

2007 SENATE BILL 308

November 2, 2007 – Introduced by Senators PLALE, DARLING, KREITLOW, CARPENTER, COWLES, LASSA, LAZICH, LEHMAN, OLSEN, RISSER, ROESSLER, SULLIVAN and WIRCH, cosponsored by Representatives LOTHIAN, SINICKI, ALBERS, BERCEAU, BIES, BLACK, CULLEN, GRIGSBY, HAHN, HEBL, JORGENSEN, KAUFERT, KERKMAN, NEWCOMER, J. OTT, PRIDEMORE, SMITH, TURNER and VAN ROY. Referred to Committee on Small Business, Emergency Preparedness, Workforce Development, Technical Colleges and Consumer Protection.

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

SENATE BILL 308

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.

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.

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

SENATE BILL 308

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.

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.

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.

SENATE BILL 308

1 (b) “Adequate water” means potable water that is accessible to an animal and
2 is sufficient in amount to maintain the animal in good health.

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

6 (d) “Humane care” includes the provision of adequate heating, cooling,
7 ventilation, sanitation, shelter, and medical care consistent with the normal
8 requirements of an animal’s size and breed, adequate food, and adequate water.

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

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

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

19 (a) For a person who sells or offers to sell fewer than 100 dogs in a year, \$75.

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

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

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

SENATE BILL 308

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

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

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

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

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

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

16 (a) Minimum standards for facilities at which commercial dog breeders
17 operate.

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

20 (c) Requirements relating to the transportation of dogs by commercial dog
21 breeders.

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

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

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

SENATE BILL 308**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 sub. (8)
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.

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

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

19 1. For a 1st offense, a forfeiture of not more than \$3,000.

20 2. For a 2nd offense committed 365 days or more after conviction for a 1st
21 offense, a fine of not more than \$5,000 or imprisonment for not more than 30 days
22 or both.

23 3. For a 2nd offense committed fewer than 365 days after conviction for a 1st
24 offense, for a 3rd offense, or for a subsequent offense, a fine of not more than \$10,000
25 or imprisonment for not more than 90 days or both.

SENATE BILL 308

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

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

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

13 **173.37 Protection for purchasers of dogs. (1) DEFINITIONS.** In this section:

14 (a) “Commercial dog breeder” has the meaning given in s. 173.35 (1) (c).

15 (b) “Covered dog” means one of the following:

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

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

19 (c) “Purchaser” means a person who buys a dog as a pet.

20 (d) “Seller” means a person who sells a dog as a pet.

21 (e) “Unfit for sale” means either of the following:

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

SENATE BILL 308**SECTION 4**

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

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

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

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

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

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

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

18 (a) The dog dies before the 366th day after the day on which the purchaser
19 received the dog from the seller, a veterinarian certifies that the dog was unfit for sale
20 due to a condition that is congenital or hereditary, and, if the seller complied with
21 sub. (2) (a) 2. and (b), the purchaser presents the certification to the seller before the
22 373rd day after the day on which the purchaser received the dog from the seller.

23 (b) The dog shows symptoms, before the 366th day after the day on which the
24 purchaser received the dog from the seller, of a condition that is congenital or
25 hereditary, a veterinarian certifies that the dog was unfit for sale due to that

SENATE BILL 308

1 condition, and, if the seller complied with sub. (2) (a) 2. and (b), the purchaser
2 presents the certification to the seller before the 373rd day after the day on which
3 the purchaser received the dog from the seller.

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

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

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

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

23 (a) The name of the purchaser.

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

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

SENATE BILL 308**SECTION 4**

1 (d) A statement of the veterinarian's findings concerning the condition of the
2 dog.

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

4 (f) A statement that at the time of sale the dog was unfit for sale or, if the dog
5 died before the 15th day after the day on which the purchaser received the dog, that
6 the dog died from a cause other than an accident or injury suffered after the
7 purchaser received the dog from the seller.

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

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

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

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

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

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

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

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

SENATE BILL 308

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

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

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

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

15 (b) A seller that receives a veterinarian's certification and a confirmation of
16 choice of remedy shall provide the purchaser with the chosen remedy no later than
17 the 10th day after the day of receipt.

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

22 **(7) RECOURSE FOR SELLER.** A person who sold a dog to a seller is liable to the
23 seller if the seller provides a remedy under sub. (5) to the purchaser of the dog and
24 the dog had a condition that is congenital or hereditary and that severely affects the
25 health of the dog or the dog had an injury, defect, or illness that was obvious, able to

SENATE BILL 308**SECTION 4**

1 be diagnosed, or likely to have been acquired before the person sold the dog to the
2 seller.

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

7 **(9) PENALTIES.** (a) A person who sells a dog that is unfit for sale knowing that
8 the dog is unfit for sale 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) A person who violates sub. (2) is subject to a forfeiture of not more than \$500.

17 **SECTION 5. Effective date.**

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

20 **(END)**