



## Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #171

### **Dog Regulation and Rabies Control Program Overdraft (Agriculture, Trade and Consumer Protection -- Regulatory Programs)**

[LFB 2021-23 Budget Summary: Page 67, #4]

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#### **CURRENT LAW**

The Department of Agriculture, Trade and Consumer Protection (DATCP) is required by Chapter 173 of the statutes to: (a) regulate and license animal shelters and control facilities, and dog breeders and sellers; (b) assist local governments in administering dog licensing and rabies control laws; and (c) train and certify humane officers. These activities are supported by a program revenue (PR) continuing appropriation, authorized to expend all monies received for the purposes of operating the program. The program is budgeted 4.0 PR positions, consisting of 1.0 veterinarian and 3.0 inspectors, and \$471,900 PR each year during the 2021-23 biennium, including the base budget and standard budget adjustments.

The dog licenses, rabies control, and related services appropriation receives revenues from: (a) fees imposed on dog sellers, shelters, and animal control facilities (\$192,400 in 2019-20); (b) a portion of dog license fees paid by owners to local units of government (\$69,100); (c) training and certification fees associated with its humane officer training and certification program (\$5,400); and (d) training fees associated with rabies control programs (\$3,300). Fees are shown in Table 1.

**TABLE 1****Dog Regulation and Rabies Control Program Fees**

<u>Fee Category/Type</u>	<u>Amount</u>
<b>Dog Sellers</b>	
Animal Control Facilities and Shelters	\$125
Breeders, Breeding Facilities, and Dealers	
25-49 Dogs	250
50-99 Dogs	500
100-249 Dogs	750
250+ Dogs	1,000
Out-of-State Dealers	Normal fee+50%
Facility reinspection	150
<b>Dog Owners</b>	
Individual Dog License Tax	
Spayed/Neutered Dog	\$0.15
Non-Spayed/Neutered Dog	0.40
<b>Rabies Control</b>	
Local Rabies Control Personnel Training Fee	\$55
<b>Humane Officer Training and Certification</b>	
Testing Fee	\$25
Certification Fee	35

The statutes require animal control facilities, animal shelters, dog breeding facilities, dog shelters, and animal rescue groups that handle 25 or more dogs per year to be licensed with the Department and inspected at least every two years following an initial pre-licensing inspection. Licenses expire each September 30. Table 2 provides a summary since calendar year 2016 of licensed entities by type, and regulatory actions by the Department. As of March, 2021, the Department reports 506 licensed dog sellers, consisting of: (a) 179 shelters or animal control facilities; (b) 120 small sellers (24-49 dogs per year); (c) 103 medium sellers (50-99); (d) 76 large sellers (100-249); and (e) 28 very large sellers (250+). Animal shelters are required to certify their status as nonprofit entities to qualify for the reduced license fee relative to other dog sellers. Animal control facilities, which are often local humane societies, are those that contract with a municipality to care for animals taken into custody by a humane officer or law enforcement.

**TABLE 2****Dog Licensing Program Activities**

	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>
Licenses					
Animal Shelters	169	185	184	199	187
In-State Dog Sellers	227	249	280	292	293
Out-of-State Dog Sellers	<u>11</u>	<u>11</u>	<u>10</u>	<u>11</u>	<u>9</u>
Total Licenses	407	445	474	502	489
Inspections	281	359	293	337	309
Complaints	216	246	142	149	171
Investigations	154	157	115	98	117

In 2019 license fees were paid to counties for approximately 383,000 dogs. A portion of each fee is remitted to the state, equal to \$0.15 for spayed or neutered dogs and \$0.40 for sexually intact dogs. These fees equal 5% of the minimum \$3 and \$8, respectively, required to be imposed by counties for licensed dogs. While the Department collects dog seller fees based on number of dogs sold, it does not collect data on the total number of dogs sold each year.

**DISCUSSION POINTS**

1. As seen in Table 3, the dog licenses, rabies control, and related services appropriation has been in overdraft since 2018-19, meaning that the program revenue account balance is negative and draws against the balance of the general fund. Once fee revenues again become sufficient to cover operational costs, any excess revenue will accumulate in the account, returning it to solvency and eliminating the general fund liability. As of June 30, 2020, the program appropriation had an unsupported overdraft of \$249,700, an increase of \$64,300 from 2018-19. The Department estimates the closing unsupported balance of the account will total approximately \$450,000 on June 30, 2021.

**TABLE 3****Dog Licenses, Rabies Control, and Related Services Appropriation Condition**

	<u>2015-16</u>	<u>2016-17</u>	<u>2017-18</u>	<u>2018-19</u>	<u>2019-20</u>
Opening Balance	\$22,300	\$11,800	\$21,300	\$13,400	-\$185,400
Revenues	240,000	264,300	264,300	256,900	270,200
Expenditures	<u>-250,500</u>	<u>-254,800</u>	<u>-272,200</u>	<u>-455,700</u>	<u>-334,500</u>
Closing Balance	\$11,800	\$21,300	\$13,400	-\$185,400	-\$249,700

2. Dog seller fees have not been modified since the program's creation in 2011, and revenues have been unable to support expenditures in recent years. Instead, the Department has

supported a portion of increased expenditures with GPR from its Division of Animal Health general program operations appropriation. Beginning in 2018-19, DATCP has been unable to absorb such costs with the Division's general program operations appropriation, resulting in an overdraft. In both 2019-20 and 2020-21, the animal health general program operations appropriation has been subject to lapse requirements in response to the COVID-19 pandemic.

3. Section 173.41 of the statutes specifies fee amounts for dog sellers and operators of animal shelters or control facilities, which are incorporated in Chapter ATCP 16 of the administrative code. Section 173.41 also allows the Department to promulgate rules specifying higher fee amounts for dog sellers, animal shelters, and animal control facilities if necessary to cover the costs of regulating those entities. DATCP has initiated rulemaking to consider modifying current fees and address the appropriation overdraft. On September 24, 2020, the DATCP Board approved a statement of scope to revise dog seller fees under ATCP 16.

4. On March 2, 2021, the Department convened an advisory group of retail dog sellers, dog breeders, humane societies, animal control facilities, veterinarians, and breed rescue groups to consider options for increasing fees. The advisory group considered a number of alternatives proposed by the Department to increase fees to meet certain revenue levels to cover the appropriation shortfall. The statutes limit DATCP to increasing fees within the current categories of dog sellers shown in Table 1, thus dog owner license fees, and rabies control and humane officer fees are not proposed to be modified.

5. Advisory members generally favored increasing seller and reinspection fees in a manner consistent with recovering the deficit over five years. Members were split among imposing an equal increase (on a percentage basis) among all categories of sellers, or excluding shelters and animal control facilities from the fee increase. Members who did not support increasing fees for shelters and animal control facilities argued these nonprofit entities have limited funding available to cover increased license costs. Rulemaking is ongoing, and the initial hearing draft proposes a fee increase of 100% on animal shelters and control facilities, 160% on dog sellers, and 167% for reinspection of a facility. Table 4 shows proposed new fee levels. The proposed fee increase would generate approximately \$300,000 of additional revenue each year, and would be intended to recoup the current program deficit over a period of perhaps five years, not including any deficits accruing in 2021-22 or 2022-23 while the rule is in promulgation.

**TABLE 4**

**Proposed Fee Increases under ATCP 16 Rulemaking**

	<u>Current Law</u>	<u>Revised Amount</u>	<u>Change</u>
Animal Control Facilities and Shelters	\$125	\$250	100%
Breeders, Breeding Facilities, and Dealers			
25-49 Dogs	250	650	160
50-99 Dogs	500	1,300	160
100-249 Dogs	750	1,950	160
250+ Dogs	1,000	2,600	160
Out-of-State Dealers	Normal fee+50%	Normal fee+50%	160
Facility Reinspection	150	400	167

6. Under the currently anticipated rulemaking timeline, DATCP expects fee revisions will become effective on July 1, 2023. As noted previously, DATCP anticipates the deficit could increase to perhaps \$450,000 by June 30, 2021. If fee increases were not implemented until July 1, 2023, it is expected the appropriation deficit would continue to grow. DATCP anticipates annual dog regulation, rabies control, and humane officer program expenditures will exceed revenues by approximately \$230,000 each year during the 2021-23 biennium, which could increase the total deficit to roughly \$910,000 by June 30, 2023. To limit the growth of the appropriation deficit as fee changes were being implemented, the Committee could consider authorizing DATCP to promulgate an emergency rule to raise dog seller fees until a final revised rule could be promulgated [Alternative 3]. The Committee could also consider incorporating the currently proposed fee revisions shown in Table 4 into statute, which would allow the Department to immediately implement increased fees [Alternative 4].

7. Assembly Bill 68/Senate Bill 111 would transfer \$466,500 GPR to DATCP's dog licenses, rabies control, and related services appropriation to offset the anticipated June 30, 2021, unsupported overdraft; subsequent estimates from DATCP set this amount at \$450,000 by June 30, 2021. DATCP contends that GPR may be an appropriate supplement to existing program fees, as other species of animals benefit from rabies control and humane officer programs, which are supported primarily by fees on dog sellers and dog owners under current law. Further, DATCP notes that Illinois, Michigan, and Minnesota fund some or all of their dog regulation programs with general fund revenues. If a GPR supplement were provided, DATCP intends to reduce the fee increases currently being considered under its rulemaking process. If the Committee wished to reduce the required increase in fees, it could provide \$450,000 GPR in 2021-22 to offset the June 30, 2021, anticipated deficit in the dog license, rabies control, and related services appropriation [Alternative 1].

8. Although the bill directs a transfer from the general fund to the PR appropriation, the transfer is not reflected in the general fund condition statement of the bill. To more accurately reflect the directed use of general purpose revenues, the Committee could consider appropriating \$450,000 in DATCP's animal health general operations GPR appropriation and transferring funding to the dog license, rabies control and related services PR appropriation [Alternative 2]. Transfer language could be sunset June 30, 2022.

9. Current law allows DATCP to modify dog seller fees through the administrative rule process to levels sufficient to meet program costs. DATCP rulemaking is ongoing, and will allow for public participation and comment on proposed fee increases. Further, a final rule would be subject to review by the Legislature before being instituted. Given this ongoing process, the Committee could consider taking no action, which would allow the Department to continue the administrative rule process to modify fees [Alternative 5].

## ALTERNATIVES

1. Transfer \$450,000 in 2021-22 from the general fund to the Department's dog licensing, rabies control, and related services appropriation to eliminate the anticipated deficit as of June 30, 2021.

ALT 1	Change to Base
GPR-Transfer	\$450,000

2. Provide \$450,000 GPR to DATCP's animal health general operations appropriation [s. 20.115 (2)(a)] in 2021-22. Require the amount to be transferred to the dog licensing, rabies control, and related services appropriation by June 30, 2022, and repeal transfer language as of that date.

ALT 2	Change to Base
GPR	\$450,000

3. Authorize DATCP to promulgate an emergency rule to increase dog seller fees, expiring on June 30, 2023, or on the date of publication of a final revised rule, whichever is sooner. Allow the emergency rule to be issued without the finding of an emergency, preparation of a statement of scope, or submittal of a draft rule to the Governor.

4. Increase fees for dog sellers as follows: (a) for animal shelters and control facilities, to \$250 each year (an increase of 100%); (b) for sellers of 25 to 49 dogs per year, to \$650 (160%); (c) for sellers of 50 to 99 dogs per year, to \$1,300 (160%); (d) for sellers of 100 to 249 dogs per year, to \$1,950 (160%); (e) for sellers of 250 or more dogs per year, \$2,600 (160%); and (f) for reinspection of a facility, to \$400 (167%). Sellers from out-of-state facilities would still be subject to a 50% surcharge on these fee amounts.

ALT 4	Change to Base
PR-REV	\$600,000

5. Take no action. DATCP would continue its rulemaking process, and fees would be anticipated to increase on July 1, 2023.

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