

2007 DRAFTING REQUEST

Senate Amendment (SA-SSA1-SB308)

Received: **01/14/2008**

Received By: **btradewe**

Wanted: **As time permits**

Identical to LRB:

For: **Jeffrey Plale (608) 266-7505**

By/Representing: **Amber Hodgson**

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

Drafter: **btradewe**

May Contact:

Addl. Drafters:

Subject: **Agriculture - animals**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Plale@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Various changes

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>
/?							
/P1	btradewe 01/17/2008	wjackson 01/17/2008	jfrantze 01/18/2008	_____	mbarman 01/18/2008		
/1	btradewe 01/22/2008	wjackson 01/22/2008	jfrantze 01/22/2008	_____	sbasford 01/22/2008	sbasford 01/22/2008	

FE Sent For:

<END>

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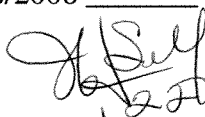
See Attached

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/? /P1	btradewe 01/17/2008	wjackson 01/17/2008	jfrantze 01/18/2008	_____	mbarman 01/18/2008		

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1 WLj 1/22



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/?	btradewe	/pl wlj 1/17					
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FE Sent For:

<END>

Tradewell, Becky

From: Hodgson, Amber
Sent: Monday, January 14, 2008 3:18 PM
To: Tradewell, Becky
Cc: August, Tyler
Subject: Technical Amendment for SB 308/AB 567

Hi Becky,

Tyler and I would like a technical amendment to the puppy bill drafted. Here is what I would like it to include. Please feel free to contact me with questions.

- ✓ 1. Section 7 (page 6): Would like it to say: If a local law enforcement agency receives a complaint alleging a violation of this section or otherwise has reason to believe that a violation has occurred, the local law enforcement agency may SHALL conduct an investigation and report its findings to the department OR PASS THE COMPLAINT ON TO ANOTHER APPROPRIATE LAW ENFORCEMENT AUTHORITY (i.e. city, county, or DATCP).
- ✓ 2. We want to clarify that the bill applies to one parcel of property or make it site specific. For example, we discovered a possible loophole in that a husband and a wife, for example, could sell a number of dogs that would require licensure, but could say that some dogs belong to the wife & others to the husband, therefore, they don't have to be licensed. We also hear of dogs being bred at a certain spot & being taken to a different location to be sold. So we just want to clarify that it applies to the same property and/or that it's site specific.
- ✓ 3. Would it be possible to add something along the lines of requiring those who are supposed to be license to display that license? We heard from people at the public hearing about this sense of "knowing" so if we add a clause that would require those who need to be licensed to display that license it would clear up that issue.
- note 4. License Section (page 4, line 18), change may to shall (The department may SHALL not issue a license...)--I realize this may just be a drafting style, but I just want to clarify that the dept. can't issue a license w/o the application.
- ✓ 5. We would like to add brokers to the bill requirements. While I understand they can't be added under the licensure b/c they're not actually breeding the dogs, if they could be added to the other parts of the bill where it would apply, specifically Section 6, page 6, line 1, Rules (c) add brokers ... and if there are other places they could be added. I just want it to be explicit that they are covered under the bill & would be required to provide a remedy to a consumer, a retail store or whoever else they sell dogs to.
- ★ 6. Starting on page 6, (9) Penalties - allow for seizure of the animals if the appropriate authority deems it necessary
add to s. 173.13
- ★ 7. Add a clause that says anyone convicted of animal cruelty, either in WI or other states, is prohibited from obtaining a license.
Criminal background check
8. In the remedy and procedure sections, we'd like to define "present" if it's not already defined statutorily somewhere else-- (i.e. we'd like the definition of present in regards to our bill to be "in writing", at a minimum).
- note 9. I guess this is more of a clarification issue. We just want to make sure that the bill is clear that the purchaser has a choice of remedy & the only remedy that is permissive for the seller is the replacement of a puppy.

Thanks for all your hard work. I'm sure you're busy, but if you get this to us ASAP, as we'd like to have it ready for the committees execs in a couple weeks.

Thanks!

Best,

Amber

Amber Hodgson
Clerk, Senate Committee on Commerce, Utilities and Rail
Office of State Senator Jeff Plale

*7th Senate District
313 South, State Capitol
Madison, WI 53707
608.266.7505
800.361.5487*

Tradewell, Becky

From: Hodgson, Amber
Sent: Wednesday, January 16, 2008 5:21 PM
To: Tradewell, Becky
Cc: August, Tyler
Subject: More Puppy Stuff

Hi Becky,

Here are some possible language suggestions that we talked about.

*According to Amber, they are
I trying to get at the middle-
man.*

- ✓ Definition of broker: Anyone who buys a dog for the purposes of resale; we'd like all the consumer protection rules from DATCP to apply to the brokers
- ✓ Site specific: "Commercial dog breeder" means a person who is engaged in the business of breeding dogs and who either sells or offers to sell at least 50 dogs in a year, FROM THE SAME BREEDING LOCATION, DIFFERENT LOCATIONS, OR WHO TRANSPORTS DOGS FOR THE PURPOSE OF SALE except that "commercial dog breeder" does not include a humane society or rescue group.
--feel free to amend as necessary but I just wanted to give you some sort of idea of what we were looking for.
- ✓ Also, I would like an additional clause to say: Anyone who sells a dog may not knowingly misrepresent the breed, sex, or health of any dog offered for sale within the state.
- ✓ Finally, as we spoke about, in addition to requiring sellers to provide a description of any vaccines or treatment for parasites, require that they must disclose any and all veterinary treatment the dog received before sale.

Again, thanks SO MUCH for all your hard work!!! I spoke with the clerk in the Wirch office & as long as I let him know by Friday (at the latest Monday) if the amendment will be ready or not, they are ok.

THANKS!!!

Amber

6-7505

Fri. (1/18) 9 a.m.

wlj

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SENATE AMENDMENT ,

TO SENATE SUBSTITUTE AMENDMENT 1, ✓

TO 2007 SENATE BILL 308 ✓

DNW

1 At the locations indicated, amend the substitute amendment as follows:

2 ✓ 1. Page 3, line 11: after that line insert:

3 "SECTION 2g. 173.13 (1) (a) 8. of the statutes is amended to read:

4 173.13 (1) (a) 8. An animal mistreated in violation of ch. 951 or of the rules
5 promulgated under s. 173.35 (6). ✓

History: 1997 a. 192; 1999 a. 32.

6 SECTION 2r. 173.21 (1) (a) of the statutes is amended to read:

7 173.21 (1) (a) There are reasonable grounds to believe that the owner has
8 mistreated the animal in violation of ch. 951 or of the rules promulgated under s.
9 173.35 (6)." ✓

History: 1997 a. 192.

10 ✓ 2. Page 4, line 7: after that line insert:

1 “(bg) “Broker” means a person who buys a dog for the purpose of reselling the
2 dog, except that ^{the} broker ^{is} does not include a person who operates a retail store at which
3 dogs are sold.”.

4 ↓ **3.** Page 4, line 9: after “who” insert “, at any location or locations,”.

5 ↓ **4.** Page 4, line 13: after that line insert:

6 “(1m) DETERMINATION. The number of dogs sold or offered for sale by a person
7 for the purposes of determining whether the person is a commercial ^{dog} breeder includes
8 all dogs sold or offered for sale by related persons who engage in the business of
9 breeding dogs at the same locations as the person.”.

10 ↓ **5.** Page 4, line 22: after that line insert:

11 “(c) 1. The department shall request a criminal history search from the records
12 maintained by the department of justice for a person who submits an application for
13 a license under this subsection. If the person is not a resident of this state, or if at
14 any time within the 3 years preceding the date of the application ^{the} ~~that~~ person has not
15 been a resident of this state, or if the department determines that the person’s
16 employment, licensing, or state court records provide a reasonable basis for further
17 investigation, the department shall make a good faith effort to obtain from any state
18 or other United States jurisdiction in which the person is a resident or was a resident
19 within the 3 years preceding the date of the application information that is relevant
20 to the determination under subd. 2. ✓

21 2. The department may not issue a license to a person under this subsection
22 if the department determines that the person has been convicted of a violation of ch.
23 951 or of an offense that would have been a violation of ch. 951 if it had been
24 committed in this state.

1 (d) A person to whom the department issues a license under this subsection
2 shall prominently display the license at the location for which it was issued.”.√

3 √ **6.** Page 5, line 21: after “breeders” insert “and brokers”.

4 √ **7.** Page 5, line 24: after “breeders” insert “and brokers”.

5 √ **8.** Page 6, line 2: after “breeders” insert “and brokers”.

6 √ **9.** Page 6, line 3: after “breeders” insert “and brokers”.

7 √ **10.** Page 6, line 5: after “breeders” insert “and brokers”.

8 √ **11.** Page 6, line 6: after “breeders” insert “and brokers”.

9 √ **12.** Page 6, line 13: delete “may” and substitute “shall either”.

10 √ **13.** Page 6, line 14: after “department” insert “or refer the complaint to
11 another local law enforcement agency with jurisdiction in the area in which the
12 violation is alleged or believed to have occurred or to the department”.

13 √ **14.** Page 8, line 12: after “received” insert “, and if the dog is not more than
14 12 months of age, a description of any other veterinary treatment that the dog has
15 received”.

16 √ **15.** Page 8, line 23: after that line insert:

17 “(e) A person who sells a dog may not knowingly misrepresent the breed, sex,
18 or health of the dog.”.

19 √ **16.** Page 9, line 6: delete “presents” and substitute “provides a copy of”.

20 √ **17.** Page 9, line 14: delete “presents” and substitute “provides a copy of”.

21 √ **18.** Page 9, line 21: delete “presents” and substitute “provides a copy of”.

22 √ **19.** Page 10, line 5: delete “presents” and substitute “provides a copy of”.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa1067/P1dn

RCT./:....

Wlj

Amber Hodgson:

This is a preliminary draft of the amendment to the substitute amendment to SB 308. I did it as a preliminary draft so that it would not be jacketed. When you have approved the draft, please let me know and I will redraft it and have it jacketed.

I believe that the substitute amendment is clear that a purchaser has a choice of remedy, because of the phrase "as determined by the purchaser" on page 11, lines 24 and 25.

You asked that I change "may not" to "shall not" on page 4, line 18. There is no ambiguity about the meaning of "may not" in the Wisconsin statutes. The substitute amendment is drafted in the proper way to prohibit an action. It is in accordance with the Wisconsin Bill Drafting Manual. It is also consistent with normal English usage ("May I go to swimming?" "No, you may not."). All of the prohibitions currently in ch. 173 are written as "may not" see, for example s. 173.07 (5). It is important that we use consistent wording in the statutes. For one thing, this will avoid someone concluding that a provision in ch. 173 that says "may not" means something different than one that says "shall not." If after this bill becomes law there would be an argument about what this provision means, this note will be in the drafting file to resolve the issue.

Please let me know if you have any questions.

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa1067/P1dn
RCT:wlj:jf

January 18, 2008

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Tradewell, Becky

From: Hodgson, Amber
Sent: Tuesday, January 22, 2008 12:59 PM
To: Tradewell, Becky
Subject: Puppy Amendment

Becky,

Please redraft LRBa1067 for jacketing.

Thanks!!!

Amber



State of Wisconsin
2007 - 2008 LEGISLATURE

LRBa1067/P1

RCT:wlj:jf

Today

Stays

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change

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