



2001 ASSEMBLY BILL 278

April 3, 2001 – Introduced by Representatives DUFF, RHOADES, STEINBRINK, LADWIG, ZIEGELBAUER, VRAKAS, PLALE, OLSEN, SINICKI, AINSWORTH, CARPENTER, STONE, POCAN, M. LEHMAN, GUNDERSON, TOWNSEND, OWENS, SYKORA, HUNDERTMARK and LEIBHAM, cosponsored by Senators BURKE, ROSENZWEIG and DARLING, by request of Cats International, Wisconsin Puppy Mill Project, Wisconsin Federation of Humane Societies, Wisconsin and Illinois Dalmation Rescue and Humane Society of the United States. Referred to Committee on Small Business and Consumer Affairs.

1 **AN ACT to repeal** 174.001 (2m); **to amend** 20.115 (2) (j), 174.05 (2), 174.053,
2 174.06 (6), 174.06 (7), 174.065 (1), 174.07 (1) (c), 174.07 (2) (d), 174.07 (3) (c) and
3 174.09 (1); and **to create** 173.40 of the statutes; **relating to:** pet dealers,
4 kennels, animal shelters, dog licensing, granting rule-making authority,
5 making an appropriation, and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill requires pet dealers (wholesale and retail) and persons who operate kennels and animal shelters to obtain licenses from the department of agriculture, trade and consumer protection (DATCP). The bill requires DATCP to inspect each location for which a license is required before issuing a license and authorizes DATCP to make inspections at other reasonable times. The bill authorizes DATCP to promulgate rules that specify minimum standards for animal shelters and kennel facilities and facilities at which pet dealers operate and that specify requirements for humane care to be provided by persons who are required to be licensed. The bill provides criminal penalties for persons who operate without a required license and forfeitures (civil monetary penalties) for other violations of the provisions concerning pet dealers, kennels, and animal shelters.

Under current law, dog licenses are issued by the city, village, or town treasurer or other tax collecting official, unless the governing body of the city, village, or town provides by ordinance or resolution for the appointment of a different person. Under this bill, veterinarians and humane societies may also issue dog licenses unless the

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governing body of a city, village, or town provides by ordinance or resolution that veterinarians and humane societies may not be collecting officials for the city, village, or town.

Under current law, the minimum dog license fee is \$3 for a neutered or spayed dog and \$8 for a dog that is not neutered or spayed. A city, village, town, or county may impose a higher fee. Under this bill, the minimum dog license fee is increased to \$5.50 for a neutered or spayed dog and \$10.50 for a dog that is not neutered or spayed. Under current law, a county treasurer is required to pay 5% of the minimum dog license fee to this state. Under this bill, the county treasurer is required to pay \$2 to the state for each dog license issued.

For further information see the *state and local* 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.* ~~The amounts~~
3 ~~in the schedule~~ All moneys received under ss. 95.21 (9) (c), 173.27, 173.40, and 174.09
4 (1), to provide dog license tags and forms under s. 174.07 (2), to perform other
5 program responsibilities under ch. 174, to administer the rabies control program
6 under s. 95.21, to help administer the rabies control media campaign, and to carry
7 out humane activities under s. 93.07 (11) and ch. 173. ~~All moneys received under ss.~~
8 ~~95.21 (9) (c), 173.27 and 174.09 (1) shall be credited to this appropriation.~~

9 **SECTION 2.** 173.40 of the statutes is created to read:

10 **173.40 Pet dealers, kennels, and animal shelters. (1) DEFINITIONS.** In this
11 section:

12 (a) “Adequate food” means wholesome food that is accessible to an animal, is
13 appropriate for the type of animal, and is sufficient in amount to maintain the animal
14 in good health.

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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) "Animal shelter" means any of the following:

4 1. A facility that is used to impound or harbor at least 20 seized, stray,
5 abandoned, or unwanted dogs, cats, or other animals in a year and that is operated
6 by this state, a political subdivision, or a veterinarian licensed under ch. 453.

7 2. A facility that is operated for the purpose of providing for and promoting the
8 welfare, protection, and humane treatment of animals, that is used to shelter at least
9 20 animals in a year, and that is operated by a humane society, an animal welfare
10 society, or a nonprofit association.

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

15 (e) "Kennel" means a facility where dogs or cats are kept for 24 hours or more
16 for boarding, training, or similar purposes for compensation, except that "kennel"
17 does not include any of the following:

18 1. An animal shelter.

19 2. A facility owned or operated by a veterinarian licensed under ch. 453 where
20 animals are boarded only in conjunction with the provision of veterinary care.

21 (f) "Nonprofit association" means an incorporated or unincorporated
22 organization consisting of 3 or more members joined by mutual consent for a
23 common, nonprofit purpose.

24 (g) "Pet dealer" means a person who sells, offers to sell, exchanges, or offers for
25 adoption dogs, cats, birds, fish, other than farm-raised fish, as defined in s. 29.001

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1 (25), reptiles, or other animals customarily obtained as pets, except that “pet dealer”
2 does not include a person who sells 20 or fewer animals in a year.

3 **(2) LICENSE REQUIRED.** (a) Except as provided in par. (c), no person may operate
4 an animal shelter or kennel without a license from the department. A person shall
5 obtain a license under this paragraph for each separate location at which the person
6 operates an animal shelter or kennel.

7 (b) Except as provided in par. (c), no person may act as a pet dealer without a
8 license from the department. A person shall obtain a license under this paragraph
9 for each separate location at which the person conducts business as a pet dealer.

10 (c) The department may issue an interim permit that authorizes a person to
11 operate an animal shelter or kennel or to act as a pet dealer until the department
12 makes the initial inspection required under sub. (4) (a).

13 (d) Licenses issued under pars. (a) and (b) expire on October 31 of each
14 even-numbered year.

15 (e) A license issued under par. (a) or (b) is not transferable.

16 **(3) LICENSE FEES.** The department shall promulgate rules specifying fees that
17 must be paid by applicants for licenses under sub. (2). A fee paid under this
18 subsection is not refundable if the department denies the license.

19 **(4) INSPECTIONS.** (a) The department shall inspect each location for which a
20 person is required to obtain a license under sub. (2) before issuing the initial license
21 and at least once during each biennial licensing period after the initial license period.

22 (b) In addition to the inspections required under par. (a), the department may
23 enter and inspect a facility for which a person is required to obtain a license under
24 sub. (2) at any reasonable time.

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1 **(5) RULES.** The department may promulgate rules that specify any of the
2 following:

3 (a) Minimum standards for animal shelter and kennel facilities and facilities
4 at which pet dealers operate.

5 (b) Minimum requirements for humane care to be provided by persons required
6 to obtain licenses under sub. (2).

7 (c) Requirements relating to the transportation of animals by persons required
8 to obtain licenses under sub. (2).

9 (d) Grounds for revocation of licenses issued under sub. (2).

10 (e) Grounds for the department to issue orders prohibiting a person required
11 to be licensed under this section from selling or moving an animal.

12 (f) Minimum ages for the sale of animals by persons required to be licensed
13 under sub. (2).

14 (g) Reinspection fees to be charged when an inspection by the department
15 under this section reveals conditions that require correction and reinspection.

16 (h) Requirements for record keeping by persons required to be licensed under
17 sub. (2).

18 (i) Requirements relating to space and opportunity for exercise to be provided
19 to animals by persons required to be licensed under sub. (2).

20 **(6) PENALTIES.** (a) A person who operates without a license required under sub.
21 (2) may be fined not more than \$10,000 or imprisoned for not more than 9 months,
22 or both.

23 (b) 1. Except as provided under par. (a), a person who violates this section or
24 a rule promulgated under this section may be required to forfeit not more than \$1,000

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1 for the first offense and may be required to forfeit not less than \$200 nor more than
2 \$2000 for the 2nd or any subsequent offense within 5 years.

3 2. If a violation under subd. 1. involves the keeping of animals, each animal
4 with respect to which the statute or rule is violated constitutes a separate violation.

5 **SECTION 3.** 174.001 (2m) of the statutes is repealed.

6 **SECTION 4.** 174.05 (2) of the statutes is amended to read:

7 174.05 (2) TAX. The minimum dog license tax is ~~\$3~~ \$5.50 for a neutered male
8 dog or spayed female dog, upon presentation of evidence that the dog is neutered or
9 spayed, and ~~\$8~~ \$10.50 for an unneutered male dog or unspayed female dog, or
10 one-half of these amounts if the dog became 5 months of age after July 1 of the license
11 year.

12 **SECTION 5.** 174.053 of the statutes is amended to read:

13 **174.053 Kennel Multiple dog licenses. (1)** ~~KENNEL MULTIPLE DOG LICENSE~~
14 ~~OPTION.~~ Any person who keeps ~~or operates a kennel~~ more than one dog may, instead
15 of the license tax for each dog required by this chapter, apply to the collecting official
16 for a ~~kennel~~ multiple dog license for the keeping ~~or operating of the kennel of the~~
17 dogs. Such person shall pay for the license year a license tax of ~~\$35~~ \$45.50 for ~~a~~
18 ~~kennel of 12 or fewer dogs~~ and an additional ~~\$3~~ \$5.50 for each dog in excess of 12.
19 Upon payment of the required ~~kennel~~ multiple dog license tax and upon presentation
20 of evidence that all dogs over 5 months of age are currently immunized against
21 rabies, the collecting official shall issue the ~~kennel~~ multiple dog license and a number
22 of tags equal to the number of dogs authorized to be kept ~~in the kennel~~ by the person.

23 **(2)** ~~KENNEL MULTIPLE DOG LICENSE TAGS.~~ Kennel Multiple dog license tags shall
24 be made in a form so that they may be readily distinguishable from the individual
25 license tags for the same year. The owner or keeper of ~~a kennel~~ dogs for which a

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1 ~~multiple dog license has been issued~~ shall keep at all times a ~~kennel~~ multiple dog
2 license tag attached to the collar of each dog over 5 months old kept by the owner or
3 keeper under a ~~kennel~~ multiple dog license, but this requirement does not apply to
4 a dog during competition or training, to a dog securely confined indoors, to a dog
5 while hunting, or to a dog securely confined in a fenced area. ~~These tags may be~~
6 ~~transferred from one dog to another within the kennel whenever any dog is removed~~
7 ~~from the kennel.~~ An owner or keeper may transfer a multiple dog license tag from
8 a dog that the owner or keeper no longer owns or keeps to another dog if the other
9 dog is currently immunized against rabies. The rabies vaccination tag or substitute
10 tag shall remain attached to the dog for which it is issued at all times, but this
11 requirement does not apply to a dog during competition or training, to a dog securely
12 confined indoors, to a dog while hunting, or to a dog securely confined in a fenced
13 area. No dog bearing a ~~kennel~~ multiple dog license tag shall be permitted to stray
14 or to be taken anywhere outside the limits of the ~~kennel~~ owner's or keeper's premises
15 unless the dog is in leash or temporarily out for the purposes of hunting, breeding,
16 trial, training, or competition.

17 **(3) APPLICABILITY OF OTHER REQUIREMENTS.** Unless clearly inapplicable, all the
18 provisions of this chapter relating to the individual dog license tax, licenses, and tags
19 shall apply to the ~~kennel~~ multiple dog license and tags.

20 **SECTION 6.** 174.06 (6) of the statutes is amended to read:

21 174.06 **(6) KENNEL MULTIPLE DOG LICENSE RECORDS.** The listing official shall
22 make in triplicate a list of the names of persons ~~owning and operating kennels~~
23 holding multiple dog licenses and the number of dogs kept ~~in each~~ by each of those
24 persons.

25 **SECTION 7.** 174.06 (7) of the statutes is amended to read:

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1 174.06 (7) LIST DELIVERY. The listing official shall, by September 15, deliver one
2 copy of the list under sub. (5) or (6) to the county clerk, and one copy to the collecting
3 official to whom license taxes are paid under s. 174.08, and retain one copy for his
4 or her files.

5 **SECTION 8.** 174.065 (1) of the statutes is amended to read:

6 174.065 (1) COLLECTING OFFICIAL. The collecting official is the city, village, or
7 town treasurer or other tax collecting officer or a person deputized by the treasurer
8 or tax collecting official, unless the common council or village or town board provides
9 by ordinance or resolution for the appointment of a different person. Veterinarians
10 and humane societies may voluntarily become collecting officials, except that the
11 governing body of a city, village, or town may by resolution or ordinance provide that
12 veterinarians and humane societies may not be collecting officials for the city, village,
13 or town.

14 **SECTION 9.** 174.07 (1) (c) of the statutes is amended to read:

15 174.07 (1) (c) *Copies.* The collecting official shall keep a duplicate copy of the
16 license on file. In counties having a population of 500,000 or more, the collecting
17 official shall immediately send to the county clerk or whatever agency the county
18 board may direct, a triplicate copy of the license. A collecting official who is not the
19 official to whom license taxes are paid under s. 174.08 shall provide a copy of each
20 license issued to the official to whom license taxes are paid under s. 174.08.

21 **SECTION 10.** 174.07 (2) (d) of the statutes is amended to read:

22 174.07 (2) (d) The department shall furnish county clerks with suitable ~~kenel~~
23 multiple dog license tags and blank licenses for distribution to the collecting officials.

24 **SECTION 11.** 174.07 (3) (c) of the statutes is amended to read:

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1 174.07 (3) (c) *Reimbursement.* The collecting official may retain 25 75 cents,
2 or a greater amount established by the county board by ordinance or resolution, for
3 each license issued as compensation for the service, if not a full-time, salaried
4 municipal employee. If the collecting official is a full-time, salaried municipal
5 employee this compensation shall be paid into the treasury of the town, village, or
6 city.

7 **SECTION 12.** 174.09 (1) of the statutes is amended to read:

8 174.09 (1) The dog license taxes so paid to the county treasurer shall be kept
9 in a separate account and shall be known as the “dog license fund” ~~and shall be~~
10 ~~appropriated and disbursed for the purposes and in the manner following: fund.”~~
11 Within 30 days after receipt of the same dog license taxes the county treasurer shall
12 pay into the state treasury ~~5% of the minimum tax as provided for~~ \$2 for each license
13 issued under s. 174.05 (2) of all dog license taxes which shall have been received by
14 the county treasurer, \$10 for each multiple dog license issued under s. 174.053 (1),
15 and \$2 for each dog in excess of 12 for which a multiple dog license is issued under
16 s. 174.053 (1).

17 **SECTION 13. Nonstatutory provisions.**

18 (1) ADVISORY COMMITTEE. The department of agriculture, trade and consumer
19 protection shall appoint a committee under section 227.13 of the statutes to advise
20 the department concerning rules required to be promulgated under section 173.40
21 of the statutes, as created by this act. The department shall ensure that the members
22 of the committee represent a variety of interests related to animals.

23 (2) POSITION AUTHORIZATION. The authorized FTE positions for the department
24 of agriculture, trade and consumer protection are increased by 7.0 PR positions to be

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SECTION 13

1 funded from the appropriation under section 20.115 (2) (j) of the statutes, as created
2 by this act, for the purpose of regulating pet dealers, kennels, and animal shelters.

3 **SECTION 14. Effective dates.** This act takes effect on the day after publication,
4 except as follows:

5 (1) The treatment of sections 20.115 (2) (j) and 173.40 of the statutes takes effect
6 on the first day of the 30th month beginning after publication.

7 (END)