



## Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #154

### **Pet Regulation (Agriculture, Trade and Consumer Protection)**

[LFB 2003-05 Budget Summary: Page 61, #21]

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#### **CURRENT LAW**

Effective February 1, 2004, 2001 Act 16 allocated to the Department of Agriculture, Trade and Consumer Protection (DATCP) new inspection and licensing requirements for animal shelters, kennels, pet dealers and pet breeders, and requires DATCP to establish facility license fees by administrative rule.

#### **GOVERNOR**

Delete the requirement that DATCP regulate pet breeders, pet dealers, kennels and animal shelters and that DATCP establish animal shelter and kennel license fees by administrative rule. The repeal would take effect February 1, 2004 (the date the provision becomes effective under 2001 Act 16).

The Governor's recommendation would repeal the following provisions, which would otherwise become effective February 1, 2004, under current law.

Require DATCP to promulgate rules specifying fees for pet dealer, pet breeder, animal shelter and kennel licenses and provide that the fees are not refundable if DATCP denies the license. Further, require these nontransferable licenses to expire on October 31, of each even-numbered year. Before issuing an initial license, and at least once during each biennial licensing period thereafter, require DATCP to inspect each licensed location and allow DATCP, at any reasonable time, to enter and inspect any facility at which a person is required to have a license.

Prohibit a person from operating an animal shelter without a DATCP license for each separate location at which an animal shelter is operated, unless the Department issues an interim

permit that authorizes operation until DATCP can make an initial inspection. Define an animal shelter as either: (a) a facility that is used to impound or harbor at least 25 seized, stray, abandoned, or unwanted dogs, cats or other animals in a year and that is operated by the state, a political subdivision or a veterinarian licensed by the Veterinary Examining Board; or (b) 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 animals in a year, and that is operated by a humane society, and animal welfare society or a nonprofit association.

Prohibit a person from operating a kennel without a DATCP license for each separate location at which a kennel is operated, unless the Department issues an interim permit that authorizes operation until DATCP can make an initial inspection. Define a kennel as a facility where dogs or cats are kept for 24 hours or more for boarding, training or similar purposes for compensation, except a kennel would not include an animal shelter or a facility owned or operated by a licensed veterinarian solely for the provision of veterinary care.

Prohibit a pet dealer (a person who sells, or offers to sell at retail, exchanges, or offers for adoption at least 25 mammals, other than cattle, horses, swine, sheep, goats, deer, llamas and related species, including game species, as pets in a year) from operating without a DATCP license for each separate location at which they conduct such business, unless the Department issues an interim permit that authorizes operation until DATCP can make an initial inspection. Further, prohibit a pet breeder (one who sells at least 25 dogs or cats for resale as pets in a year, except a breeder does not include a pet dealer) from operating without a DATCP license for each separate location at which they conduct such business, unless the Department issues an interim permit that authorizes operation until DATCP can make an initial inspection.

Allow DATCP to promulgate rules specifying minimum standards for animal shelter and kennel facilities and facilities at which pet dealers and pet breeders operate, and specifying any of the following for persons required to obtain an animal shelter, kennel, pet dealer or pet breeder license: (a) minimum requirements for humane care; (b) requirements relating to the transportation of animals; (c) grounds for license revocation; (d) grounds for DATCP to issue orders prohibiting the selling or moving of an animal; (e) minimum ages for the sale of animals; (f) re-inspection fees to be charged when a DATCP inspection reveals conditions that require correction and re-inspection; (g) requirements for record keeping; and (h) requirements relating to space and opportunity for exercise to be provided to animals.

## **DISCUSSION POINTS**

### **Pet Regulation Funding**

1. As passed by the Legislature, the 2001-03 budget bill also contained the following provisions, which were item-vetoed by the Governor: (a) increase the minimum dog license tax from \$3 to \$4.50 for a neutered male or spayed female; (b) allow persons who keep more than one dog (rather than only persons who keep dogs for breeding, sale or sporting) to apply for a multiple

dog license; (c) increase the multiple dog license tax from \$35 to \$45.50 for 12 or fewer dogs and increase from \$3 to \$4.50 the amount required for each dog in excess of 12; (d) allow a dog owner or keeper to transfer a multiple dog license tag from a dog that is no longer owned or kept to another dog, only if the other dog is currently immunized against rabies; (e) require the county treasurer to pay \$1 for each license issued for a neutered or spayed dog, \$1.50 for each license issued for an unneutered or unspayed dog, \$10 for each multiple dog license issued and \$1 for each dog in excess of 12 for which a multiple dog license is issued to the state (rather than 5% of the total current law minimum tax amount); (f) increase the allowance to be retained by a collecting official from 25¢ to 75¢ for each license issued; (g) provide that a person who operates without a required license may be fined not more than \$10,000 or imprisoned for not more than nine months, or both; and (h) for other violations of these provisions or rules promulgated under these provisions, a person may be required to forfeit not more than \$1,000 for the first offense and between \$200 and \$2,000 for the second or any subsequent offense within five years. Due to the veto of the specific penalties provided by the Legislature, the penalty is set at the general forfeiture level provided in the statutes of not more than \$200. Seven staff and associated funding provided in the bill were also item-vetoed.

2. DATCP currently has 39.75 authorized positions for its animal health program. Twelve positions are currently vacant, although DATCP is in the process of filling eight of these positions. This program's responsibilities include the regulation of livestock markets, dealers and truckers; animal disease testing, surveillance, reporting, certification, control and eradication; rabies control program requirements and evaluation of local rabies control programs; and its newly acquired captive wildlife responsibilities. In its agency budget request, DATCP asked that either it be appropriated funding and positions to implement the pet regulation program, or that the program be repealed.

3. The Department requested \$313,000 PR in 2003-04 and \$421,000 PR in 2004-05 for 7.0 PR positions to administer its new pet regulation responsibilities. Under the responsibilities granted it by 2001 Act 16, DATCP estimates it would be responsible for inspecting and regulating over 1,300 pet dealers, breeders, kennels, animal shelters and animal rescue facilities. DATCP is required to inspect every facility during the initial registration, and once per biennium thereafter. The Department estimates that inspecting 1,300 pet facilities would take approximately 10,300 inspector hours each year. This estimate consists of initial four hour inspections at each of the 1,300 facilities (5,200 hours), six hour re-inspections at half of the facilities (3,900 hours), and an additional 1,200 hours spent on the process of license revocation, license denials and complaint follow-ups. While the amount devoted to re-inspections seems large, the Department expects that many initial inspections will be largely educational visits and that re-inspections would be necessary and frequent. For these responsibilities, DATCP estimates it would need 5.0 inspectors. After the initial flood of inspections faced by DATCP in the program's initial year or so, DATCP would only need to inspect each facility once per biennium. Further, re-inspections would likely be greatly reduced as the facilities licensed in the prior biennium would be familiar with the program's rules and regulations. As a result, total work load for inspectors in future biennia can be estimated at perhaps 5,100 hours annually.

4. As part of the biennial budget bill originally passed by the Legislature two years ago, DATCP was authorized five animal health inspector-entry positions (which were item-vetoed by the Governor). Starting with close supervision, these positions perform inspections, investigation and disease control work in assigned areas of the state and enforce animal health treatment rules, regulations and laws (with salary and fringe benefit costs of \$30,200 annually per position). In its agency budget request, DATCP requested five animal health inspector-objective positions, which have all the responsibilities that the entry position has but has demonstrated the ability to carry out these duties independently and has successfully completed all training (with salary and fringe costs of \$35,300 annually per position). However, the Department has agreed that all of these positions would be hired at the entry level.

5. In addition to the inspectors, DATCP requested one program assistant to process license applications and renewals and maintain license and inspection records. The Department also requested a senior veterinarian position (salary and fringe costs of \$52,500 annually) who would be responsible for coordinating the program, establishing assignments and priorities, setting program directions, evaluating program performance, coordinating compliance actions and serving as liaison with interested groups. Department officials have subsequently said that a veterinarian would not be necessary to coordinate the program, as an existing veterinarian in the Department would be consulted in cases of medical issues. Instead, the Department desires 1.0 animal health inspector supervisor (salary and fringe costs of \$43,100 annually) to coordinate the program.

6. Total salaries and fringe benefits for five animal health inspectors, one animal health supervisor and one program assistant come to \$226,300 per year.

7. Supplies and services requests by DATCP consist of \$117,400 in 2003-04 and \$160,100 in 2004-05. These supply costs reflected preliminary estimates that the Department indicates could be fine-tuned once staff are on-board. However, based on utilizing state fleet rates, excluding out-of-state travel and adjusting in-state travel, funding for the inspectors' supplies can be reduced to \$15,500 per position annually. If estimates for the supervisor and the program assistant are adjusted similarly, funding for supplies can be provided at \$99,500 annually, yielding total funding of \$325,800 annually for the seven positions.

8. Due to the fact DATCP's pet regulation responsibilities do not commence until February 1, 2004, funding for the first year can be reduced to provide an average of seven months requiring \$190,100. Thus, total funding for the biennium may be reestimated at \$515,900.

9. As a result of the estimate of 5,100 inspection hours per year (after the initial load of 10,200 hours estimated by the Department), one could argue that the number of inspectors authorized for pet facility regulation facilities be reduced to 3.0 positions. This would reduce salary, fringe benefit and supplies costs to \$136,800 in 2003-04 and to \$234,400 in 2004-05 (\$371,200 for the biennium under alternative A4). Others might argue that given the large initial workload and the uncertainties faced by a new program, that 5.0 inspectors would be needed, at least initially, if DATCP is to properly administer pet facility responsibilities. If the program is to be retained, another option would be to provide 3.0 permanent and 2.0 two-year project inspector positions

(alternative A3).

10. Under current law, the Department expects to raise about \$133,900 (as shown in the table below) through biennial (two-year) licensing fees DATCP would promulgate by administrative rule. While rules have not yet been developed, this estimate assumes biennial licensing fees of \$150 for pet dealers and breeders, \$60 for kennels, \$50 for animal shelters and \$30 for animal rescue facilities. Pet facility licenses will expire October 31, of every even-numbered year, with DATCP assuming the pet facility regulation responsibilities on February 1, 2004. Under the statutes DATCP could collect fees for an initial nine-month period (February 1, 2004, until October 31, 2004). However, DATCP plans to collect just one round of fees this biennium, in effect granting facilities an additional nine months under their first license (two and three-quarter years). DATCP would collect its second round of fees under this program for the two-year license period starting on November 1, 2006. As a result, DATCP expects to collect \$133,900 in revenue from these fees in the 2003-05 biennium.

**TABLE 1**

**Estimated Pet Facility Fees**

	<u>Facilities</u>	<u>Fee</u>	<u>Estimated Biennial Revenue</u>
Pet Dealers	662	\$150	\$99,300
Kennels	427	60	25,620
Animal Shelters	125	50	6,250
Animal Rescue	<u>92</u>	30	<u>2,760</u>
Total	1,306		\$133,930

11. In preparing to implement the pet regulation requirements granted it under 2001 Act 16, DATCP convened an advisory council of 15 industry and animal interest representatives. This group began meeting in March, 2002, and discussed the possible requirements of the administrative rule the Department will promulgate to administer the program. The group finished its final report in mid-April, 2003, including its recommendations for DATCP's administrative rule regulating pet facilities. DATCP is currently in the process of drafting the administrative rule for board consideration and would then go to public hearings on the proposed rule.

12. In addition, DATCP's budget request suggested the following dog license tax increases (which are identical to those vetoed by the Governor in 2001 Act 16): (a) increase from \$3 to \$4.50 the minimum dog license fee for spayed or neutered dogs; (b) increase from \$8 to \$10 the minimum dog license fee for other dogs; and (c) increase the minimum multiple-dog license fee from \$35 to \$45.50 for 12 or fewer dogs (and \$3 to \$4.50 for each additional dog). Also, under DATCP's plan the Department would receive \$1 of the spayed and neutered dog fee, \$1.50 of the

other dog fee, and \$10 of the multiple dog fee, rather than the current 5% of local revenues. It is estimated that these fees would raise an additional \$632,000 per year in revenues, with DATCP receiving approximately \$360,000 and local governments receiving around \$272,000 in additional revenue per year (local governments would receive 50¢ from the increased fees and retain the 5% currently remitted to the state). DATCP collected \$79,800 in 2001-02 from dog license fees (5% of local revenues), which goes to support 1.0 PR positions and related costs for the Department's dog license and rabies control program. This program supports the state humane officer, who is responsible for reviewing and approving local governments' rabies programs; providing yearly humane officer training; providing general rabies education; conducting investigations and administering quarantines; certifying humane officers; and other program maintenance. An additional \$15,000 from tag fees and \$5,000 from training fees also were deposited into this account for total revenues of \$99,800 in 2001-02. The account is expected to have a July 1, 2003, balance of \$137,000. Under the bill, base expenditures would be \$109,200 PR annually for the humane officer and rabies program. The following table shows account revenue and expenditures under the DATCP request (alternative A2).

**TABLE 2**

**Pet Regulation Program Revenue (DATCP Proposal)**

	<u>FY 04</u>	<u>FY 05</u>	<u>FY 06</u>
Opening Balance	\$137,000	\$175,100	\$239,100
Revenue	460,300	594,200	460,300
Expenditures	<u>-422,200</u>	<u>-530,200</u>	<u>-530,200</u>
Closing Balance	\$175,100	\$239,100	\$169,200

13. Under the DATCP proposal, local government revenues would also increase by \$272,000 annually. The statutes set the minimum dog license fees, but allow local governments to increase these fees. As a result, it can be argued that if the minimum dog license fees are going to be increased, they need only be increased to provide the funding necessary for DATCP's pet facility regulation program, as the local governments can raise the fees if they need additional funds.

14. The Committee could choose to authorize DATCP 5.0 permanent positions (three inspectors, one supervisor and one program assistant) and 2.0 two-year project inspector positions (alternative A3), with \$190,100 in 2003-04 and \$325,800 in 2004-05. In order to fund the program from dog license and facility fees, the proposed dog license fee increases could be reduced. The following fee increases (with the counties retaining the 5% of revenues DATCP currently receives and instead providing all revenues of the fee increases to DATCP) could be made: (a) increase the minimum dog license fee for spayed or neutered dogs from \$3 to \$3.70; (b) increase the other dog minimum fee from \$8 to \$9; and (c) increase the multiple dog license fee for 12 or fewer dogs from \$35 to \$40 (and from \$3 to \$3.70 for each additional dog). Under the plan, local government revenues would increase by \$82,900 annually and DATCP's revenues would increase by about

\$218,400 annually. Table 3 shows the PR account condition under this alternative.

**TABLE 3**  
**Pet Regulation Program (Alternative A3)**

	<u>FY 04</u>	<u>FY 05</u>	<u>FY 06</u>
Opening Balance	\$137,000	\$156,100	\$173,400
Revenue	318,400	452,300	318,400
Expenditures	<u>-299,300</u>	<u>-435,000</u>	<u>-435,000</u>
Closing Balance	\$156,100	\$173,400	\$56,800

15. Another option would be to authorize DATCP 5.0 permanent positions (three inspectors, one coordinator and one program assistant), with \$136,800 PR in 2003-04 and \$234,400 PR in 2004-05. In order to fund the program from dog license and facility fees the following dog license fee increases could be provided: (a) increase the minimum dog license fee for spayed or neutered dogs from \$3 to \$3.50; (b) increase the other dog minimum fee from \$8 to \$8.75; and (c) increase the multiple dog license fee for 12 or fewer dogs from \$35 to \$38 (and from \$3 to \$3.50 for each additional dog). These fee changes would yield an estimated revenue increase of \$82,900 annually for local governments and \$134,300 for DATCP. Table 4 shows this option.

**TABLE 4**  
**Pet Regulation Program (Alternative A4)**

	<u>FY 04</u>	<u>FY 05</u>	<u>FY 06</u>
Opening Balance	\$137,000	\$125,300	\$149,900
Revenue	234,300	368,200	234,300
Expenditures	<u>-246,000</u>	<u>-343,600</u>	<u>-343,600</u>
Closing Balance	\$125,300	\$149,900	\$40,600

16. Table 5 outlines current dog license fees and the increased fees included in the various alternatives. While current revenues are in excess of \$1.6 million, DATCP retains 5% of these, which is around \$80,000 annually. Under each of the alternatives, the 5% requirement would be replaced by the requirement that a specified amount (the fee increase less 50¢ under alternative A2, and the amount of the increase under alternatives A3 or A4) be sent to DATCP for program implementation.

**TABLE 5**

**Dog License Fees**

	<u>Current</u> <u>Minimum Fee</u>	<u>Alternative A2</u>		<u>Alternative A3</u>		<u>Alternative A4</u>	
		<u>Fee</u>	<u>Increase</u>	<u>Fee</u>	<u>Increase</u>	<u>Fee</u>	<u>Increase</u>
Neutered/Spayed	\$3.00	\$4.50	\$1.50	\$3.70	\$0.70	\$3.50	\$0.50
Unneutered/Unspayed	8.00	10.00	2.00	9.00	1.00	8.75	0.75
Multiple Dog (up to 12)	35.00	45.50	10.50	40.00	5.00	38.00	3.00
Dogs in excess of 12	3.00	4.50	1.50	3.70	0.70	3.50	0.50

17. The Department states that if the current program is retained, but additional resources are not authorized, it will have to either reassign staff from livestock or captive animal programs, or not fully implement the pet facilities program. Further, the Department argues it would not be appropriate to increase fees they currently assess in the animal health program (for livestock, deer farms and fish farms), to pay for the costs of the pet regulation program. Thus, DATCP argues the dog license fees should be increased, or DATCP should be relieved of its pet regulation responsibilities.

18. Some argue that the uniform regulation of pet facilities is critical, and therefore standards and regulations under this program should be applied statewide, and administered and enforced by the state.

19. Others argue that while regulating pet breeders, dealers, shelters and animal kennels are worthy goals, unless an additional funding source is authorized, the state's current fiscal situation prevents it from allocating the necessary resources to properly administer this program. Reducing staff and resources from other critical areas, like its efforts to regulate livestock and contain livestock diseases such as chronic wasting disease and bovine tuberculosis, could have derogatory effects on the state's livestock industry.

**Pet Regulation Penalties**

20. Some argue that the penalties passed by the Legislature as part of the last biennial budget bill (and item-vetoed by the Governor) should be restored. These penalties included a fine of up to \$10,000, or nine months imprisonment, for operation of a pet facility without a license, and for other violations, a forfeiture of up to \$1,000 for a first violation and a forfeiture between \$200 and \$2,000 for subsequent violations within five years of the first violation. The current forfeiture of \$200 per violation may not be viewed as a significant deterrent by some, particularly since revenue from the sale of a single dog may exceed this amount. Further, they argue that a more substantial penalty is necessary to reflect the importance of complying with pet facility regulations.

21. Under the Wisconsin Constitution, the clear proceeds of all fines and forfeitures are



deposited into the common school fund.

## ALTERNATIVES

### A. Pet Regulation Funding

1. Approve the Governor's recommendation to repeal the pet facility regulation responsibilities of DATCP.

2. Delete the Governor's recommendation. Rather, provide \$313,000 PR in 2003-04, \$421,000 PR in 2004-05 and 7.0 positions (5.0 inspectors, 1.0 program assistant and 1.0 program supervisor) for the administration of the pet facility regulations under 2001 Act 16. In addition, increase minimum dog license fees (consistent with the enrolled 2001-03 budget bill) from \$3 to \$4.50 the minimum dog license fee for spayed or neutered dogs; increase from \$8 to \$10 the minimum dog license fee for unneutered and unspayed dogs; and increase the minimum multiple-dog license fee from \$35 to \$45.50 for 12 or fewer dogs (and from \$3 to \$4.50 for each additional dog). Specify the Department receive \$1 of each spayed and neutered dog license fee, \$1.50 of each unneutered and unspayed dog license fee, and \$10 of each multiple license dog fee, rather than the current 5% of local revenues.

<u>Alternative A2</u>	<u>PR</u>
<b>2003-05 REVENUE</b> (Change to Bill)	\$720,600
<b>2003-05 FUNDING</b> (Change to Bill)	\$734,000
<b>2004-05 POSITIONS</b> (Change to Bill)	7.00

3. Delete the Governor's recommendation. Rather, authorize the Department \$190,100 PR in 2003-04, \$325,800 PR in 2004-05 and 5.0 permanent positions (3.0 inspectors, 1.0 program assistant and 1.0 program supervisor) and 2.0 two-year project inspector positions for the administration of the pet facility regulations under 2001 Act 16. Increase from \$3 to \$3.70 the minimum dog license fee for spayed or neutered dogs; increase from \$8 to \$9 the minimum dog license fee for unneutered and unspayed dogs; and increase the minimum multiple-dog license fee from \$35 to \$40 for 12 or fewer dogs (and from \$3 to \$3.70 for each additional dog). Rather than 5% of the minimum tax currently, specify the Department receive the amount of the fee increase (70¢ of the spayed and neutered dog fee, \$1 of the unneutered and unspayed dog fee, and \$5 of the multiple dog fee).

<u>Alternative A3</u>	<u>PR</u>
<b>2003-05 REVENUE</b> (Change to Bill)	\$436,800
<b>2003-05 FUNDING</b> (Change to Bill)	\$515,900
<b>2004-05 POSITIONS</b> (Change to Bill)	7.00

4. Delete the Governor's recommendation. Rather, authorize the Department \$136,800 PR in 2003-04, \$234,400 PR in 2004-05 and 5.0 positions (3.0 inspectors, 1.0 program assistant and 1.0 program coordinator) for the administration of the pet facility regulations under 2001 Act 16. Increase from \$3 to \$3.50 the minimum dog license fee for spayed or neutered dogs; increase from \$8 to \$8.75 the minimum dog license fee for unneutered and unspayed dogs; and increase the minimum multiple-dog license fee from \$35 to \$38 for 12 or fewer dogs (and from \$3 to \$3.50 for each additional dog). Rather than 5% of the minimum tax currently, specify the Department receive the amount of the fee increase (50¢ of the spayed and neutered dog fee, 75¢ of the unneutered and unspayed dog fee, and \$3 of the multiple dog fee).

<u>Alternative A4</u>	<u>PR</u>
<b>2003-05 REVENUE</b> (Change to Bill)	\$268,600
<b>2003-05 FUNDING</b> (Change to Bill)	\$371,200
<b>2004-05 POSITIONS</b> (Change to Bill)	5.00

**B. Pet Regulation Penalties**

1. Provide for a maximum fine of \$10,000, or up to nine months imprisonment or both, for operation without a required pet facility license. Specify a maximum forfeiture of \$1,000 for the first violation of other pet regulations, and a forfeiture of between \$200 and \$2,000 for any subsequent violation within five years.

2. Maintain current law (a maximum forfeiture of \$200 per violation).

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