

2007 DRAFTING REQUEST

Bill

Received: **06/04/2007**

Received By: **btradewe**

Wanted: **As time permits**

Identical to LRB:

For: **Thomas Lothian (608) 266-1190**

By/Representing: **Tyler August**

This file may be shown to any legislator: **NO**

Drafter: **btradewe**

May Contact: **Scott Grosz, Leg. council**

Addl. Drafters:

Subject: **Agriculture - animals**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Lothian@legis.wisconsin.gov**

Carbon copy (CC:) to: **Amber.Hodgson@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Regulation of dog breeders and dog lemon law

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/P1	btradewe 07/18/2007	lkunkel 07/20/2007	sherritz 07/20/2007	_____	sbasford 07/20/2007		State Crime
/1	btradewe 07/30/2007	lkunkel 08/02/2007	rschluet 08/03/2007	_____	sbasford 08/03/2007		State Crime
/2	btradewe 08/23/2007	kfollett 08/23/2007	nnetzke 08/23/2007	_____	sbasford 08/23/2007		State Crime
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FE Sent For: 08/24/2007, 08/24/2007, 08/24/2007.

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Tyler A.

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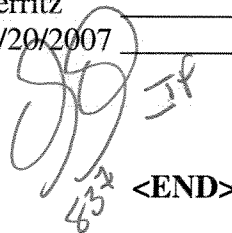
See Attached

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6/4 Meeting with Tyler August, Scott Gross (Leg. Council) and Amber Hodgson (Sen. Plale)

Dogs only

Want a Lemon law that would apply to anyone who sells a dog. See NJ Law + bill. A pet store would be able to return problem dog to breeder.

Certain information must be provided to person buying a dog - vaccination records. Breeder would provide to pet store, which would provide to buyer.

Also licensing of large-scale breeders = engaged in the business of breeding dogs and sell 60 or more dogs/year or 2. Have 8 or more breeding females

Instead of requiring initial inspection require person to submit an affidavit - which must include the person's Wis. sellers permit (DOR) and indicate that person complies with DATCP requirements (see below)

Licenses must file annual report - # of dogs on property, # sold in previous calendar year, and # returned or had to provide reimbursement under lemon law. If above 6 they are to provide me, DATCP may grant license.

DATCP required to promulgate rules on all of the matters in 2003 AB 536 (humane care)

I am to determine whether there is a penalty under current law for filing a false application

They are to let me know penalty for operating without a license.

CHAPTER 336

AN ACT concerning the sale of cats and dogs, supplementing P.L.1960, c.39 (C.56:8-1 et seq.) and amending P.L.1941, c. 151.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.56:8-92 Short title.

1. This act shall be known and may be cited as the "Pet Purchase Protection Act."

C.56:8-93 Definitions relative to sales of cats and dogs.

2. As used in sections 1 through 5 of this act:

"Animal" means a cat or dog;

"Consumer" means a person purchasing a cat or dog;

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety;

"Division" means the Division of Consumer Affairs in the Department of Law and Public Safety;

"Pet dealer" means any person engaged in the ordinary course of business in the sale of cats or dogs to the public for profit or any person who sells or offers for sale more than five cats or dogs in one year;

"Pet shop" means a pet shop as defined in section 1 of P.L.1941, c.151 (C.4:19-15.1);

"Quarantine" means to hold in segregation from the general population any cat or dog because of the presence or suspected presence of a contagious or infectious disease;

"Unfit for purchase" means any disease, deformity, injury, physical condition, illness or defect which is congenital or hereditary and severely affects the health of the animal, or which was manifest, capable of diagnosis or likely contracted on or before the sale and delivery of the animal to the consumer. The death of an animal within 14 days of its delivery to the consumer, except by death by accident or as a result of injuries sustained during that period, shall mean the animal was unfit for purchase; and

"Veterinarian" means a veterinarian licensed to practice in the State of New Jersey.

C.56:8-94 Construction of act.

3. No provision of this act shall be construed in any way to alter, diminish, replace, or revoke the requirements for pet dealers that are not pet shops or the rights of a consumer purchasing an animal from a pet dealer that is not a pet shop, as may be provided elsewhere in law or any rule or regulation adopted pursuant thereto. Except as provided in section 4 and section 5 of P.L.1999, c.336 (C.56:8-95 and C.56:8-96), any provision of law pertaining to pet shops, or rule or regulation adopted pursuant thereto, shall continue to apply to pet shops. No provision of this act shall be construed in any way to alter, diminish, replace, or revoke any recourse or remedy that is otherwise available to a consumer purchasing a cat or a dog from a pet shop under any other law.

C.56:8-95 Noncompliance by pet shop considered deceptive practice.

4. a. Notwithstanding the provisions of any rule or regulation adopted pursuant to Title 56 of the Revised Statutes as such provisions are applied to pet shops, and without limiting the prosecution of any other practices which may be unlawful pursuant to Title 56 of the Revised Statutes, it shall be a deceptive practice for any owner or operator of a pet shop, or employee thereof, to sell animals within the State without complying with the provisions and requirements of this section.

b. Within five days prior to the offering for sale of any animal, the owner or operator of a pet shop, or employee thereof, shall have the animal examined by a veterinarian licensed to practice in the State. The name and address of the examining veterinarian, together with the findings made and treatment, if any, ordered as a result of the examination, shall be noted on the animal history and health certificate for each animal as required by regulations adopted pursuant to Title 56 of the Revised Statutes. If fourteen days have passed since the last veterinarian examination of the animal, the owner or operator of the pet shop, or employee thereof, shall have the animal reexamined by a veterinarian licensed to practice in the State as provided for in subsection g. of this section, except as otherwise provided in that subsection.

c. Each cage in a pet shop shall have a label identifying the sex and breed of each animal kept in the cage, the date and place of birth of each animal, and the name and address of the veterinarian attending to the animal and the date of the initial examination of the animal.

d. The owner or operator of a pet shop, or employee thereof, shall quarantine any animal diagnosed as suffering from a contagious or infectious disease, illness, or condition and may not sell such an animal until such time as a veterinarian licensed to practice in the State treats the animal and determines that such animal is free of clinical signs of infectious disease or that the animal is fit for sale. All animals required to be quarantined pursuant to this subsection shall be placed in a quarantine area, separated from the general animal population of the pet shop.

e. The owner or operator of a pet shop, or designated employee thereof, may inoculate and vaccinate animals prior to purchase only upon the order of a veterinarian. No owner or operator of a pet shop, or employee thereof, may represent, directly or indirectly, that the owner or operator of the pet shop, or any employee thereof, other than a veterinarian, is qualified to, directly or indirectly, diagnose, prognose, treat, or administer for, prescribe any treatment for, operate concerning, manipulate or apply any apparatus or appliance for addressing, any disease, pain, deformity, defect, injury, wound or physical condition of any animal after purchase of the animal, for the prevention of, or to test for, the presence of any disease, pain, deformity, defect, injury, wound or physical condition in an animal after its purchase. These prohibitions include, but are not limited to, the giving of inoculations or vaccinations after purchase, the diagnosing, prescribing and dispensing of medication to animals and the prescribing of any diet or dietary supplement as treatment for any disease, pain, deformity, defect, injury, wound or physical condition.

f. The Director of the Division of Consumer Affairs in the Department of Law and Public Safety shall provide each owner or operator of a pet shop with notification forms, to be signed by the owner or operator of the pet shop, or employee thereof, and the consumer at the time of purchase of an animal. The notification form shall provide the following:

- (1) The full text of the rights and responsibilities provided for in subsection h. of this section;
- (2) The full text and description of the recourse to which the consumer is entitled pursuant to subsection i. of this section;
- (3) The statement that it is the responsibility of the consumer to obtain such certification within the required amount of time provided by subsection h. of this section;
- (4) The full text of the rights and responsibilities of the owner or operator of the pet shop, and the employees thereof, and the consumer provided in subsection l. of this section; and
- (5) The notification, reporting and enforcement provisions provided in section 5 of P.L.1999, c.336 (C.56:8-96), including the name and address of the local health authority with jurisdiction over the pet shop.

The owner or operator of the pet shop, or an employee thereof, shall obtain the signature of the consumer on the form and shall also sign the form at the time of purchase of an animal, and shall provide the consumer with a signed copy of the form and retain a copy of the form on the pet shop premises. Copies of all such notices shall be readily available for inspection by an authorized representative of the Division of Consumer Affairs, upon request. No pet shop owner or operator, or employee thereof, may construe or use the signed notification form required pursuant to this subsection as an abdication of the right to recourse provided for in subsection i., or as a selection of recourse pursuant to subsection k. of this section.

g. The owner or operator of a pet shop, or an employee thereof, shall have any animal that has been examined more than 14 days prior to the date of purchase, reexamined by a veterinarian for the purpose of disclosing its condition, within 72 hours of the delivery of the animal to the consumer, unless the consumer has waived the right to the reexamination in writing. The owner or operator of a pet shop, or an employee thereof, shall provide a copy of the written waiver to the consumer prior to the signing of any contract or agreement to purchase the animal and the written waiver shall be in the form established by the director by regulation.

h. If at any time within 14 days after the sale and delivery of an animal to a consumer, the animal becomes sick or dies and a veterinarian certifies, within the 14 days after the date of purchase of the animal by the consumer, that the animal is unfit for purchase due to a non-

congenital cause or condition, or that the animal died from causes other than an accident, the consumer is entitled to the recourse described in subsection i. of this section.

If the animal becomes sick or dies within 180 days after the date of purchase and a veterinarian certifies, within the 180 days after the date of purchase of the animal by the consumer, that the animal is unfit for sale due to a congenital or hereditary cause or condition, or a sickness brought on by a congenital or hereditary cause or condition, or died from such a cause or condition or sickness, the consumer shall be entitled to the recourse provided in subsection i. of this section.

It shall be the responsibility of the consumer to obtain such certification within the required amount of time provided by this subsection, unless the owner or operator of the pet shop, or the employee thereof selling the animal to the consumer, fails to provide the notice required pursuant to subsection f. of this section. If the owner or operator of the pet shop, or the employee thereof, fails to provide the required notice, the consumer shall be entitled to the recourse provided for in subsection i. of this section.

i. Only the consumer shall have the sole authority to determine the recourse the consumer wishes to select and accept, provided that the recourse selected is one of the following:

(1) The right to return the animal and receive a full refund of the purchase price, including sales tax, plus the reimbursement of the veterinary fees, including the cost of the veterinarian certification, incurred prior to the receipt by the consumer of the veterinarian certification;

(2) The right to retain the animal and to receive reimbursement for veterinary fees incurred prior to the consumer's receipt of the veterinarian certification, plus the future cost of veterinary fees to be incurred in curing or attempting to cure the animal, including the cost of the veterinarian certification;

(3) The right to return the animal and to receive in exchange an animal of the consumer's choice, of equivalent value, plus reimbursement of veterinary fees, including the cost of the veterinarian certification, incurred prior to the consumer's receipt of the veterinarian certification; or

(4) In the event of the death of the animal from causes other than an accident, the right to a full refund of the purchase price of the animal, including sales tax, or another animal of the consumer's choice of equivalent value, plus reimbursement of veterinary fees, including the cost of the veterinarian certification, incurred prior to the death of the animal.

The consumer shall be entitled to be reimbursed an amount for veterinary fees up to and including two times the purchase price, including sales tax, of the sick or dead animal. No reimbursement of veterinary fees shall exceed two times the purchase price, including sales tax, of the sick or dead animal.

j. The veterinarian shall provide to the consumer in writing and within the seven days after the consumer consults with the veterinarian any certification that is appropriate pursuant to this section upon the determination that such certification is appropriate. The certification shall include:

(1) The name of the owner;

(2) The date or dates of examination;

(3) The breed, color, sex and age of the animal;

(4) A statement of the findings of the veterinarian;

(5) A statement that the veterinarian certifies the animal to be "unfit for purchase";

(6) An itemized statement of veterinary fees incurred as of the date of certification;

(7) If the animal may be curable, an estimate of the possible cost to cure, or attempt to cure, the animal;

(8) If the animal has died, a statement establishing the probable cause of death; and

(9) The name and address of the certifying veterinarian and the date of the certification.

k. Upon the presentation of the veterinarian certification required in subsection j. of this section to the pet shop, the consumer shall select the recourse to be provided and the owner or operator of the pet shop, or the employee thereof, shall confirm the selection of recourse in writing. The confirmation of the selection shall be signed by the owner or operator of the pet

shop, or an employee thereof, and the consumer and a copy of the signed confirmation shall be given to the consumer and retained by the owner or operator of the pet shop, or employee thereof, on the pet shop premises. The confirmation of the selection shall be in the form established by the director by regulation.

l. The owner or operator of the pet shop, or an employee thereof, shall comply with the selection of recourse by the consumer no later than 10 days after the receipt of the veterinarian certification and the signed confirmation of selection of recourse form. In the event the owner or operator of the pet shop, or an employee thereof, wishes to contest the selection of recourse of the consumer, the owner or operator of the pet shop, or an employee thereof, shall notify the consumer and the director in writing within the five days after the receipt of the veterinarian certification and the signed confirmation of selection of recourse form. After notification to the consumer and the director of the division, the owner or operator of the pet shop, or an employee thereof, may require the consumer to produce the animal for examination by a veterinarian chosen by the owner or operator of the pet shop, or employee thereof, at a mutually convenient time and place, except if the animal has died and was required to be cremated for public health reasons. The director shall set, upon receipt of such notice of contest on the part of the owner or operator of the pet shop, or an employee thereof, a hearing date and hold a hearing, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and the Uniform Administrative Procedure Rules adopted pursuant thereto, to determine whether the recourse selected by the consumer should be allowed. The consumer and the owner or operator of the pet shop, or employee thereof, shall be entitled to any appeal of the decision resulting from the hearing as may be provided for under the law, or any rule or regulation adopted pursuant thereto, but upon the exhaustion of such remedies and recourse, the consumer and the owner or operator of the pet shop shall comply with the final decision rendered.

m. Any owner or operator of a pet shop, or employee thereof, shall be guilty of a deceptive practice if the owner or operator, or employee thereof, secures or attempts to secure a waiver of any of the provisions of this section except as specifically authorized under subsection g. of this section.

n. The owner of a pet shop shall be responsible and liable for any recourse or reimbursement due to a consumer because of violations of any provisions of this section by the owner or operator of the pet shop, or any employee thereof, or because of any document signed pursuant to this section by the owner or operator of the pet shop, or any employee thereof.

C.56:8-96 Certification from veterinarian, recourse.

5. a. Any consumer who purchases from a pet shop an animal that becomes sick or dies after the date of purchase may take the sick or dead animal to a veterinarian within the period of time required pursuant to the notification form provided upon the date of purchase, receive certification from the veterinarian of the health and condition of the animal, and pursue the recourse provided for under the circumstances indicated by the veterinarian certification, as required and provided for pursuant to section 4 of P.L.1999, c.336 (C.56:8-95).

b. Upon receipt of the certification from the veterinarian, the consumer may report the sickness or death of the animal and the pet shop where the animal was purchased to the local health authority with jurisdiction over the municipality in which the pet shop where the animal was purchased is located, and to the Director of the Division of Consumer Affairs in the Department of Law and Public Safety. The consumer shall provide a copy of the veterinarian certificate with any such report. The director shall forward to the appropriate local health authority a copy of any such report the division receives. The local health authority shall record and retain the records of any such report and documentation submitted by a consumer.

c. By the May 1 immediately following the effective date of this act, and annually thereafter, the local health authority with jurisdiction over pet shops shall review any files it has concerning reports filed pursuant to subsection b. of this section and shall recommend to the municipality in which the pet shop is located the revocation of the license of any pet shop with reports filed as follows:

(1) 15% of the total number of animals sold in a year by the pet shop were certified by a veterinarian to be unfit for purchase due to congenital or hereditary cause or condition, or

a sickness brought on by a congenital or hereditary cause or condition;

(2) 25% of the total number of animals sold in a year by the pet shop were certified by a veterinarian to be unfit for purchase due to a non-congenital cause or condition;

(3) 10% of the total number of animals sold in a year by the pet shop died and were certified by a veterinarian to have died from a non-congenital cause or condition; or

(4) 5% of the total number of animals sold in a year by the pet shop died and were certified by a veterinarian to have died from a congenital or hereditary cause or condition, or a sickness brought on by a congenital or hereditary cause or condition.

d. By the May 1 immediately following the effective date of this act, and annually thereafter, the local health authority with jurisdiction over pet shops shall review any files it has concerning reports filed pursuant to subsection b. of this section and shall recommend to the municipality in which the pet shop is located a 90-day suspension of the license of any pet shop with reports filed as follows:

(1) 10% of the total number of animals sold in a year by the pet shop were certified by a veterinarian to be unfit for purchase due to congenital or hereditary cause or condition, or a sickness brought on by a congenital or hereditary cause or condition;

(2) 15% of the total number of animals sold in a year by the pet shop were certified by a veterinarian to be unfit for purchase due to a non-congenital cause or condition;

(3) 5% of the total number of animals sold in a year by the pet shop died and were certified by a veterinarian to have died from a non-congenital cause or condition; or

(4) 3% of the total number of animals sold in a year by the pet shop died and were certified by a veterinarian to have died from a congenital or hereditary cause or condition, or a sickness brought on by a congenital or hereditary cause or condition.

e. Pursuant to the authority and requirements provided in section 8 of P.L.1941, c.151 (C.4:19-15.8), the owner of the pet shop shall be afforded a hearing and, upon the recommendation by the local health authority pursuant to subsection c. or d. of this section, the local health authority, in consultation with the State Department of Health and Senior Services, shall set a date for the hearing to be held by the local health authority or the State Department of Health and Senior Services and shall notify the pet shop involved. The municipality may suspend or revoke the license, or part thereof, that authorizes the pet shop to sell cats or dogs after such hearing has been held and as provided in section 8 of P.L.1941, c.151 (C.4:19-15.8). At the hearing, the local health authority or the State Department of Health and Senior Services, whichever entity is holding the hearing, shall receive testimony from the pet shop and shall determine if the pet shop: (1) failed to maintain proper hygiene and exercise reasonable care in safeguarding the health of animals in its custody, or (2) sold a substantial number of animals that the pet shop knew, or reasonably should have known, to be unfit for purchase.

f. No provision of subsection c. shall be construed to restrict the local health authority or the State Department of Health and Senior Services from holding a hearing concerning any pet shop in the State irrespective of the criteria for recommendation of license suspension or revocation named in subsection c. or d., or from recommending to a municipality the suspension or revocation of the license of a pet shop within its jurisdiction for other violations under other sections of law, or rules and regulations adopted pursuant thereto.

g. No action taken by the local health authority or municipality pursuant to this section or section 8 of P.L.1941, c.151 (C.4:19-15.8) shall be construed to limit or replace any action, hearing or review of complaints concerning the pet shop by the Division of Consumer Affairs in the Department of Law and Public Safety to enforce consumer fraud laws or other protections to which the consumer is entitled.

h. The requirements of this section shall be posted in a prominent place in each pet shop in the State along with the name, address and telephone number of the local health authority that has jurisdiction over the pet shop, and this information shall be provided in writing at the time of purchase to each consumer and to each licensed veterinarian contracted for services by the pet shop upon contracting the veterinarian.

i. The Director of the Division of Consumer Affairs may investigate and pursue enforcement against any pet shop reported by a consumer pursuant to subsection b. of this section.

6. Section 8 of P.L.1941, c.151 (C.4:19-15.8) is amended to read as follows:
C.4:19-15.8 Licensing of kennel, pet shop, shelter, pound.

8. a. Any person who keeps or operates or proposes to establish a kennel, a pet shop, a shelter or a pound shall apply to the clerk or other official designated to license dogs in the municipality where such establishment is located, for a license entitling him to keep or operate such establishment.

The application shall describe the premises where the establishment is located or is proposed to be located, the purpose or purposes for which it is to be maintained, and shall be accompanied by the written approval of the local municipal and health authorities showing compliance with the local and State rules and regulations governing location of and sanitation at such establishments.

b. All licenses issued for a kennel, pet shop, shelter or pound shall state the purpose for which the establishment is maintained, and all such licenses shall expire on the last day of June of each year, and be subject to revocation by the municipality on recommendation of the State Department of Health and Senior Services or the local board of health for failure to comply with the rules and regulations of the State department or local board governing the same, after the owner has been afforded a hearing by either the State department or local board, except as provided in subsection c. of this section.

Any person holding such license shall not be required to secure individual licenses for dogs owned by such licensee and kept at such establishments; such licenses shall not be transferable to another owner or different premises.

c. The license for a pet shop shall be subject to review by the municipality, upon recommendation by the State Department of Health and Senior Services or the local health authority for failure by the pet shop to comply with the rules and regulations of the State department or local health authority governing pet shops or if the pet shop meets the criteria for recommended suspension or revocation provided under subsection c. or d. of section 5 of P.L.1999, c.336 (C.56:8-96), after the owner of the pet shop has been afforded a hearing pursuant to subsection e. of section 5 of P.L.1999, c.336 (C.56:8-96).

The municipality, based on the criteria for the recommendation of the local health authority provided under subsections c. and d. of section 5 of P.L.1999, c.336 (C.56:8-96), may suspend the license for 90 days or may revoke the license if it is determined at the hearing that the pet shop: (1) failed to maintain proper hygiene and exercise reasonable care in safeguarding the health of animals in its custody or (2) sold a substantial number of animals that the pet shop knew, or reasonably should have known, to be unfit for purchase.

d. The municipality may issue a license for a pet shop that permits the pet shop to sell pet supplies for all types of animals, including cats and dogs, and sell animals other than cats and dogs but restricts the pet shop from selling cats or dogs, or both.

e. Every pet shop licensed in the State shall submit annually and no later than May 1 of each year records of the total number of cats and dogs, respectively, sold by the pet shop each year to the municipality in which it is located, and the municipality shall provide this information to the local health authority.

C.56:8-97 Rules, regulations.

7. The Director of the Division of Consumer Affairs in the Department of Law and Public Safety may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et seq.), any rules or regulations as the director deems necessary for the implementation of this act.

8. This act shall take effect on the 90th day following enactment.

Approved January 10, 2000.

ASSEMBLY, No. 3401

STATE OF NEW JERSEY

212th LEGISLATURE

INTRODUCED JULY 4, 2006

Sponsored by:
Assemblyman NEIL M. COHEN
District 20 (Union)
Assemblywoman JOAN M. VOSS
District 38 (Bergen)

SYNOPSIS

Prohibits certain breeding and sales practices; requires persons selling cats or dogs to provide certain information; and provides penalties.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 7/31/2006)

1 AN ACT concerning the breeding, raising and selling of cats and
2 dogs and supplementing P.L.1941, c.151 (C.4:19-15.1 et seq.).
3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:
6

7 1. As used in this act:

8 "Animal shelter" means any establishment that receives, houses
9 and distributes animals that have been abandoned or lost or are in
10 physical danger and are in need of temporary care and housing until
11 the animal is relocated to permanent care and housing or is
12 euthanized. The term "animal shelter" shall include, but shall not
13 be limited to, shelters as defined pursuant to P.L.1941, c.151
14 (C.4:19-15.1), and facilities that are contracted by municipalities as
15 animal control facilities to which the animal control officer of the
16 municipality may deliver animals that are found abandoned, lost or
17 in physical danger.

18 "Breeder" means any person who owns or operates a breeding
19 facility and sells or offers for sale more than five cats or dogs per
20 year, regardless of whether the person is exempted from having a
21 license issued by the United States Department of Agriculture
22 pursuant to the "Animal Welfare Act," 7 U.S.C. §2131 et seq., or
23 any rule or regulation adopted pursuant thereto, or does not have a
24 valid United States Department of Agriculture breeder license for
25 any reason.

26 "Breeding facility" means any building or other structure, or
27 area whether indoor or outdoor, in which more than two cats or
28 dogs are housed and bred for the purposes of selling the resulting
29 kittens or puppies for any purpose. The term "breeding facility"
30 shall include kennels as defined in section 1 of P.L.1941, c.151
31 (C.4:19-15.1) except if the kennel is used exclusively for the
32 boarding of cats or dogs.

33 "Commissioner" means the Commissioner of the Department of
34 Health.

35 "Department" means the Department of Health.

36 "Pet" means a domestic companion animal, as defined in section
37 1 of P.L.1995, c.145 (C.4:19A-16).

38 "Pet dealer" means any person who sells or offers for sale cats or
39 dogs at retail in the State for use as pets, or at wholesale to persons
40 or businesses that sell cats or dogs at retail for use as pets. The
41 term "pet dealer" shall include, but shall not be limited to, breeders
42 as defined in this section and Class A and Class B breeders licensed
43 by the United States Department of Agriculture pursuant to the
44 "Animal Welfare Act," 7 U.S.C. §2131 et seq., who sell cats or dogs
45 to individuals or to kennels or pet shops as defined in section 1 of
46 P.L.1941, c.151 (C.4:19-15.1). The term "pet dealer" shall also
47 include, but shall not be limited to, kennels or pet shops as defined
48 in section 1 of P.L.1941, c.151 (C.4:19-15.1), persons selling more

1 than five cats or dogs per year who are otherwise exempted from
2 the federal license requirements established pursuant to the "Animal
3 Welfare Act," 7 U.S.C. §2131 et seq., and the rules or regulations
4 adopted pursuant thereto, and all pet dealers regulated pursuant to
5 subchapter 12 of chapter 45A of Title 13 of the New Jersey
6 Administrative Code. Individuals that sell five or fewer animals per
7 year and animal shelters shall not be considered pet dealers under
8 this act.

9
10 2. a. No person may breed a cat or a dog from a litter with
11 another cat or dog from the same litter. No person may breed a cat
12 or a dog more than once per calendar year.

13 b. No person may sell more than 25 cats or dogs per year for use
14 as pets to individuals, kennels or pet shops in the State.

15 c. No person may deliver to a pet shop for sale at the pet shop
16 any cat or dog that is less than 10 weeks old.

17
18 3. a. Upon the effective date of this act and every year
19 thereafter, each breeder doing business in the State as a pet dealer
20 shall register with the Department of Health, and shall at that time,
21 sign a document that attests to the breeder's knowledge of State law,
22 rules and regulations concerning the care, treatment, and sale of
23 animals in the State, and to the breeder's compliance with the
24 requirements of subsection c. of this section. The department may
25 charge the breeder a reasonable fee for the administrative and
26 processing costs of the registration.

27 b. The Department of Health, in consultation with professional
28 veterinarian associations, the Humane Society of the United States,
29 the New Jersey Society for the Prevention of Cruelty to Animals,
30 and other groups, associations and organizations involved in the
31 proper care and treatment of animals, shall adopt, pursuant to the
32 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
33 seq.), rules and regulations establishing a standardized program of
34 responsible veterinary care to be implemented by breeding
35 facilities. The program shall include, but shall not be limited to,
36 provisions for vaccinations, internal and external parasite control,
37 disease prevention and control, grooming, spaying, neutering and
38 care of pregnant animals, first aid and emergency care protocols,
39 housing considerations associated with illness and injury, and
40 humane euthanasia methods.

41 c. Each breeder doing business in the State as a pet dealer shall
42 be required to comply with the federal requirements established by
43 the "Animal Welfare Act," 7 U.S.C. §2131 et seq., and any rules
44 and regulations adopted pursuant thereto, section 14 of P.L.1941,
45 c.151 (C.4:19-15.14), and the rules and regulations adopted
46 pursuant thereto, and the following requirements:

47 (1) Indoor temperatures of breeding facilities shall be
48 maintained at a minimum of 50 degrees and a maximum of 80
49 degrees Fahrenheit for cats or dogs older than eight weeks, and a

1 minimum of 65 degrees and a maximum of 80 degrees Fahrenheit
2 for cats or dogs eight weeks old or younger;

3 (2) Air shall be constantly circulated at a rate of at least eight to
4 12 times per hour;

5 (3) Flooring in animal cages or other types of enclosures used to
6 house animals shall be made of substances that are nonporous and
7 can be sanitized;

8 (4) Wire flooring shall be used only if it is plastic-coated and is
9 spaced at intervals that prevent the possibility of foot or leg injury
10 and allow for waste to fall through the flooring onto a surface or
11 into an area where no animals are held or housed;

12 (5) Each enclosure for a dog shall have a height of not less than
13 six inches above the head of the dog being held in the enclosure
14 when the dog is standing on its hind legs and shall provide access to
15 an outdoor run. Enclosures for dogs shall have, for large-sized
16 breeds of 50 pounds per animal or more, a minimum size of 4 feet
17 by 8 feet, or 32 square feet, and an outdoor run of 4 feet by 15 feet;
18 for medium-sized breeds of 21 to 50 pounds per animal, a minimum
19 of 4 feet by 6 feet, or 24 square feet, and an outdoor run of 4 feet
20 by 10 feet; and for small-sized breeds of less than 21 pounds, a
21 minimum of 3 feet by 5 feet and an outdoor run of 3 feet by 10
22 feet;

23 (6) Individual enclosures for cats shall provide an area of no less
24 than 9 cubic feet or a ground area of 3 feet by 3 feet with a height of
25 3 feet, and no more than one cat shall be housed per cage except a
26 cat that is a nursing mother shall share the enclosure with its
27 offspring;

28 (7) Ground areas shall be cleaned daily and dry bedding shall be
29 provided, such as straw or hay, but newspaper is prohibited;

30 (8) Constant access to potable water shall be provided, in
31 mounted feeders whenever possible, and food shall be nutritionally
32 balanced and kept dry at all times;

33 (9) Cages, enclosures, mounted feeders and other containers
34 providing food and water shall be cleaned and sanitized daily;

35 (10) All dogs shall be allowed the opportunity for exercise daily
36 and be allowed to run unleashed for at least 20 minutes daily in an
37 area no smaller than 4 feet by 10 feet; and

38 (11) A standardized program of veterinarian care consistent with
39 the program established pursuant to subsection b. of this section
40 shall be implemented in breeding facilities.

41 d. The department shall annually compile, publish and make
42 available to the public a list of the breeders doing business as pet
43 dealers who are registered in the State. The department shall also
44 provide, upon request, a summary of the requirements established
45 under subsection b. and information on how a complaint may be
46 filed against a pet dealer that appears to be violating State law, rules
47 or regulations.

1 4. a. Any person who falsely attests to compliance with any
2 item attested to in the signed document required pursuant to
3 subsection a. of section 3 of this act is in violation of this act.

4 b. The department shall deny registration to, or revoke the
5 registration of , any breeder doing business in the State as a pet
6 dealer who is found in violation of this act, or who has been found
7 guilty of:

8 (1) Cruelty to animals in the State or another jurisdiction; or

9 (2) Any animal protection laws in any state concerning the
10 proper breeding, care, housing, raising or treatment of animals.

11 c. Any breeder who sells or offers for sale a cat or a dog without
12 valid registration is in violation of this act. Any pet dealer who
13 knowingly purchases a cat or a dog from a breeder who is without
14 valid registration is in violation of this act.

15

16 5. No pet dealer may purchase any cats or dogs from any person
17 who is not a registered breeder named on the list compiled and
18 published by the Department of Health pursuant to subsection d. of
19 section 3 of this act, except if that person has documentation that
20 each of the cats or dogs being sold were bred by a registered
21 breeder named on the list compiled and published by the department
22 pursuant to subsection d. of section 3 of this act, or if the person
23 signs a notarized affidavit attesting to the fact that the individual is
24 not a breeder or a pet dealer regulated by this act.

25

26 6. a. Every pet dealer shall provide the purchaser of each cat or
27 dog sold by the pet dealer at the time of sale a written statement, in
28 a standardized form prescribed by the Department of Health,
29 containing the following information:

30 (1) The name and street address of the person from whom the cat
31 or dog was obtained and, if the person is a dealer licensed by the
32 United States Department of Agriculture, the person's federal dealer
33 identification number;

34 (2) The breeder's and pet dealer's name, street address, if
35 different from the information required in paragraph (1) of this
36 subsection, and, if licensed by the United States Department of
37 Agriculture, the breeder's and pet dealer's federal dealer
38 identification number.

39 (3) The date of birth of the cat or dog, or an approximation
40 provided by a licensed veterinarian;

41 (4) If purebred or registerable with a cat or dog registry, the
42 sire's and the dam's registration, if any, from the Orthopedic
43 Foundation for Animals.

44 (5) A record of the immunizations administered to the cat or dog
45 as of the time of sale, including the dates of administration and the
46 type of vaccine;

47 (6) A record of any veterinarian treatment or medication received
48 by a cat or dog while in the possession of a pet dealer to treat any

1 disease, illness, or condition that required hospitalization or surgical
2 procedures, and one of the following;

3 (a) A statement that the cat or dog has no known disease, illness,
4 or condition that requires hospitalization, surgical procedures or
5 ongoing treatment at the time of sale, dated and signed by a
6 licensed veterinarian no more than 14 days prior to the sale, that
7 also authorizes the sale of the cat or dog; or

8 (b) A record of any known disease, illness, or condition that
9 requires hospitalization, surgical procedures or ongoing treatment
10 with which the cat or dog is afflicted at the time of sale, and a
11 statement, dated and signed by a licensed veterinarian no more than
12 14 days prior to the sale, that recommends a course of treatment,
13 authorizes the sale of the cat or dog afflicted with the disease,
14 illness or condition, and states that the recommended course of
15 treatment is necessary for the good health and survival of the cat or
16 dog being sold; or

17 (c) A record of any known disease, illness, or condition with
18 which the cat or dog is afflicted at the time of sale, and a statement,
19 dated and signed by a licensed veterinarian no more than 14 days
20 prior to the sale, that recommends a course of treatment, verifies
21 that the disease, illness or condition does not require hospitalization
22 or surgical procedures, and authorizes the sale of the cat or dog.

23 The statement dated and signed by a licensed veterinarian
24 required pursuant to this paragraph shall not be required to address
25 the presence of external parasites unless their presence makes the
26 cat or dog ill to the point of requiring hospitalization or surgical
27 procedures, or is likely to make the cat or dog ill to the point of
28 requiring hospitalization or surgical procedures within the
29 foreseeable future if left untreated. The statement shall include
30 confirmation from the licensed veterinarian that the veterinarian has
31 checked the cat or dog and its feces for internal parasites and has
32 found none, or if internal parasites are found, the statement shall
33 report the type of internal parasite and the recommended treatment,
34 and shall confirm that hospitalization or surgical procedures are not
35 likely to be required as a result of the presence of the internal
36 parasites if the recommended treatment is provided.

37 The statement dated and signed by a licensed veterinarian
38 required pursuant to this paragraph is invalid if the cat or dog is not
39 purchased within 14 days following the date of the statement. Any
40 cat or dog subject to the provisions of this paragraph may not be
41 sold without a valid veterinarian statement as required pursuant to
42 this subparagraph. Any disclosure made pursuant to this paragraph
43 shall be signed by both the pet dealer certifying the accuracy of the
44 statement, and the purchaser of the cat or dog acknowledging
45 receipt of the statement.

46 b. Any pet dealer selling a cat or dog to another pet dealer shall
47 provide the purchasing pet dealer with the documentation and
48 information required in subsection a. of this section. The
49 purchasing pet dealer shall retain the documentation and

1 information and shall update the documentation and information
2 required during the period of time that the purchasing pet dealer is
3 in possession of the cat or dog.

4 c. All information required to be disclosed pursuant to this
5 section may be made orally to the purchaser prior to the purchase of
6 the cat or dog, but shall be provided in writing to the purchaser at
7 the time of purchase.

8 d. Any pet dealer that fails to provide or misrepresents any
9 documentation or information required pursuant to subsection a. of
10 this section shall be guilty of fraud and violation of this act, and
11 shall be subject to the penalties provided pursuant to section 10 of
12 this act and P.L.1960, c.39 (C.56:8-1 et seq.) as well as any other
13 penalties applicable under State or federal law.

14
15 7. a. Except as provided for in subsection a. of section 6 of this
16 act, no pet dealer shall knowingly sell a cat or dog which is
17 diseased, ill, or has a condition that requires hospitalization or
18 surgical procedures. Every pet dealer shall comply with, and every
19 purchaser of a pet shall be entitled to the protections provided under
20 P.L.1960, c.39 (C.56:8-1 et seq.) and any rules or regulations
21 adopted pursuant thereto concerning the sale of animals.

22 b. At the time of the sale of a cat or dog, the pet dealer shall
23 provide in writing to the purchaser a copy of the return policy of the
24 pet dealer. The return policy shall comply with the rules and
25 regulations adopted pursuant to P.L.1960, c.39 (C.56:8-1 et seq.)
26 concerning the sale of animals, and shall include a 14-day guarantee
27 to accept the return of the cat or dog for a full refund for any
28 reason, including, but not limited to, illness discovered in the cat or
29 dog, or inability on the part of the purchaser to properly care for the
30 cat or dog. The return policy shall also include a 26-month
31 guarantee to accept the cat or dog for a full refund if the cat or dog
32 is sold as a pedigree and congenital or genetic defects are
33 discovered in the cat or dog during that time period and the defects
34 are certified by a licensed veterinarian.

35 c. No pet dealer shall keep a cat or dog in a pet shop for more
36 than eight consecutive weeks. Every pet dealer shall establish
37 procedures and methods for the return of cats or dogs for any reason
38 that shall include the humane transfer of cats or dogs to pounds,
39 shelters or other municipal animal control facility. Any cat or dog
40 that has not been sold after eight consecutive weeks in the pet shop
41 shall be delivered in a humane manner and at no cost to the pound,
42 shelter, or other municipal animal control facility with which the
43 municipality in which the pet shop is located has contracted for the
44 holding of animals.

45
46 8. a. Every pet dealer shall post conspicuously on the cage of
47 each cat or dog offered for sale a notice indicating the state in
48 which the cat or dog was bred and brokered.

1 b. Every pet dealer shall post conspicuously within close
2 proximity to the cages of cats or dogs offered for sale, a notice
3 containing the following language in 100-point type:

4 "Information on the source of these cats or dogs and the
5 veterinary treatments received by these cats or dogs is available for
6 review."
7

8 9. a. Whenever the commissioner finds that a person has
9 violated any provision of this act, or any rule or regulation adopted
10 pursuant to this act, the commissioner may:

11 (1) Issue an order requiring the person found to be in violation to
12 comply in accordance with subsection b. of this section;

13 (2) Bring a civil action in accordance with subsection c. of this
14 section;

15 (3) Levy a civil administrative penalty in accordance with
16 subsection d. of this section; or

17 (4) Bring an action for a civil penalty in accordance with
18 subsection e. of this section.

19 b. Whenever the commissioner finds that a person has violated
20 any provision of this act, or any rule or regulation adopted pursuant
21 to this act, the commissioner may issue an order specifying the
22 provision or provisions of this act or of any rule or regulation of
23 which the person is in violation, citing the action which constituted
24 the violation, and ordering abatement of the violation. Whenever a
25 breeder has violated any provision of this act, or any rule or
26 regulation adopted pursuant thereto, the commissioner shall include
27 in the order the following prohibitions on the retail or wholesale
28 sale of cats or dogs:

29 (1) For a first offense, a prohibition from selling or offering for
30 sale cats or dogs for 5 years;

31 (2) For a second and subsequent offenses, a prohibition from
32 selling or offering for sale cats or dogs at retail or wholesale for an
33 additional 5 years for each offense.

34 The order shall give notice to the person of the person's right to a
35 hearing on the matters contained in the order. The ordered party
36 shall have 20 calendar days from receipt of the order within which
37 to deliver to the commissioner a written request for a hearing. Such
38 order shall be effective upon receipt and any person to whom such
39 order is directed shall comply with the order immediately. A
40 request for hearing shall not automatically stay the effect of the
41 order.

42 c. The commissioner, a local board of health or county health
43 department may institute an action or proceeding in the Superior
44 Court for injunctive and other relief, including the appointment of a
45 receiver for any violation of this act, or of any rule or regulation
46 adopted thereto, or order issued pursuant to this act, and the court
47 may proceed in the action in a summary manner. In any such
48 proceeding the court may grant temporary or interlocutory relief.

49 Such relief may include, singly or in combination:

1 (1) A temporary or permanent injunction, including for any
2 breeder in violation of this act an injunction from selling or offering
3 for sale at retail or wholesale cats or dogs for 5 years for a first
4 offense, and for a second offense and subsequent offenses, a
5 prohibition from selling or offering for sale cats or dogs at retail or
6 wholesale for an additional 5 years for each offense; and

7 (2) Assessment of the violator for the costs of any investigation
8 or inspection which led to the establishment of the violation, and for
9 the reasonable costs of preparing and litigating the case under this
10 subsection. Assessments under this subsection shall be paid to the
11 State Treasurer, or to the local board of health, or to the county
12 health department, as the case may be.

13 If a proceeding is instituted by a local board of health or county
14 health department, notice thereof shall be served upon the
15 commissioner in the same manner as if the commissioner were a
16 named party to the action or proceeding. The department may
17 intervene as a matter of right in any proceeding brought by a local
18 board of health or county health department.

19 d. The commissioner is authorized to assess civil administrative
20 penalties as follows:

21 (1) For a first offense by a breeder, a penalty of \$5,000.

22 (2) For a second or subsequent offense by a breeder, a penalty of
23 \$10,000 for each offense.

24 (3) For a first offense by any person other than a breeder, a
25 penalty of \$1,000, except that a pet dealer who knowingly
26 purchases cats or dogs from a breeder whose registration has been
27 revoked or who is not properly registered with the Department of
28 Health shall be subject to a penalty of \$5,000 per animal purchased
29 for the first offense.

30 (4) For a second offense by any person other than a breeder, a
31 penalty of \$2,500, except that a pet dealer who knowingly
32 purchases cats or dogs from a breeder whose registration has been
33 revoked or who is not properly registered with the Department of
34 Health shall be subject to a penalty of \$10,000 per animal
35 purchased under a second or subsequent offense.

36 (5) For a third offense by any person other than a breeder, a
37 penalty of \$5,000, except that a pet dealer who knowingly
38 purchases cats or dogs from a breeder whose registration has been
39 revoked or who is not properly registered with the Department of
40 Health shall be subject to a penalty of \$10,000 per animal
41 purchased under a third or subsequent offense.

42 (6) For a fourth offense or subsequent offenses by any person
43 other than a breeder, a penalty of not less than \$5,000 nor more than
44 \$10,000, except that a pet dealer who knowingly purchases cats or
45 dogs from a breeder whose registration has been revoked or who is
46 not properly registered with the Department of Health shall be
47 subject to a penalty of \$10,000 per animal purchased under a fourth
48 or subsequent offense.

1 No assessment shall be levied pursuant to this section until after
2 the violator has been notified by certified mail or personal service.
3 The notice shall include a reference to the section of the statute,
4 rule, regulation, or order violated, a concise statement of the facts
5 alleged to constitute a violation, a statement of the amount of the
6 civil administrative penalties to be imposed, and a statement of the
7 party's right to a hearing. The ordered party shall have 20 calendar
8 days from receipt of the notice within which to deliver to the
9 commissioner a written request for a hearing. After the hearing and
10 upon finding that a violation has occurred, the commissioner may
11 issue a final order after assessing the amount of the fine specified in
12 the notice. If no hearing is requested, the notice shall become a
13 final order after the expiration of the 20-day period. Payment of the
14 assessment is due when a final order is issued or the notice becomes
15 a final order. The authority to levy a civil administrative penalty is
16 in addition to all other enforcement provisions in this act, and the
17 payment of any assessment shall not be deemed to affect the
18 availability of any other enforcement provisions in connection with
19 the violation for which the assessment is levied. The department
20 may compromise any civil administrative penalty assessed under
21 this section in to any amount the department determines
22 appropriate.

23 e. Any person who violates the provisions of this act or any rule
24 or regulation adopted pursuant thereto, shall be liable to the
25 following penalties, to be collected in a civil action commenced by
26 a local board of health, a county health department, or the
27 commissioner:

28 (1) For a first offense by a breeder, a penalty of \$5,000.

29 (2) For a second or subsequent offense by a breeder, a penalty of
30 \$10,000 for each offense.

31 (3) For a first offense by any person other than a breeder, a
32 penalty of \$1,000, except that a pet dealer who knowingly
33 purchases cats or dogs from a breeder whose registration has been
34 revoked or who is not properly registered with the Department of
35 Health shall be subject to a penalty of \$5,000 per animal purchased
36 for the first offense.

37 (4) For a second offense by any person other than a breeder, a
38 penalty of \$2,500, except that a pet dealer who knowingly
39 purchases cats or dogs from a breeder whose registration has been
40 revoked or who is not properly registered with the Department of
41 Health shall be subject to a penalty of \$10,000 per animal
42 purchased under a second or subsequent offense.

43 (5) For a third offense by any person other than a breeder, a
44 penalty of \$5,000, except that a pet dealer who knowingly
45 purchases cats or dogs from a breeder whose registration has been
46 revoked or who is not properly registered with the Department of
47 Health shall be subject to a penalty of \$10,000 per animal
48 purchased under a third or subsequent offense.

1 (6) For a fourth offense or subsequent offenses by any person
2 other than a breeder, a penalty of not less than \$5,000 nor more than
3 \$10,000, except that a pet dealer who knowingly purchases cats or
4 dogs from a breeder whose registration has been revoked or who is
5 not properly registered with the Department of Health shall be
6 subject to a penalty of \$10,000 per animal purchased under a fourth
7 or subsequent offense.

8 Any person who violates an administrative order issued pursuant
9 to subsection b. of this section, or a court order issued pursuant to
10 subsection c. of this section, or who fails to comply with an
11 administrative assessment in full pursuant to subsection d. of this
12 section is subject upon order of a court to a civil penalty not to
13 exceed \$10,000 per day of such violation.

14 Any penalty imposed pursuant to this subsection may be
15 collected with costs in a summary proceeding pursuant to "the
16 penalty enforcement law" (N.J.S. 2A:58-1 et seq.). The Superior
17 Court and the municipal court shall have jurisdiction to enforce the
18 provisions of "the penalty enforcement law" in connection with this
19 act.

20

21 10. A member of the public who supplies information to an
22 enforcing authority which proximately results in the imposition and
23 collection of a civil penalty as the result of a civil action brought
24 pursuant to subsection e. of section 9 of this act, or any rule or
25 regulation adopted, administrative order issued, or assessment
26 imposed pursuant thereto, shall be entitled to a reward of 10% of
27 the civil penalty collected, or \$250, whichever amount is greater.
28 The reward shall be paid by the department from any money
29 received by the department pursuant to subsection e. of section 9 of
30 this act. The Attorney General shall adopt, pursuant to the
31 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
32 seq.), rules and regulations necessary to implement this section.

33

34 11. All fees and penalties collected pursuant to this act shall be
35 placed in a special dedicated fund to be known as the "Kitten and
36 Puppy Protection Fund," which shall be separate from the General
37 Fund of the State. All moneys in the "Kitten and Puppy Protection
38 Fund" shall be used by the commissioner exclusively for the control
39 of animal populations, and the administration, enforcement and
40 implementation of this act, and shall be allocated in the following
41 manner:

- 42 (1) 50 percent to the "Animal Population Control Fund,"
43 established pursuant to P.L.1983, c.172 (C.4:19A-5); and
44 (2) 50 percent to the Department of Health for the purposes of
45 administering, enforcing and implementing this act.

46

47 12. The Department of Health shall adopt, pursuant to the
48 provisions of the "Administrative Procedure Act," P.L.1968, c.410

1 (C.52:14B-1 et seq.), such rules and regulations as may be
2 necessary to implement the provisions of this act.
3

4 13. This act shall take effect on the 180th day after enactment,
5 but the Commissioner of the Department of Health may take such
6 anticipatory administrative action in advance as shall be necessary
7 for the implementation of the act.
8
9

10 STATEMENT
11

12 This bill prohibits certain breeding practices and limits the
13 selling of cats or dogs as pets to 25 animals per year per breeder.
14 "Breeder" is defined under the bill as any person who owns or
15 operates a breeding facility and sells more than five cats or dogs per
16 year, regardless of whether or not the person holds a valid breeder
17 license issued by the United States Department of Agriculture.

18 Currently, many diseased or abused dogs are sold in the State as
19 pets that come from breeding facilities nicknamed "puppy mills,"
20 and there is evidence that similar mills to breed cats exist as well.
21 Puppy mills are mass breeding dog farms which engage in
22 widespread abuse of the dogs they breed. Because many of these
23 operations are located outside the State and may not have valid
24 United States Department of Agriculture breeder licenses, it is
25 difficult to discern which breeders are puppy mill operations and
26 furthermore detect abuse and its effects at the time of sale of the
27 cats or dogs. Therefore, the bill broadly defines breeder, restricts
28 the number of animals to be sold in the State, and requires
29 disclosure of essential information about a cat's or dog's origins and
30 health at the time of sale.

31 The bill also requires breeders selling cats or dogs as pets in the
32 State to annually register with the Department of Health, and the
33 Department of Health to annually publish the list of breeders
34 registered in the State. At that time, the breeder would be required
35 to sign a document attesting to the breeder's compliance with
36 federal and State law concerning the proper breeding, care and
37 treatment of animals and the rules and regulations adopted pursuant
38 to these laws, as well as more specific requirements. The specific
39 requirements are changes to federal regulations being recommended
40 by the Humane Society of the United States. The bill authorizes the
41 Department of Health to deny or revoke the registration of any
42 breeder who falsely attests to items in the registration document or
43 who has been found guilty of cruelty to animals or in violation on
44 any other laws concerning the proper breeding, care, housing,
45 raising or treatment of animals in any state or jurisdiction.

46 The bill prohibits any "pet dealer," which includes pet shops and
47 individuals selling more than five cats or dogs as pets per year,
48 from buying cats or dogs from any breeder that does not have valid
49 registration and is not on the list published by the Department of

1 Health annually. The bill also requires pet dealers to make
2 information on the cats and dogs available and notice the public that
3 it is available.

4 Finally, the bill provides extensive civil administrative penalties
5 and civil penalties for violations of the act, with the heaviest
6 penalties falling on breeders who violate the law. Individuals who
7 provide information that leads to the collection of these penalties
8 are eligible for a reward of 10% of the penalty collected or \$250,
9 whichever amount is greater. The bill also provides that any
10 misrepresentation, misinformation or failure to properly disclose
11 information about a cat or dog constitutes fraud, a violation of this
12 bill, and P.L.1960, c.39 (C.56:8-1 et seq.), commonly referred to
13 and known as the Consumer Fraud Act, and the violator is subject
14 to all the applicable penalties under State and federal law.

15 It is the sponsor's intent that, by requiring registration of
16 breeders, providing the retail purchaser with information about the
17 cats and dogs, and by imposing heavy penalties on violators,
18 individuals and pet shops would be encouraged to purchase cat or
19 dogs from reputable breeders, thus eliminating the market for cats
20 or dogs from mass breeding establishments with poor and unhealthy
21 conditions.

Tradewell, Becky

From: August, Tyler
Sent: Wednesday, June 06, 2007 12:30 PM
To: Tradewell, Becky
Cc: Hodgson, Amber
Subject: Puppy bill

Hi Becky,

Amber and I have talked with our bosses and here are the additions to what we talked about on Monday...

PENALTIES

- Operating w/o a license
- Falsifying information on the application or the annual report
- A pet store knowingly buying from a person/facility who is not licensed or whose license has been revoked for the purpose of resale
- Knowingly selling a bad/ill/diseased/defective dog
- Violating any of the department's rules

1st offense = Fine of up to \$3,000 and not eligible for licensure for 12 months

2nd offense = fine of up to \$5,000 or imprisonment not to exceed 30 days or both & not eligible for licensure for 12 months

3rd offense = Fine of up to \$10,000 or imprisonment not to exceed 90 days or both & permanent revocation of license

If an offense is committed within 12 months of the previous offense, it should automatically become a 3rd offense and done.

If on the annual report submitted to DATCP 15% of the dogs sold were returned under the lemon law, the license is revoked for 12 months.

After the revocation of the license, there is no automatic reinstatement after the 12 month period on any of the revocation. They may apply for reinstatement by completing the licensure application.

As far as the licensure fee goes, why don't we just stick in \$100 as a place holder until we get a fiscal estimate from DATCP on the bill.

Anything we're forgetting?

Tyler



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-2829/P1

RCT:.....

Imk

Wald Trees (WCM 7/18)
7/24

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Note

GenCal

1 AN ACT ...; relating to: the sale of dogs, regulation of dog breeders, granting
2 rule-making authority, making an appropriation, and providing a penalty. ✓

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version. ✓

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 20.115 (2) (j) of the statutes is amended to read:
4 20.115 (2) (j) *Dog licenses, rabies control, and related services.* All moneys
5 received under ss. 95.21 (9) (c), 173.27, 173.35, and 174.09 (1) and (3), to provide dog
6 license tags and forms under s. 174.07 (2), to perform other program responsibilities
7 under ch. 174, to administer the rabies control program under s. 95.21, to help
8 administer the rabies control media campaign, and to carry out activities under s.
9 93.07 (11) and ch. 173.

History: 1971 c. 125, 215; 1973 c. 90, 299, 333; 1975 c. 39 ss. 78m, 79, 79m, 79n, 732 (1); 1975 c. 224; 1975 c. 394 ss. 1, 27; 1977 c. 29 ss. 112 to 115v, 1650m (1), (4), 1654 (1); 1977 c. 87, 106, 181, 418; 1979 c. 34, 129, 221, 289, 335; 1981 c. 20, 66, 93, 283, 346, 357; 1983 a. 27, 132, 368; 1983 a. 410 ss. 5, 2202 (2); 1985 a. 7, 8, 29, 138.

153, 313; 1987 a. 27, 281, 354; 1987 a. 399 ss. 34 to 38, 38u; 1987 a. 403 s. 256; 1989 a. 31, 219, 227, 282, 284, 335, 336; 1991 a. 39, 269, 309, 315; 1993 a. 16, 166, 243, 437, 456, 497; 1995 a. 27, 42, 79, 460; 1997 a. 27, 192, 252, 264; 1999 a. 5, 9, 55, 185; 2001 a. 16, 38, 56, 103, 109; 2003 a. 33, 38, 133, 326, 327; 2005 a. 25.

1 **SECTION 2.** 93.20 (1) of the statutes is amended to read:

2 93.20 (1) DEFINITION. In this section, "action" means an action that is
3 commenced in court by, or on behalf of, the department of agriculture, trade and
4 consumer protection to enforce chs. 88, 91 to 100 ~~or~~, 126, or 173. ✓

History: 1991 a. 39; 1993 a. 213; 1995 a. 216; 2001 a. 16.

5 **SECTION 3.** 173.35 of the statutes is created to read:

6 **173.35 Regulation of dog breeders. (1) DEFINITIONS.** In this section:

7 (a) "Adequate food" means wholesome food that is accessible to an animal, is
8 appropriate for the type of animal, and is sufficient in amount to maintain the animal
9 in good health. ✓

10 (b) "Adequate water" means potable water that is accessible to an animal and
11 is sufficient in amount to maintain the animal in good health. ✓

12 (c) "Dog Breeder" means a person who is engaged in the business of breeding
13 dogs and who either sells or offers to sell at least 60 dogs in a year or has at least 8
14 breeding female dogs. ✓

15 (d) "Humane care" includes the provision of adequate heating, cooling,
16 ventilation, sanitation, shelter, and medical care consistent with the normal
17 requirements of an animal's size and breed, adequate food, and adequate water. ✓

18 **(2) LICENSE.** (a) No person may act as a dog breeder without an annual license
19 from the department. ✓ A person shall obtain a license under this subsection for each
20 separate location at which the person is engaged in the business of dog breeding. ✓

21 (b) The department may not issue a license to a person under this subsection
22 unless the person submits an application that includes evidence satisfactory to the
23 department that the person holds a current seller's permit under s. 77.52 (9) and an
24 affidavit stating that the person complies with the rules under sub. (6) (a) to (f). ✓

1

(3) FEE. The fee for a license under sub. (2) is \$100. ✓

2

(4) ANNUAL REPORT. (a) ^{Annually} ~~Each year~~, a person holding a license under sub. (2)

3

shall submit to the department a report that includes all of the following information:

4

1. The number of dogs at the locations at which the person is engaged in the business of dog breeding on the date on which the report is prepared. ✓

5

2. The number of dogs that the person sold in the preceding calendar year. ✓

6

3. The number of dogs that the person sold for which a purchaser received a

7

remedy under s. 173.37 (5) during the preceding calendar year. ✓

8

(b) If an annual report under par. (a) for a dog breeder shows that the number

9

of dogs under par. (a) 3. is ^{15 percent} 15% or more of the number of dogs under par. (a) 2., the

10

department shall revoke the dog breeder's license under sub. (2) and the dog breeder

11

is ineligible for a license for 12 months from the date of revocation. ✓

12

(5) PURCHASE FOR RETAIL SALE. No person who sells dogs at retail may purchase

13

a dog from a dog breeder if the person knows that the dog breeder is not licensed

14

under sub. (2). ✓

15

(6) RULES. The department shall promulgate rules that specify all of the

16

following: ✓

17

(a) Minimum standards for facilities at which dog breeders operate. ✓

18

(b) Minimum requirements for humane care to be provided by dog breeders. ✓

19

(c) Requirements relating to the transportation of dogs by dog breeders. ✓

20

(d) Minimum ages for the sale of puppies by dog breeders. ✓

21

(e) Requirements relating to space and opportunity for exercise to be provided

22

to dogs by dog breeders. ✓

23

(f) Requirements for record keeping by dog breeders. ✓

24

1 (g) Reinspection fees to be charged when an inspection by the department
2 under this section reveals conditions that require correction and reinspection. ✓

3 (h) Grounds for the department to issue orders prohibiting a dog breeder from
4 selling or moving a dog. ✓

5 (i) Grounds for revocation of licenses issued under sub. (2). ✓

6 (7) PENALTIES. (a) A person who violates this section or a rule promulgated
7 under this section or falsifies information on an application for a license under sub.
8 (2) or on an annual report under sub. (4) is subject to the following penalties: ✓

9 1. For a first offense, a forfeiture of not more than \$3,000. ✓

10 2. For a second offense committed 365 days or more after conviction for a first
11 offense, a fine of not more than \$5,000 or imprisonment for not more than 30 days
12 or both. ✓

13 3. For a second offense committed fewer than 365 days after conviction for a
14 first offense, for a third offense, or for a subsequent offense, a fine of not more than
15 \$10,000 or imprisonment for not more than 90 days or both. ✓

16 (b) If a person convicted of a violation under par. (a) does not have a license
17 under sub. (2), the person is ineligible for a license for 12 months following the
18 conviction. ✓ If a person convicted of a violation under par. (a) has a license under sub.
19 (2), ✓ the department shall revoke the license and the person is ineligible for a new
20 license for 12 months after the conviction. ✓

21 SECTION 4. 173.37 of the statutes is created to read:

22 **173.37 Protection for purchasers of dogs.** (1) DEFINITIONS. In this section:

23 (a) "Purchaser" means a person who buys a dog as a pet. ✓

24 (b) "Seller" means a person who sells a dog as a pet. ✓

25 (c) "Unfit for sale" means either of the following: ✓

1 1. Having a condition that is congenital or hereditary and that severely affects
2 the health of the dog. ✓

3 2. Having an injury, defect, or illness that was obvious or able to be diagnosed
4 before the purchaser received the dog from the seller or that is likely to have been
5 acquired before the purchaser received the dog from the seller. ✓

6 **(2) INFORMATION FOR PURCHASERS.** ✓ (a) When a person sells a dog as a pet, the
7 person shall provide all of the following to the purchaser, in writing: ✓

8 1. A description of any vaccinations and any treatments for parasites that the
9 dog has received. ✓

10 2. A description of the remedies under this section for the sale of a dog that is
11 unfit for sale. ✓

12 (b) A person who sells a dog as a pet shall obtain the signature of the purchaser
13 on a copy of the document under par. (a) 2. containing the written description of
14 remedies and retain a copy of the signed document for inspection by the department. ✓

15 (c) When a person sells a dog for resale as a pet, the person shall provide the
16 buyer with a written description of any vaccinations and any treatments for
17 parasites that the dog has received. ✓

18 **(3) RIGHT TO REMEDY.** A purchaser is entitled to a remedy specified under sub.
19 (4) if any of the following applies: ✓

20 (a) The dog dies before the 181st day after the day on which the purchaser
21 received the dog from the seller, a veterinarian certifies that the dog was unfit for sale
22 due to a condition that is congenital or hereditary, ✓ and, if the seller complied with
23 sub. (2) (a) 2. and (b), the purchaser presents the certification to the seller before the
24 188th day after the day on which the purchaser received the dog from the seller. ✓

1 (b) The dog shows symptoms, before the 181st day after the day on which the
2 purchaser received the dog from the seller, of a condition that is congenital or
3 hereditary, a veterinarian certifies that the dog was unfit for sale due to that
4 condition, and, if the seller complied with sub. (2) (a) 2. and (b), the purchaser
5 presents the certification to the seller before the 188th day after the day on which
6 the purchaser received the dog from the seller. ✓

7 (c) The dog dies before the 15th day after the day on which the purchaser
8 received the dog from the seller, a veterinarian certifies that the dog was unfit for
9 sale, and, if the seller complied with sub. (2) (a) 2. and (b), the purchaser presents the
10 certification to the seller before the 22nd day after the day on which the purchaser
11 received the dog from the seller. ✓

12 (d) The dog dies before the 15th day after the day on which the purchaser
13 received the dog from the seller, a veterinarian certifies that the dog died from causes
14 other than an accident or injury suffered after the purchaser received the dog from
15 the seller, and, if the seller complied with sub. (2) (a) 2. and (b), the purchaser
16 presents the certification to the seller before the 22nd day after the day on which the
17 purchaser received the dog from the seller.

18 (e) The dog shows symptoms of a an injury, illness, or defect before the 15th day
19 after the day on which the purchaser received the dog from the seller, a veterinarian
20 certifies that the dog was unfit for sale due to the injury, illness, or defect, and, if the
21 seller complied with sub. (2) (a) 2. and (b), the purchaser presents the certification
22 to the seller before the 22nd day after the day on which the purchaser received the
23 dog from the seller.

24 (4) CERTIFICATION. A certification from a veterinarian satisfies the
25 requirements under sub. (3) if it contains all of the following:

- 1 (a) The name of the purchaser. ✓
- 2 (b) The date or dates on which the veterinarian examined the dog. ✓
- 3 (c) The dog's breed, color, sex, and age. ✓
- 4 (d) A statement of the veterinarian's findings concerning the condition of the
- 5 dog. ✓
- 6 (e) If the dog died, a statement of the probable cause of death. ✓
- 7 (f) A statement that at the time of sale the dog was unfit for sale or, if the dog
- 8 died before the 15th day after the day on which the purchaser received the dog, that
- 9 the dog died from a cause other than an accident or injury suffered after the
- 10 purchaser received the dog from the seller. ✓
- 11 (g) An itemized statement of the veterinary fees incurred for examination and
- 12 treatment of the dog as of the date of certification. ✓
- 13 (h) If the dog did not die and may be curable, an estimate of the cost of
- 14 attempting to cure the dog. ✓
- 15 (i) The name and address of the veterinarian and the date of the certification. ✓
- 16 **(5) REMEDIES AVAILABLE.** (a) A purchaser who is entitled under sub. (3) to a ✓
- 17 remedy due to the death of the dog may obtain all of the following:
- 18 1. A full refund of the amount that the purchaser paid for the dog, including
- 19 sales tax, or another dog of equivalent value that is selected by the purchaser. ✓
- 20 2. Reimbursement for veterinary fees incurred with respect to the dog, subject
- 21 to par. (c). ✓
- 22 (b) A purchaser who is entitled under sub. (3) to a remedy due to the illness of ✓
- 23 the dog may do one of the following, as determined by the purchaser:

1 1. Return the dog and receive a full refund of the amount that the purchaser
2 paid for the dog, including sales tax, and reimbursement for veterinary fees incurred
3 with respect to the dog, subject to par. (c).[√]

4 2. Retain the dog and receive reimbursement for veterinary fees incurred with
5 respect to the dog plus the future cost of veterinary fees for curing or attempting to
6 cure the dog, as estimated in the veterinarian's certification, subject to par. (c).[√]

7 3. Return the dog and receive another dog of equivalent value that is selected
8 by the purchaser plus reimbursement for veterinary fees incurred with respect to the
9 dog, subject to par. (c).[√]

10 (c) The total amount of reimbursement for past and future veterinary fees
11 under this subsection is limited to twice the amount that the purchaser paid for the
12 dog, including sales tax.[√]

13 **(6) PROCEDURE.** (a) When a purchaser presents a certification that complies
14 with sub. (4)[√] to a seller, the purchaser shall notify the seller of the purchaser's choice
15 of remedy. The seller shall prepare a document confirming the choice to be signed
16 by the seller and the purchaser.[√] The seller shall give a copy of the confirmation to
17 the purchaser and shall retain a copy of the document.[√]

18 (b) A seller that receives a veterinarian's certification and a confirmation of
19 choice of remedy shall provide the purchaser with the chosen remedy no later than
20 the 10th day after the day of receipt, unless the seller contests the purchaser's right
21 to the remedy by filing a request for a hearing with the department no later than the
22 5th day after the day of receipt.[√]

23 (c) If the department receives a request under par. (b), the department shall
24 hold a hearing on the matter.[√] Following the hearing, the department shall issue a

1 decision in writing. A seller or ~~buyer~~^{purchaser} who is aggrieved by the decision may appeal
2 the decision to circuit court.

3 (7) RECOURSE FOR SELLER. A person who sold a dog to a seller is liable to the
4 seller if the seller provides a remedy under sub. (5) to the purchaser of the dog and
5 the dog had a condition that is congenital or hereditary and that severely affects the
6 health of the dog or the ~~had dog~~ an injury, illness, or defect that was obvious, able to
7 be diagnosed, or likely to have been acquired before the person sold the dog to the
8 seller.

9 (8) RULES. The department shall promulgate rules for the administration of
10 this section, including rules specifying the information that a seller must provide
11 under sub. (2) (a) 2. and the form for confirming the choice of remedies under sub.
12 (6) (a).

13 (9) PENALTIES. A person who sells a dog that is unfit for sale knowing that the
14 dog is unfit for sale is subject to the following penalties:

15 (a) For a first offense, a forfeiture of not more than \$3,000.

16 (b) For a second offense committed 365 days or more after conviction for a first
17 offense, a fine of not more than \$5,000 or imprisonment for not more than 30 days
18 or both.

19 (c) For a second offense committed fewer than 365 days after conviction for a
20 first offense, for a third offense, or for a subsequent offense, a fine of not more than
21 \$10,000 or imprisonment for not more than 90 days or both.

22 **SECTION 5. Effective date.**

23 (1) This act takes effect on the first day of the 25th month beginning after
24 publication.

25 (END)

DNde

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2829/P1dn

RCT:.....

lmc

(date)

This is a preliminary version of the draft relating to the sale of dogs. I was uncertain of exactly what was wanted in some respects (for example, which portions of the New Jersey legislation were wanted) so please review the draft carefully.

The draft requires anyone who sells a dog as a pet to provide certain information to the purchaser and also requires a person who sells a dog for resale (like a breeder selling a dog to a pet store) to provide certain information. Please review proposed s. 173.37 (2) to determine whether this is the information that should be required and whether you want this to apply to everyone who sells a dog.

As drafted the "lemon law" provisions apply to anyone who sells a dog as a pet, without regard to how many dogs the person sells or whether the person is in the business of selling animals. It would apply, for example, if I sold my dog to someone else. Is that what is wanted? Note that under the bill, if I sold my dog and had not provided the purchaser with a notice about the remedies available under the lemon law, there would be no time limits on the purchaser to claim a remedy.

I modified the time limits under the New Jersey law so that a buyer has a week beyond the 14 or 180 day deadline (for the dog to die or get sick) to get a certification from a veterinarian and request a remedy. *In some cases, it may be difficult for a pet owner to locate the seller within the time limits.*

I included a delayed effective date of two years to give time for DATCP to promulgate rules and to issue licenses to dog breeders. Please let me know if you would prefer a different effective date.

Please contact me with any questions and redraft instructions.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.wisconsin.gov

Do you want to provide DATCP with any positions to administer the provisions of this draft?

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2829/P1dn
RCT:lmk:sh

July 20, 2007

This is a preliminary version of the draft relating to the sale of dogs. I was uncertain of exactly what was wanted in some respects (for example, which portions of the New Jersey legislation were wanted) so please review the draft carefully.

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Please contact me with any questions and redraft instructions.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.wisconsin.gov

Tradewell, Becky

From: August, Tyler
Sent: Wednesday, July 25, 2007 2:47 PM
To: Tradewell, Becky
Cc: Hodgson, Amber

Hi Becky,

Thanks for your work on our draft. It's almost exactly what we were looking for. Amber and I just met, and we have the following list of revisions...

- ✓1) We would like to include language specifically giving local law enforcement authorities to investigate complaints of or suspected violations. They can then report their findings to DATCP. They are not, however, REQUIRED to make the investigations.
- ✓2) We would like to strike H on page 4 of the draft
- ✓3) We would like to add 'permanent revocation' of the license to a 3 time offender
- ✓4) We would like to change the right to remedy for congenital and hereditary failures from 181 days, to 366 days
- ✓5) On page 3, letter G we would like to add a requirement that the fees charged for re-inspection can only be up to the cost of the re-inspection
- ✓6) For the licensure fee, we would like to have three tiers...
 - 60-99 dogs for sale in a year = \$75
 - 100-149 dogs for sale in a year = \$100
 - 150 + dogs for sale in a year = \$125

Finally, once we have the next version of the draft we would like to get an advanced fiscal note to make sure our licensure fees cover the total cost of administering the program.

Thanks again for all of your work!

Tyler

Sincerely,

Tyler August
Legislative Aide
State Representative Tom Lothian
32nd Assembly District
608-266-1190
tyler.august@legis.state.wi.us

Tradewell, Becky

From: August, Tyler
Sent: Wednesday, July 25, 2007 2:57 PM
To: Tradewell, Becky
Cc: Hodgson, Amber
Subject: One more thing...

Hello again,

I forgot to address a couple of questions in your drafter's note...

We are not ready at this time to allow any position authority to DATCP. We'd like to see the fiscal etc. first.

Also, we would like for the lemon law to apply as follows:

✓ All dogs sold by 'dog breeders' as defined would be covered. Any dogs sold by a non-breeder would be subject to the lemon law if they are 18 months old or younger at the time of sale.

Please contact either Amber or me with any questions.

Tyler

Sincerely,

Tyler August
Legislative Aide
State Representative Tom Lothian
32nd Assembly District
608-266-1190
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