERINARY CARE AND DAILY CARE AND OBSERVATION

A licensee must ensure that necessary and standard veterinary care is provided to each dog in a timely manner. DATCP may, by written notice, require a licensee to submit a dog for examination by a veterinarian if it finds, during an inspection, that the dog is exhibiting signs of illness, injury, or neglect. Each dog must be observed daily to monitor the health and temperament of the dog and to provide care to the dog as needed. Dogs must be adequately groomed and handled in a humane manner.

FACILITIES AND INDOOR ENCLOSURES

For dogs kept indoors, a licensee must ensure that primary enclosures in which dogs are kept meet certain minimum size requirements, which are based on the size, age, and number of dogs kept in the enclosure and the length of time the dog is kept in the enclosure. Special requirements apply to temporary enclosures, enclosures for dams with puppies and "nursery" enclosures for puppies between weaning age and four months.

Enclosures must be structurally sound and maintained in good repair and in a clean and sanitary condition.

If wire mesh flooring is used, it must be coated and be of a sufficient gauge to ensure that it will not cause injury to the dog's feet. Wire mesh flooring may not be used in the portion of a whelping enclosure that is accessible to puppies.

Primary enclosures may not be stacked on top of one another unless certain requirements are met.

All facilities in which a licensee keeps dogs must have adequate natural or artificial lighting and ventilation. Indoor facilities must be heated and cooled as necessary to keep temperatures within appropriate limits, based on the dog breeds kept at the facility and the ability of those breeds to acclimate to temperature variation. Dogs must be protected from heat, cold, and humidity that may be injurious to their health.

EXERCISE

Each dog kept indoors must be allowed reasonable daily exercise, based on the dog's breed, size, age, and health condition. Dogs must have daily access to an indoor or outdoor run or exercise area where they can achieve a running stride. Repetitive unsupervised physical activity, such as unsupervised placement on a moving treadmill, which prevents a dog from engaging in other activities, must be avoided except for good cause.

SOCIALIZATION

All dogs must generally be allowed daily physical contact with other compatible dogs, daily positive human contact and socialization, and safe play objects or other effective forms of inanimate enrichment in their primary enclosures. Dogs may not be deprived of contact, activity, or enrichment for extended periods, except for good cause.

DOGS KEPT OUTDOORS

A dog may not be kept in an outdoor primary enclosure unless both of the following apply:

- The dog is readily able to tolerate the outdoor temperatures and conditions to which the dog may be exposed in that primary enclosure, considering the dog's breed, age, health, and physical condition.
- The dog is acclimated to the outdoor temperatures and temperature variations that may occur in that primary enclosure.

A licensee must ensure that primary enclosures in which dogs are kept meet certain minimum size requirements, which are based on the size, age, and number of dogs kept in the enclosure and the length of time the dog is kept in the enclosure.

An outdoor primary enclosure must contain all of the following:

- One or more dog shelters.
- A shaded area adequate to shade all dogs in the primary enclosure from direct sunlight.
- A windbreak adequate to shelter all dogs in the primary enclosure from wind.

A dog kept outdoors must have access, for at least 30 minutes each day, to a run or exercise area.

Outdoor facilities in which dogs are kept must be maintained to protect the health and safety of dogs. Pests and parasites must be controlled, and all dogs must have clean, dry and breed-appropriate bedding, or a solid resting place.

TETHERING OF DOGS

A dog may not be tethered outdoors unless all of the following apply:

- The dog is of a breed that can tolerate tethering.
- The dog can readily tolerate tethering, based on its age, health, and physical condition.
- The tethered dog can easily enter and lie down in a dog shelter.
- The tethered dog is not a pregnant or nursing female.
- The tether cannot become entangled with any object.
- The tether has an anchor swivel.
- The tether is at least six feet long and of sufficient length for the size of the dog.
- The tether is attached to the dog by means of a nontightening collar or harness of sufficient size for the dog.
- If a dog is tethered outdoors at an animal control facility or animal shelter, it is not tethered outdoors for more than four hours in any day.

CARE OF DOGS DURING TRANSPORT

Portable enclosures used to transport dogs must be designed to keep all dogs within the enclosure clean and dry and protected from the elements. Each enclosure must be cleaned and sanitized between occupancy by different dogs, and more often as necessary to keep it in a clean condition.

Enclosures must be positioned so that the opening through which dogs enter and exit the enclosure is accessible at all times for emergency removal of dogs from the enclosure.

Dogs that are being transported must be provided with food and water and protected from hypothermia and hyperthermia. Each dog must have sufficient space to turn, stand, and lie down, except that this requirement does not apply to dogs transported during dog training, dog trialing, and hunting.

Each dog carried in a transport vehicle shall be removed from the vehicle at least once every 12 hours, and be allowed to urinate, defecate, and exercise, unless the vehicle is equipped to meet the urination, defecation, and exercise needs of all dogs being transportation.

RECORDKEEPING

A licensee must keep a record of each location at which dogs are kept pursuant to the license. The record must include the address of each location, and the name of the individual responsible for administering that location. If the license holder consigns a dog to a home custody provider, the license holder must record the name and address of that individual.

A licensee must keep a record of each dog over which that person exercises custody or control that includes all of the following information:

- A description of the dog including the dog's breed or type, sex, date of birth, or approximate age, color, and any distinctive markings.
- The location at which the dog is kept.
- The dog's official federal Department of Agriculture tag number or tattoo or microchip information, if any.
- A statement that the dog was born under the licensee's custody or control, if that is the case.
- If the dog was not born under the licensee's custody or control, the date that the license holder acquired custody of the dog and identifying information about the person from whom the dog was acquired.
- If the dog is no longer under the licensee's custody or control, the date and method of disposition of the dog and the identity of the person, if any, to whom the license holder transferred custody or control of the dog.
- A copy of any certificate of veterinary inspection that accompanied the dog when it entered or left the license holder's custody or control.
- Health records related to the dog, including vaccination, observation and treatment records and whether the health care was administered by the license holder or by a veterinarian.
- Breed registration records, if any.

PROHIBITED CONDUCT

No licensee may do any of the following, either directly or through an employee or agent:

- Prevent a DATCP employee from performing his or her official duties, or interfere with the lawful performance of those duties.
- Physically assault a DATCP employee while the employee is performing his or her official duties.
- Refuse or fail, without just cause, to produce required records or respond to a DATCP subpoena or investigative demand related to licensed activities.
- Violate s. 95.13, Stats., which prohibits misrepresenting the breed of a domestic animal, or s. 95.19, Stats., which generally prohibits the sale, importation, exhibition, or transportation of a diseased or infected animal or an animal that has been exposed to a contagious or infectious disease.

- Accept custody or control of a dog from any person, knowing that the person is required to be licensed to convey custody or control of that dog but is not licensed, unless the person accepts custody or control of the dog to protect its health, safety, or welfare and the person promptly reports the acceptance to DATCP, and provides any relevant information that the department requests concerning the transaction.

VARIANCES

DATCP may, in response to a written request, grant a variance from a standard relating to facilities, indoor or outdoor dog enclosures, tethering, and transporting dogs if DATCP finds that the variance is reasonable and necessary under the circumstances and will not compromise the purpose served by the standard. The variance shall be issued in writing and shall include DATCP's findings and the specific terms of the variance including any time limit on the variance.

PENALTIES

A person who operates without a required license may be fined not more than \$10,000 or imprisoned for not more than nine months, or both.

A licensee who violates any requirements or standards described above may be required to forfeit not more than \$1,000 for the first offense and may be required to forfeit not less than \$200 nor more than \$2,000 for the second or any subsequent offense within five years. If the violation involves the keeping of animals, each animal with respect to which the statute or rule is violated constitutes a separate violation.

A court may order a person who commits a violation to pay the expenses of caring for dogs that are removed from the person's possession because of mistreatment.

If DATCP has reasonable grounds to believe that a dog in the possession of a licensee is being mistreated in violation of ch. 951, Stats., the state anti-cruelty law, DATCP must report the information that supports its belief to a humane officer or law enforcement agency with jurisdiction over the area in which the dog is located.

Effective date: The new law took effect on December 16, 2009. The licenses described in the Act were first required on June 1, 2011.

This memorandum is not a policy statement of the Joint Legislative Council or its staff.

This memorandum was prepared by Mary Matthias, Senior Staff Attorney, on September 8, 2011.

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