



Stephen R. Miller  
Chief

# State of Wisconsin

## LEGISLATIVE REFERENCE BUREAU

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Reference Section: (608) 266-0341  
Reference Fax: (608) 266-5648

September 7, 2007

## MEMORANDUM

**To:** Representative Lothian

**From:** Rebecca C. Tradewell, Managing Attorney (608) 266-7290

**Subject:** Technical Memorandum to 2007 un-introduced (LRB-2829/2) by DATCP

---

We received the attached technical memorandum relating to your bill draft. This copy is for your information and your file.

The technical memorandum indicates that the draft does not make an appropriation. That is incorrect. The draft increases the amount that will be credited to the appropriation under s. 20.115 (2) (j) of the statutes. That appropriation is not limited to the amounts in the schedule but instead authorizes DATCP to expend all of the money that is received and credited to the appropriation. Therefore, the draft makes an appropriation. This determination is consistent with LRB policy.

I do not understand the DATCP comment indicating that there is no license category for a person who is engaged in the business of breeding dogs and who has at least 8 breeding female dogs (the second comment in the memo). The license under proposed s. 173.35 (2) would cover all dog breeders, whether they are considered dog breeders because they sell the required number of dogs or because they have at least 8 breeding female dogs.

If you wish to discuss this memorandum or wish to have the draft redrafted or to have an amendment prepared, please contact me.

cc. DATCP



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Chief

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September 7, 2007

## MEMORANDUM

**To:** Representative Lothian

**From:** Rebecca C. Tradewell, Managing Attorney (608) 266-7290

**Subject:** LRB-2829/2

---

Since I wrote the cover memorandum for the technical memo from DATCP, I have become aware of another issue related to this draft.

Because the license fees for commercial dog breeders are based on the number of dogs sold or offered for sale, the draft does not provide fees for a person who qualifies as a commercial breeder on the basis of the number of female breeding dogs that the person keeps but who sells or offers for sale fewer than 60 dogs. This might be the point that DATCP was trying to make in the second comment in its technical memorandum. You might wish to modify the draft to provide a license fee that would cover these persons. The easiest change would be to modify page 4, line 17, to eliminate "at least 60 but".

Please let me know if you have questions about this or want me to make any changes in the draft.

## Tradewell, Becky

---

**From:** August, Tyler  
**Sent:** Monday, September 10, 2007 3:18 PM  
**To:** Tradewell, Becky  
**Cc:** Hodgson, Amber  
**Subject:** LRB 2829

Hi Becky,

Thanks for your memos on the draft, they were most helpful.

After reading and talking to Amber about them, we do have a few changes.

- We would like to change the right of remedy from a hearing at DATCP to filing a challenge in circuit court 10 days after receipt of the veterinarian documents as proof of the unfit dog. Basically, change Page 11, 6 (b) to the seller contesting the right to remedy by filing that contesting with a circuit court rather than DATCP. As such, we then believe 6 c can be eliminated.

-We would like to adopt the change you suggested by eliminating "at least 60 but" from page 4, line 17.

-Finally, is there some way to clarify that initial inspections are to be made only after a complaint has been filed and that inspection is only subject to be paid for by the seller if a violation is found. Then, the re-inspection to allow the continuance of business shall also be at the seller's expense?

Thanks!

Tyler

→ Per Tyler & Amber - Have purchaser sue, but allow recovery of double damages - as in auto lemon law.  
Ret

# Memo

To: Senator  Representative

LOTHIAN

(The Draft's Requester)

**Per your request: ... the attached fiscal estimate was prepared for your unIntroduced 2007 draft.**

LRB Number: LRB - 2829

Version: " / 2 "

Fiscal Estimate Prepared By: (agency abbr.) CTS

If you have questions about the enclosed fiscal estimate, you may contact the state agency representative that prepared the fiscal estimate. If you disagree with the enclosed fiscal estimate, please contact the LRB drafter of your proposal to discuss your options under the fiscal estimate procedure.

Entered In Computer And Copy Sent To Requester Via E-Mail: 09 / 06 / 2007

\* \* \* \* \*

**To: LRB - Legal Section PA's**

**Subject:** *Fiscal Estimate Received For An Unintroduced Draft*

> **If redrafted** ... please insert this cover sheet and attached early fiscal estimate into the drafting file ... after the draft's old version (the version that this fiscal estimate was based on), and before the markup of the draft on the updated version.

> **If introduced** ... and the version of the attached fiscal estimate is for a **previous version** ... please insert this cover sheet and attached early fiscal estimate into the drafting file ... after the draft's old version (the version that this fiscal estimate was based on), and before the markup of the draft on the updated version. Have Mike (or Christina) get the ball rolling on getting a fiscal estimate prepared for the introduced version.

> **If introduced** ... and the version of the attached fiscal estimate is for the **current version** ... please write the draft's introduction number below and give to Mike (or Christina) to process.

**THIS DRAFT WAS INTRODUCED AS:** 2007 \_\_\_\_\_

**Duerst, Christina**

---

**From:** Duerst, Christina  
**Sent:** Thursday, September 06, 2007 4:41 PM  
**To:** Rep.Lothian; August, Tyler  
**Subject:** LRB 07-2829/2 (FE by CTS - attached - for your review)

**Attachments:** FE\_LOTHIAN.PDF



FE\_LOTHIAN.PDF  
(440 KB)

### Fiscal Estimate - 2007 Session

Original     
  Updated     
  Corrected     
  Supplemental

<b>LRB Number</b> <b>07-2829/2</b>	<b>Introduction Number</b>
<b>Description</b> The sale of dogs, regulation of certain dog breeders, granting rule-making authority, making an appropriation, and providing a penalty	
<b>Fiscal Effect</b>  <b>State:</b> <input type="checkbox"/> No State Fiscal Effect <input checked="" type="checkbox"/> Indeterminate <input type="checkbox"/> Increase Existing Appropriations <input checked="" type="checkbox"/> Increase Existing Revenues <input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Decrease Existing Revenues <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Create New Appropriations <input type="checkbox"/> Decrease Costs	
<b>Local:</b> <input type="checkbox"/> No Local Government Costs <input type="checkbox"/> Indeterminate 1. <input type="checkbox"/> Increase Costs                  3. <input type="checkbox"/> Increase Revenue                  5. Types of Local Government Units Affected <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities 2. <input type="checkbox"/> Decrease Costs                  4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts	
<b>Fund Sources Affected</b> <b>Affected Ch. 20 Appropriations</b> <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS	
<b>Agency/Prepared By</b> CTS/ Nancy Rottier (608) 267-9733	<b>Authorized Signature</b> Nancy Rottier (608) 267-9733
<b>Date</b> 9/5/2007	

## Fiscal Estimate Narratives

CTS 9/5/2007

LRB Number 07-2829/2	Introduction Number	Estimate Type Original
<b>Description</b> The sale of dogs, regulation of certain dog breeders, granting rule-making authority, making an appropriation, and providing a penalty		

### Assumptions Used in Arriving at Fiscal Estimate

This bill draft establishes a system of regulation of certain commercial dog breeders. The system created by the draft contains certain remedies for persons aggrieved and also provides for certain penalties for violations of the new statutes.

Among the remedies provided by the bill draft is the right to judicial review of hearings that may be held by the Department of Agriculture, Trade and Consumer Protection (see page 11, lines 16-17). This provision may result in additional court proceedings, although it is impossible to predict how frequently that may happen. It is expected that existing court staff could absorb any additional proceedings under this section.

The bill draft also creates new penalty provisions that provide for both forfeiture actions and misdemeanor criminal actions. It is impossible to predict how many such forfeiture actions or crimes will be filed in the circuit courts. Additional proceedings require additional judge, court reporter, court staff and juror time. These costs are borne by both the state and the county. An accurate estimate of the additional costs is impossible with the data available.

Imposition of forfeitures and fines may also result in increased revenues for the state and for counties. An accurate estimate of the amount that might be raised is impossible at this time.

### Long-Range Fiscal Implications

# Memo

To: Representative **Lothian**

(The Draft's Requester)

**Per your request ... the attached fiscal estimate was prepared for your un-introduced 2007 session draft.**

**LRB Number: 2007 LRB-2829**

**Version: " /2 "**

**Fiscal Estimate Prepared By: (agency abbr.) DATCP**

**If you have questions about the enclosed fiscal estimate, you may contact the state agency representative that prepared the fiscal estimate. If you disagree with the enclosed fiscal estimate, please contact the LRB drafter of your proposal to discuss your options under the fiscal estimate procedure.**

**Entered In Computer And Copy Sent To Requester Via E-Mail: 09 / 07 / 2007**

**\* \* \* \* \***

**To: LRB - Legal Section PA's**

**Subject:** *Fiscal Estimate Received For An Unintroduced Draft*

> **If redrafted ...** please insert this cover sheet and attached early fiscal estimate into the drafting file ... after the draft's old version (the version that this fiscal estimate was based on), and before the markup of the draft on the updated version.

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> **If introduced ...** and the version of the attached fiscal estimate is for the **current version ...** please write the draft's introduction number below and give to Mike (or Christina) to process.

**THIS DRAFT WAS INTRODUCED AS: 2007 \_\_\_\_\_**



## Barman, Mike

---

**From:** Barman, Mike  
**Sent:** Friday, September 07, 2007 8:46 AM  
**To:** Rep.Lothian  
**Cc:** August, Tyler  
**Subject:** LRB 07-2829/2 (un-introduced) (FE by DATCP attached - for your review)

**Attachments:** FE\_Lothian.PDF



FE\_Lothian.PDF  
(849 KB)

**Mike Barman (Senior Program Assistant)**  
State of Wisconsin - Legislative Reference Bureau  
Legal Section - Front Office  
1 East Main Street, Suite 200, Madison, WI 53703  
(608) 266-3561 / [mike.barman@legis.wisconsin.gov](mailto:mike.barman@legis.wisconsin.gov)

### Fiscal Estimate - 2007 Session

Original     
  Updated     
  Corrected     
  Supplemental

<b>LRB Number</b> <b>07-2829/2</b>	<b>Introduction Number</b>
------------------------------------	----------------------------

**Description**  
 The sale of dogs, regulation of certain dog breeders, granting rule-making authority, making an appropriation, and providing a penalty

**Fiscal Effect**

**State:**

- |   |   |   |
|---|---|---|
| <input type="checkbox"/> No State Fiscal Effect<br><input type="checkbox"/> Indeterminate<br><input type="checkbox"/> Increase Existing Appropriations<br><input type="checkbox"/> Decrease Existing Appropriations<br><input type="checkbox"/> Create New Appropriations | <input checked="" type="checkbox"/> Increase Existing Revenues<br><input type="checkbox"/> Decrease Existing Revenues | <input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget<br><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No<br><input type="checkbox"/> Decrease Costs |
|---|---|---|

**Local:**

- |  |  |  |
|--|--|--|
| <input type="checkbox"/> No Local Government Costs<br><input type="checkbox"/> Indeterminate<br>1. <input type="checkbox"/> Increase Costs<br><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory<br>2. <input type="checkbox"/> Decrease Costs<br><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 3. <input type="checkbox"/> Increase Revenue<br><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory<br>4. <input type="checkbox"/> Decrease Revenue<br><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 5. Types of Local Government Units Affected<br><input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities<br><input type="checkbox"/> Counties <input type="checkbox"/> Others<br><input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts |
|--|--|--|

<b>Fund Sources Affected</b>	<b>Affected Ch. 20 Appropriations</b>
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS 20.115(2)(j)	

<b>Agency/Prepared By</b> DATCP/ Melissa Mace (608) 224-4800	<b>Authorized Signature</b> Barb Knapp (608) 224-4746	<b>Date</b> 9/6/2007
---	--	-------------------------

## Fiscal Estimate Narratives

DATCP 9/6/2007

LRB Number 07-2829/2	Introduction Number	Estimate Type Original
<b>Description</b> The sale of dogs, regulation of certain dog breeders, granting rule-making authority, making an appropriation, and providing a penalty		

### Assumptions Used in Arriving at Fiscal Estimate

Currently commercial dog breeders are an unregulated business. The department has no actual data available on how many dog breeders are in the state, and no data on how many dogs are sold annually by commercial dog breeders in this state. Without more data on this we are unable to estimate the revenue or expenses that would be generated by this draft with any accuracy.

However in order to provide an estimate of the fiscal impact of this bill, the department has made the following assumptions:

- We assume that there are 220 breeders in the state that will qualify as a commercial breeder annually. We have based the number of breeders in the state utilizing Colorado's data modified for differences in population and geography. We choose to use Colorado's data because they have a well established program with a category specifically for dog breeders that we could derive numbers of establishments from.
- We have no information available to differentiate between the three levels defined in the bill draft. So we used the average license fee of \$100.
- Facilities will be inspected annually.
- Re-inspections will be conducted at 25% of facilities. Average re-inspection cost of \$115.
- In order to create and run this program the department would need to develop a licensing database, develop rules, and hear cases related to the purchase of unsatisfactory pets.

#### Revenue:

Licenses: \$22,000

Re-inspections: \$6,350

#### Expenses:

Staff: \$271,100 per year

1.0 FTE: Program coordinator

2.0 FTE: Inspection/Compliance Field Staff

1.0 FTE: Licensing Specialist

Licensing Database Development: \$68,000 (one time cost.)

Hearing cases of an unsatisfactory pet at the request of the buyer or seller is estimated to cost \$26,000 per year. It is not known how many offenses might occur and how many contested proceedings would be requested under this bill. Proceedings require an administrative law judge, and at a minimum a court reporter; minimum cost is estimated at \$1,000 per hearing. Based on the current number of complaints we receive regarding pets, it is possible we could have 26 hearings requested annually.

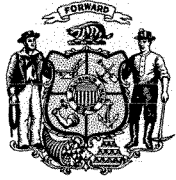
### Long-Range Fiscal Implications

## Fiscal Estimate Worksheet - 2007 Session

Detailed Estimate of Annual Fiscal Effect

Original
  Updated
  Corrected
  Supplemental

<b>LRB Number</b> <b>07-2829/2</b>	<b>Introduction Number</b>	
<b>Description</b> The sale of dogs, regulation of certain dog breeders, granting rule-making authority, making an appropriation, and providing a penalty		
<b>I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):</b>  In order to administer the program created by the bill, the department would need to develop a licensing folder in DATCP's current licensing system. The cost for this would be a one time cost of \$68,000.		
<b>II. Annualized Costs:</b>		<b>Annualized Fiscal Impact on funds from:</b>
	Increased Costs	Decreased Costs
<b>A. State Costs by Category</b>		
State Operations - Salaries and Fringes	\$239,600	\$
(FTE Position Changes)	(4.0 FTE)	
State Operations - Other Costs	57,500	
Local Assistance		
Aids to Individuals or Organizations		
<b>TOTAL State Costs by Category</b>	<b>\$297,100</b>	<b>\$</b>
<b>B. State Costs by Source of Funds</b>		
GPR		
FED		
PRO/PRS	297,100	
SEG/SEG-S		
<b>III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, ets.)</b>		
	Increased Rev	Decreased Rev
GPR Taxes	\$	\$
GPR Earned		
FED		
PRO/PRS	28,400	
SEG/SEG-S		
<b>TOTAL State Revenues</b>	<b>\$28,400</b>	<b>\$</b>
<b>NET ANNUALIZED FISCAL IMPACT</b>		
	State	Local
NET CHANGE IN COSTS	\$297,100	\$
NET CHANGE IN REVENUE	\$28,400	\$
<b>Agency/Prepared By</b>		
<b>Authorized Signature</b>		<b>Date</b>
DATCP/ Melissa Mace (608) 224-4800		9/6/2007
Barb Knapp (608) 224-4746		



Stephen R. Miller  
Chief

# State of Wisconsin

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September 7, 2007

## MEMORANDUM

**To:** Representative Lothian

**From:** Rebecca C. Tradewell, Managing Attorney (608) 266-7290

**Subject:** Technical Memorandum to 2007 un-introduced (LRB-2829/2) by DATCP

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We received the attached technical memorandum relating to your bill draft. This copy is for your information and your file.

The technical memorandum indicates that the draft does not make an appropriation. That is incorrect. The draft increases the amount that will be credited to the appropriation under s. 20.115 (2) (j) of the statutes. That appropriation is not limited to the amounts in the schedule but instead authorizes DATCP to expend all of the money that is received and credited to the appropriation. Therefore, the draft makes an appropriation. This determination is consistent with LRB policy.

I do not understand the DATCP comment indicating that there is no license category for a person who is engaged in the business of breeding dogs and who has at least 8 breeding female dogs (the second comment in the memo). The license under proposed s. 173.35 (2) would cover all dog breeders, whether they are considered dog breeders because they sell the required number of dogs or because they have at least 8 breeding female dogs.

If you wish to discuss this memorandum or wish to have the draft redrafted or to have an amendment prepared, please contact me.

cc. DATCP

07-2829/2 technical memo  
DATCP Contact Person: Melissa Mace 224-4883  
Melissa.Mace@wisconsin.gov

The Department of Agriculture, Trade and Consumer Protection would like to bring to your attention the items below.

Page 1, Line 3

The bill indicates that it makes an appropriation. Although the bill authorizes the department to charge license fees and deposit those revenues to 20.115(2)(j) it does not increase the spending authority. As a continuing appropriation the department may request, and DOA may approve, an increase in spending authority for 20.115(2)(j). However, that is not done in the bill.

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Page 4, Line 1

A commercial dog breeder is defined as "a person who is engaged in the business of breeding dogs and who either sells or offers to sell at least 60 dogs in a year or has at least 8 breeding female dogs."

and

Page 4, Line 7

The bill indicates that "No person may act as a commercial dog breeder without an annual license from the department."

However the bill does not include a license category for a person who is engaged in the business of breeding dogs and has at least 8 breeding female dogs, whether any dogs are sold or not. This would result in the requirement for the commercial dog breeder with at least 8 breeding female dogs to have a license from the department but the department would have no statutorily authorized license for that person.

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Page 11, Lines 10

The bill requires the seller of a dog to provide the "purchaser with the chosen remedy...unless the seller contests the purchaser's right to the remedy by filing a request for a hearing with the department."

and

Page 11, line 14

"...the department shall hold a hearing on the matter. Following the hearing, the department shall issue a decision in writing. A seller or purchaser who is aggrieved by the decision may appeal the decision to circuit court."

In a usual dispute of this type, the parties to a private contractual agreement will go to court. That is the remedy provided. In the bill, the department is placed in the position of adjudicator where there is no regulatory oversight that the department provides. This is not the function of administrative adjudication. Administrative adjudication is used where

the regulatory oversight is provided by the administrative agency and the first line of appeal is at the administrative level.

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The bill does not provide any funding or staffing for the following responsibilities assigned to the department: licensing, promulgation of rules, review of annual reports, inspection, re-inspection, revocation of license, and administrative adjudication.

**Barman, Mike**

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**From:** Barman, Mike  
**Sent:** Friday, September 07, 2007 10:14 AM  
**To:** Rep.Lothian  
**Cc:** Mace, Melissa A - DATCP  
**Subject:** LRB 07-2829/2 (un-introduced) (Tech. Memo by DATCP - attached - for your review)

**importance:** High

**Attachments:** Tech\_Memo\_Lothian.PDF

**Includes comments by LRB drafting attorney - Rebecca Tradewell**



Tech\_Memo\_Lothian.PDF (160 KB)...

**Mike Barman (Senior Program Assistant)**  
State of Wisconsin - Legislative Reference Bureau  
Legal Section - Front Office  
1 East Main Street, Suite 200, Madison, WI 53703  
(608) 266-3561 / [mike.barman@legis.wisconsin.gov](mailto:mike.barman@legis.wisconsin.gov)



### Fiscal Estimate - 2007 Session

Original       Updated       Corrected       Supplemental

<b>LRB Number</b> <b>07-2829/2</b>	<b>Introduction Number</b>	
<b>Description</b> The sale of dogs, regulation of certain dog breeders, granting rule-making authority, making an appropriation, and providing a penalty		
<b>Fiscal Effect</b>		
<b>State:</b>		
<input checked="" type="checkbox"/> No State Fiscal Effect <input type="checkbox"/> Indeterminate <input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Create New Appropriations <input type="checkbox"/> Decrease Costs		
<b>Local:</b>		
<input type="checkbox"/> No Local Government Costs <input type="checkbox"/> Indeterminate 1. <input type="checkbox"/> Increase Costs      3. <input type="checkbox"/> Increase Revenue      5. Types of Local Government Units Affected <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities 2. <input type="checkbox"/> Decrease Costs      4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts		
<b>Fund Sources Affected</b>	<b>Affected Ch. 20 Appropriations</b>	
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS		
<b>Agency/Prepared By</b>	<b>Authorized Signature</b>	<b>Date</b>
DOJ/ Mark Rinehart (608) 264-9463	Mark Rinehart (608) 264-9463	11/19/2007

Copy to Rep. Lothian 11-20-2007

FE is for old "12" version

draft is now a "13" and introduced as AB 567

**Fiscal Estimate Narratives**

**DOJ 11/19/2007**

LRB Number <b>07-2829/2</b>	Introduction Number	Estimate Type <b>Original</b>
<b>Description</b> The sale of dogs, regulation of certain dog breeders, granting rule-making authority, making an appropriation, and providing a penalty		

**Assumptions Used in Arriving at Fiscal Estimate**

The Department of Justice does not anticipate a fiscal impact resulting from the enactment of 2007 Assembly Bill 567.

**Long-Range Fiscal Implications**



State of Wisconsin  
2007 - 2008 LEGISLATURE

LRB-2829/3

RCT:lmk&kjf:pwn

Soov (in 9/14)

Stays IMV

2007 BILL

Reger

1 AN ACT *to amend* 20.115 (2) (j) and 93.20 (1); and *to create* 173.35 and 173.37  
2 of the statutes; **relating to:** the sale of dogs, regulation of certain dog breeders,  
3 granting rule-making authority, making an appropriation, and providing a  
4 penalty.

---

*Analysis by the Legislative Reference Bureau*

*Licensing of commercial dog breeders*

This bill requires certain persons who breed and sell dogs (commercial dog breeders) to be licensed by the Department of Agriculture, Trade and Consumer Protection (DATCP). The licensing requirement applies to a person who is engaged in the business of breeding dogs and either sells 60 dogs in a year or has at least eight breeding female dogs.

The bill requires DATCP to promulgate rules setting minimum standards for facilities at which commercial dog breeders operate and that specify requirements for humane care to be provided by commercial dog breeders. To obtain a license a commercial dog breeder must have a seller's permit issued by the Department of Revenue and must submit an affidavit stating that the commercial dog breeder complies with DATCP's rules.

The bill prohibits a person who sells dogs at retail from purchasing a dog from a commercial dog breeder if the person knows that the commercial dog breeder is not licensed.

A person who violates the requirements concerning licensure or who violates DATCP's rules is subject to a forfeiture (a civil monetary penalty) for a first or second

**BILL**

offense and criminal penalties (a fine or imprisonment, or both) for a third or subsequent offense. A person convicted of a third offense is permanently barred from licensure as a commercial dog breeder.

***Remedies for purchasers***

This bill provides remedies for a person who buys a dog as a pet (purchaser) if the purchaser buys the dog from a commercial dog breeder or, if the purchaser buys the dog from someone who is not a commercial dog breeder, the dog is not more than 18 months old when purchased. A purchaser of such a dog (covered dog) is entitled to a remedy if any of the following happens:

1. The dog dies within 12 months of purchase and a veterinarian certifies that the dog had a congenital or hereditary condition that severely affected the health of the dog.

2. Within 12 months of purchase, the dog shows symptoms of a congenital or hereditary condition that severely affects the health of dogs and a veterinarian certifies that the dog has that condition.

3. The dog dies within two weeks of purchase and a veterinarian certifies that the dog had an injury, defect, or illness that was obvious or able to be diagnosed before the purchaser received the dog or that is likely to have been acquired before the purchaser received the dog.

4. The dog dies within two weeks of purchase and a veterinarian certifies that the dog died from causes other than accident or injury suffered after the purchaser received the dog.

5. Within two weeks of purchase, the dog shows symptoms of an injury, defect, or illness that was obvious or able to be diagnosed before the purchaser received the dog or that is likely to have been acquired before the purchaser received the dog and a veterinarian certifies that the dog has that injury, defect, or illness.

A purchaser who is entitled to remedies because of the death of a covered dog may obtain a refund of the purchase price and reimbursement of veterinary fees. A purchaser who is entitled to remedies because of the injury, defect, or illness of a covered dog may do any of the following:

1. Return the dog and obtain a refund of the purchase price and reimbursement of veterinary fees.

2. Return the dog, receive another dog of equivalent value, and obtain reimbursement of veterinary fees.

3. Keep the dog and obtain reimbursement of veterinary fees plus the estimated future cost of veterinary fees for attempting to cure the dog.

In each situation, the total amount of reimbursement for past and future veterinary fees is limited to twice the purchase price of the dog.

***Information for purchasers***

This bill requires each person who sells a dog as a pet, or for resale as a pet, to provide a written description of any vaccinations and any treatment for parasites that the dog has received. The bill also requires a person who sells a covered dog to provide a written description of the remedies provided to purchasers under the bill.

4  
→ IF a seller fails to provide the remedies to which a buyer is entitled, the buyer may sue the seller and recover double the amount of his or her damages plus attorney fees.

**BILL**

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 20.115 (2) (j) of the statutes is amended to read:

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

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

9           93.20 (1) **DEFINITION.** In this section, "action" means an action that is  
10 commenced in court by, or on behalf of, the department of agriculture, trade and  
11 consumer protection to enforce chs. 88, 91 to 100 ~~or~~, 126, or 173.

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

13           **173.35 Regulation of commercial dog breeders.** (1) **DEFINITIONS.** In this  
14 section:

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

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

**BILL****SECTION 3**

1 (c) "Commercial dog breeder" means a person who is engaged in the business  
2 of breeding dogs and who either sells or offers to sell at least 60 dogs in a year or has  
3 at least 8 breeding female dogs.

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

7 (2) LICENSE. (a) No person may act as a commercial dog breeder without an  
8 annual license from the department. A person shall obtain a license under this  
9 subsection for each separate location at which the person is engaged in the business  
10 of dog breeding.

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

16 (3) FEE. The fee for a license under sub. (2) is as follows:

17 (a) For a person who sells or offers to sell at least 60 but fewer than 100 dogs  
18 in a year, \$75.

19 (b) For a person who sells or offers to sell at least 100 but fewer than 150 dogs  
20 in a year, \$100.

21 (c) For a person who sells or offers to sell at least 150 dogs in a year, \$125.

22 (4) ANNUAL REPORT. (a) Annually, a person holding a license under sub. (2) shall  
23 submit to the department a report that includes all of the following information:

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

**BILL**

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

2           3. The number of dogs that the person sold for which a purchaser received a  
3 remedy under s. 173.37 (5) during the preceding calendar year.

4           (b) If an annual report under par. (a) for a commercial dog breeder shows that  
5 the number of dogs under par. (a) 3. is 15 percent or more of the number of dogs under  
6 par. (a) 2., the department shall revoke the commercial dog breeder's license under  
7 sub. (2) and the commercial dog breeder is ineligible for a license for 12 months from  
8 the date of revocation.

9           **(5) PURCHASE FOR RETAIL SALE.** No person who sells dogs at retail may purchase  
10 a dog from a commercial dog breeder if the person knows that the commercial dog  
11 breeder is not licensed under sub. (2).

12           **(6) RULES.** The department shall promulgate rules that specify all of the  
13 following:

14           (a) Minimum standards for facilities at which commercial dog breeders  
15 operate.

16           (b) Minimum requirements for humane care to be provided by commercial dog  
17 breeders.

18           (c) Requirements relating to the transportation of dogs by commercial dog  
19 breeders.

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

21           (e) Requirements relating to space and opportunity for exercise to be provided  
22 to dogs by commercial dog breeders.

23           (f) Requirements for record keeping by commercial dog breeders.

**BILL**

**SECTION 3**

1 (g) Reinspection fees, designed not to exceed the cost of performing a  
 2 reinspection, to be charged when an inspection by the department under <sup>sub. (8)</sup> ~~this section~~  
 3 reveals conditions that require correction and reinspection.

4 (h) Grounds for revocation of licenses issued under sub. (2).

5 (7) INVESTIGATIONS. If a local law enforcement agency receives a complaint  
 6 alleging a violation of this section or otherwise has reason to believe that a violation  
 7 has occurred, the local law enforcement agency may conduct an investigation and  
 8 report its findings to the department.

*Insert*  
 6-8 →

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

- 12 1. For a 1st offense, a forfeiture of not more than \$3,000.
- 13 2. For a 2nd offense committed 365 days or more after conviction for a 1st  
 14 offense, a fine of not more than \$5,000 or imprisonment for not more than 30 days  
 15 or both.
- 16 3. For a 2nd offense committed fewer than 365 days after conviction for a 1st  
 17 offense, for a 3rd offense, or for a subsequent offense, a fine of not more than \$10,000  
 18 or imprisonment for not more than 90 days or both.

19 (b) 1. If a commercial dog breeder convicted of a 1st or 2nd violation under par.  
 20 (a) does not have a license under sub. (2), the commercial dog breeder is ineligible for  
 21 a license for 12 months following the conviction. If a commercial dog breeder  
 22 convicted of a 1st or 2nd violation under par. (a) has a license under sub. (2), the  
 23 department shall revoke the license and the commercial dog breeder is ineligible for  
 24 a new license for 12 months after the conviction.



**BILL**

1           2. If a commercial dog breeder convicted of a 3rd violation under par. (a) does  
2 not have a license under sub. (2), the commercial dog breeder is permanently  
3 ineligible for a license. If a commercial dog breeder convicted of a 3rd violation under  
4 par. (a) has a license under sub. (2), the department shall revoke the license and the  
5 commercial dog breeder is permanently ineligible for a new license.

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

7           **173.37 Protection for purchasers of dogs. (1) DEFINITIONS.** In this section:

8           (a) "Commercial dog breeder" has the meaning given in s. 173.35 (1) (c).

9           (b) "Covered dog" means one of the following:

10           1. A dog sold to a purchaser by a commercial dog breeder.

11           2. A dog sold to a purchaser by a person other than a commercial dog breeder  
12 if the dog is not more than 18 months of age at the time of sale.

13           (c) "Purchaser" means a person who buys a dog as a pet.

14           (d) "Seller" means a person who sells a dog as a pet.

15           (e) "Unfit for sale" means either of the following:

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

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

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

23           1. A description of any vaccinations and any treatments for parasites that the  
24 dog has received.

**BILL****SECTION 4**

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

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

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

9           **(3) RIGHT TO REMEDY.** A purchaser of a covered dog is entitled to a remedy  
10 specified under sub. (4) if any of the following applies:

11           (a) The dog dies before the 366th day after the day on which the purchaser  
12 received the dog from the seller, a veterinarian certifies that the dog was unfit for sale  
13 due to a condition that is congenital or hereditary, and, if the seller complied with  
14 sub. (2) (a) 2. and (b), the purchaser presents the certification to the seller before the  
15 373rd day after the day on which the purchaser received the dog from the seller.

16           (b) The dog shows symptoms, before the 366th day after the day on which the  
17 purchaser received the dog from the seller, of a condition that is congenital or  
18 hereditary, a veterinarian certifies that the dog was unfit for sale due to that  
19 condition, and, if the seller complied with sub. (2) (a) 2. and (b), the purchaser  
20 presents the certification to the seller before the 373rd day after the day on which  
21 the purchaser received the dog from the seller.

22           (c) The dog dies before the 15th day after the day on which the purchaser  
23 received the dog from the seller, a veterinarian certifies that the dog was unfit for  
24 sale, and, if the seller complied with sub. (2) (a) 2. and (b), the purchaser presents the

**BILL**

1 certification to the seller before the 22nd day after the day on which the purchaser  
2 received the dog from the seller.

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

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

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

17 (a) The name of the purchaser.

18 (b) The date or dates on which the veterinarian examined the dog.

19 (c) The dog's breed, color, sex, and age.

20 (d) A statement of the veterinarian's findings concerning the condition of the  
21 dog.

22 (e) If the dog died, a statement of the probable cause of death.

23 (f) A statement that at the time of sale the dog was unfit for sale or, if the dog  
24 died before the 15th day after the day on which the purchaser received the dog, that

**BILL****SECTION 4**

1 the dog died from a cause other than an accident or injury suffered after the  
2 purchaser received the dog from the seller.

3 (g) An itemized statement of the veterinary fees incurred for examination and  
4 treatment of the dog as of the date of certification.

5 (h) If the dog did not die and may be curable, an estimate of the cost of  
6 attempting to cure the dog.

7 (i) The name and address of the veterinarian and the date of the certification.

8 **(5) REMEDIES AVAILABLE.** (a) A purchaser who is entitled under sub. (3) to a  
9 remedy due to the death of a covered dog may obtain all of the following:

10 1. A full refund of the amount that the purchaser paid for the dog, including  
11 sales tax, or another dog of equivalent value that is selected by the purchaser.

12 2. Reimbursement for veterinary fees incurred with respect to the dog, subject  
13 to par. (c).

14 (b) A purchaser who is entitled under sub. (3) to a remedy due to the injury,  
15 defect, or illness of the dog may do one of the following, as determined by the  
16 purchaser:

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

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

23 3. Return the dog and receive another dog of equivalent value that is selected  
24 by the purchaser plus reimbursement for veterinary fees incurred with respect to the  
25 dog, subject to par. (c).

**BILL**

1 (c) The total amount of reimbursement for past and future veterinary fees  
2 under this subsection is limited to twice the amount that the purchaser paid for the  
3 dog, including sales tax.

4 (6) PROCEDURE. (a) When a purchaser presents a certification that complies  
5 with sub. (4) to a seller, the purchaser shall notify the seller of the purchaser's choice  
6 of remedy. The seller shall prepare a document confirming the choice to be signed  
7 by the seller and the purchaser. The seller shall give a copy of the confirmation to  
8 the purchaser and shall retain a copy of the document.

9 (b) A seller that receives a veterinarian's certification and a confirmation of  
10 choice of remedy shall provide the purchaser with the chosen remedy no later than  
11 the 10th day after the day of receipt, unless the seller contests the purchaser's right  
12 to the remedy by filing a request for a hearing with the department no later than the  
13 5th day after the day of receipt.

14 (c) If the department receives a request under par. (b), the department shall  
15 hold a hearing on the matter. Following the hearing, the department shall issue a  
16 decision in writing. A seller or purchaser who is aggrieved by the decision may  
17 appeal the decision to circuit court.

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

24 (8) RULES. The department shall promulgate rules for the administration of  
25 this section, including rules specifying the information that a seller must provide

Inv  
11-13

**BILL****SECTION 4**

1 under sub. (2) (a) 2. and the form for confirming the choice of remedies under sub.  
2 (6) (a).

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

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

6 2. For a second offense committed 365 days or more after conviction for a first  
7 offense, a fine of not more than \$5,000 or imprisonment for not more than 30 days  
8 or both.

9 3. For a second offense committed fewer than 365 days after conviction for a  
10 first offense, for a third offense, or for a subsequent offense, a fine of not more than  
11 \$10,000 or imprisonment for not more than 90 days or both.

12 (b) A person who violates sub. (2) is subject to a forfeiture of not more than \$500.

13 **SECTION 5. Effective date.**

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

16 (END)

2007-2008 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-2829/3ins  
RCT:.....

**Insert 6-8**

(8) INSPECTIONS. The department may inspect a facility for the purpose of determining compliance with this section only after receiving a report under sub. (7) or a complaint from an individual alleging a violation of this section. The department may charge a person whose facility is inspected under this subsection for the costs of conducting the inspection only if the inspection reveals a violation of this section. The department may reinspect a facility if an inspection reveals conditions that require correction and may charge the fee under sub. (6) (g) for the reinspection.

**Insert 11-13**

*is now entitled to a remedy under sub. (3) has a cause of*  
(c) A purchaser may bring an action against a seller who fails to comply with pars. (a) and (b). The court shall award a consumer who prevails in such an action twice the amount of damages, together with costs including reasonable attorney fees, notwithstanding s. 814.04 (1).

**Duerst, Christina**

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**From:** August, Tyler  
**Sent:** Tuesday, October 30, 2007 11:13 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 07-2829/3 Topic: Regulation of dog breeders and dog lemon law

Please Jacket LRB 07-2829/3 for the ASSEMBLY.