



## WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

**2009 Wisconsin Act 90**  
[2009 Assembly Bill 250]

**Regulation of Dog Breeders and  
Dealers and Animal Shelters**

2009 Wisconsin Act 90 (the Act) establishes a system of regulation of dog breeders and dealers and certain animal shelters. The Act requires a person engaging in any of these activities to obtain a license from the Department of Agriculture, Trade and Consumer Protection (DATCP) by June 1, 2011, and requires DATCP to inspect the premises where these activities are conducted before granting a license. Licensees must follow the standards of care for dogs that are set forth in the Act.

The Act is described in detail below.

### **PERSONS AND ENTITIES REQUIRED TO BE LICENSED**

Under the Act, all of the following persons and entities must obtain a license from DATCP:

#### **Animal Shelter**

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

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

#### **Animal Control Facility**

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

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This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.state.wi.us/>.

### **Dog Breeder**

A dog breeder is a person who sells 25 or more dogs in a year that the person has bred and raised. However, a person is not considered to be a “dog breeder” if the person sells only dogs that the person bred and raised and sells dogs from no more than three litters in one year, even if 25 or more dogs are sold in one year.

### **Operator of a Dog Breeding Facility**

A dog breeding facility is a place at which dogs are bred and raised and from which 25 or more dogs are sold in a year. However, “dog breeding facility” does not include a place at which dogs are bred and raised and from which 25 or more dogs are sold in a year if all of the dogs that are sold in a year are from no more than three litters.

### **Dog Dealers and Dog Auctions**

A dog dealer is either of the following:

1. A person, other than an out-of-state dog dealer, who sells, distributes, or trades, or offers for sale, distribution, or trade, 25 or more dogs in a year that the person has not bred and raised; or
2. A person who operates an auction at which 50 or more dogs are sold or offered for sale in a year.

### **Out-of-State Dog Dealer**

An out-of-state dog dealer is a person who is not a resident of Wisconsin who brings 25 or more dogs into Wisconsin for sale in a year. DATCP may not issue a license to a person who is an out-of-state dog dealer unless the person provides a copy of any license required by the person’s state of residence and any license required under federal law.

### **Kennel Liquidations**

An individual who is not otherwise required to be licensed is not required to obtain a license to conduct a one-time kennel liquidation if DATCP is notified in advance and other requirements set forth in the Act are met.

### **LICENSE FEES**

The annual license fees are set forth below. The Act authorizes DATCP to promulgate rules specifying higher license fees if necessary to cover the costs of administering the regulatory program.

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

- For a person who sells or offers to sell 250 or more dogs per year, \$1,000.
- For a person who operates an animal shelter or animal control facility, \$125.

For an out-of-state dog dealer, 150% of the fee that would apply for an in-state person, as set forth above, based on the number of dogs sold in this state.

### **LICENSE APPLICATION**

A person applying for a license must do so on a form provided by DATCP, must provide information required by DATCP, and must submit the applicable fees with the application.

DATCP must act upon an application for an initial license within 30 days after the application is complete and the applicable fees have been submitted.

### **GROUND FOR DENIAL OR SUSPENSION OF A LICENSE**

DATCP may deny, refuse to renew, or revoke a license if the applicant or licensee is not fit, qualified, or equipped to conduct the activity for which the license is required, has violated or failed to obey any applicable law, order, or regulation, or has misrepresented or intentionally failed to disclose a material fact in applying for the license.

DATCP may issue any license conditioned upon relevant circumstances or acts. If a license is conditioned upon compliance within a specified period and the condition is not met within the specified period, the license is void.

DATCP may, with written notice, suspend a license if, upon inspection of the premises, DATCP finds any condition that imminently threatens the health, safety, or welfare of any animal on the premises or there is evidence that an act of animal cruelty in violation of ch. 951, Stats., has been committed by the licensee or has occurred on the premises. A licensee may request a hearing contesting the suspension. DATCP must describe the right of hearing in the notice. If a hearing is requested, DATCP must promptly initiate proceedings to hear the appeal.

### **TEMPORARY LICENSES**

DATCP may issue a temporary license to any person applying for a license before June 1, 2012. DATCP is not required to conduct an inspection of the premises at which the person operates before issuing a temporary license. A temporary license remains in force until DATCP takes final action on the person's license application, including conducting an inspection of the premises. The 30-day time limit for granting or denying an application does not apply to DATCP in taking final action on a license application from a person to whom the department issues a temporary license.

### **INSPECTIONS**

DATCP must inspect the premises at which a license applicant operates before issuing the initial license and at least once every two years thereafter. As described above, DATCP does not have to conduct inspections before issuing temporary licenses. DATCP is not required to inspect the out-of-state premises at which an out-of-state dog dealer operates.

DATCP may enter and inspect the premises for which a person is required to obtain a license at any time during normal business hours to ensure compliance with the Act.

DATCP may charge a fee for an inspection that it undertakes to determine whether a previous violation of the Act or DATCP rules promulgated has been corrected.

### **HEALTH REQUIREMENTS FOR SELLING DOGS**

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

1. A certificate of veterinary inspection from a licensed veterinarian stating that the veterinarian has examined the dog and found that it has no signs of infectious or contagious diseases as of the date of the examination.
2. A copy of all vaccination records for the dog showing the date the vaccine was administered and the name of the person who administered the vaccine. Vaccinations may be administered by an individual who is not a veterinarian unless that is otherwise prohibited by law.

No person who is required to be licensed may sell at auction a dog that is not spayed or neutered without providing written proof that the dog has tested negative for brucellosis using a test approved by DATCP that was conducted no more than 30 days before the day of sale.

### **AGE FOR TRANSFER OF PUPPY**

A licensee may not transfer a dog to a buyer until the dog is seven weeks of age.

### **STANDARDS OF CARE**

#### **Food and Water**

A licensee must provide sufficient food and water to maintain dogs in good health. If fresh water is not available to dogs at all times, the person shall provide fresh water daily and in sufficient quantity for the health of the dogs.

#### **Veterinary Care and Daily Observation**

A licensee must ensure that necessary and standard veterinary care is provided in a timely manner. Each dog must be observed daily to monitor the health and temperament of the dog and to provide care to the dog as needed.

#### **Facilities, Enclosures, and Exercise**

A licensee must ensure that enclosures in which dogs are kept meet all the following requirements:

- Enclosures are of appropriate size, as determined by DATCP, based on the size, age, and number of dogs kept in the enclosure and the length of time the dog is kept in the enclosure.

- Enclosures are structurally sound and maintained in good repair to protect dogs from injury.
- If wire flooring is used, it is coated, is of a sufficient gauge to ensure that it will not cause injury to the dog, and is used only in the manner specified by DATCP.
- Enclosures are maintained in a clean and sanitary condition.

A dog may not be kept in an enclosure for a period that DATCP determines to be excessive, considering the size of the enclosure and any other relevant factors.

All facilities in which a licensee keeps dogs must have adequate lighting and ventilation. A proper temperature must be maintained for dogs, considering their type or breed.

All dogs must be provided adequate daily access to exercise, as determined by DATCP.

### **Keeping Dogs Outdoors**

A licensee may keep a dog outdoors only if all of the following apply:

- The dog is of a breed or type that is typically kept outdoors.
- The dog is acclimated to the outdoors.
- The licensee provides adequate shelter from the sun and inclement weather.

### **RECORDKEEPING**

A licensee must keep a record of each dog that comes into the person's possession that includes all of the following information:

- A description of the dog including the dog's breed or type, sex, date of birth or approximate age, color, and any distinctive markings.
- The dog's official federal Department of Agriculture tag number or tattoo or microchip information, if any.
- A statement that the dog was born in the licensee's possession or the name and address of the person from whom the dog was acquired and that person's federal Department of Agriculture license or registration number or, if the person is not licensed or registered by the federal Department of Agriculture, the person's state of residence.
- If the dog was not born in the licensee's possession, the date on which the licensee acquired the dog.
- The date and method of disposition of the dog.
- Any other information required by DATCP.

### **TEMPORARY DOG MARKETS**

A temporary dog market is a place at which persons sell dogs, and may sell other items, from booths or other spaces that are rented from or provided at no cost by the person operating the place. A dog trial is not a temporary dog market. A dog trial is an organized competitive field event involving sporting dog breeds that is sanctioned, licensed, or recognized by a local, state, regional, or national dog organization.

DATCP may inspect a temporary dog market and the information provided to the operator of the dog market by persons allowing dogs at the market at any time during normal business hours.

A person who operates a temporary dog market must do all of the following:

- Register with DATCP.
- Take reasonable steps to ensure that all persons selling or offering to sell dogs at the temporary dog market comply with the requirements applicable to them, described below.
- Obtain, review, and keep, for at least five years, copies of the information provided to them by dog sellers and make the information available to DATCP for inspection and copying upon request.
- If a person sells or offers to sell dogs at the temporary dog market for two or more consecutive days, the operator must employ or contract with a licensed veterinarian to conduct an examination of the dogs offered for sale.

A person who sells or offers to sell a dog at a temporary dog market must provide all of the following information to the operator of the temporary dog market:

- The person's name and address.
- If the person is required to be licensed by DATCP, the person's license number.
- A description of each dog sold or being offered for sale, including the dog's breed or type, sex, date of birth or approximate age, color, and any distinctive markings, and either a statement that the dog was born in the person's possession or the name and address of the person from whom the dog was acquired.
- Documentation showing that the person has complied with rabies vaccination requirements and with any applicable DATCP requirements relating to bringing dogs into the state.

### **REPORTING MISTREATMENT OF DOGS**

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

## **PENALTIES**

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

A person who violates any other provision of the Act, or any DATCP rules authorized under the Act, may be required to forfeit not more than \$1,000 for the first offense and may be required to forfeit not less than \$200 nor more than \$2,000 for the second or any subsequent offense within five years. If the violation involves the keeping of animals, each animal with respect to which the statute or rule is violated constitutes a separate violation.

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

## **RULES**

DATCP must promulgate rules to implement and administer the Act, and must establish an advisory committee to assist in writing the rules. The advisory committee is also directed to make recommendations to DATCP for amendments to the rules.

The advisory committee may not have more than 12 members and must have at least one representative from each of the following groups:

- Persons selling dogs at retail.
- Dog breeders that sell large dogs and that sell fewer than 50 dogs per year.
- Dog breeders that sell small dogs and that sell fewer than 50 dogs per year.
- Dog breeders that sell large dogs and that sell 50 or more dogs per year.
- Dog breeders that sell small dogs and that sell 50 or more dogs per year.
- Sporting associations whose primary activities involve dogs.
- Humane societies providing shelter to fewer than 500 dogs per year.
- Humane societies providing shelter to 500 or more dogs per year.
- Veterinarians.
- Animal control facilities.
- Breed rescue groups.

DATCP must select any member who represents veterinarians from nominations made by the Wisconsin Veterinary Medical Association and must elect each other member from nominations made by one or more organizations representing the group that the member represents.

The advisory committee does not expire until 12 months after the rules are promulgated.

**POSITION AUTHORIZATION**

The Act authorizes six full-time equivalent positions for DATCP to conduct inspections and to respond to complaints concerning dog facilities. The positions are funded with program revenue from license fees collected under the Act.

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

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