



**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2009 ASSEMBLY BILL 250**

September 16, 2009 – Offered by Representative SMITH.

1 **AN ACT** *to amend* 20.115 (2) (j) and 93.21 (5) (a); and *to create* 173.41 and 778.25
2 (1) (a) 8. of the statutes; **relating to:** regulation of persons who sell dogs or
3 operate animal shelters or animal control facilities, granting rule-making
4 authority, making an appropriation, and providing a penalty.

Analysis by the Legislative Reference Bureau

Licensing of dog sellers, animal shelters, and animal control facilities

This substitute amendment requires certain persons who sell dogs or operate animal shelters or animal control facilities to be licensed by the Department of Agriculture, Trade and Consumer Protection (DATCP), beginning 18 months after the substitute amendment is enacted into law.

The substitute amendment requires all of the following to obtain licenses, with limited exceptions:

1. A person who sells 25 or more dogs in a year (including a nonresident who brings dogs into this state for sale).
2. A person who operates a dog breeding facility (a place at which dogs are bred and raised) from which 25 or more dogs are sold in a year.
3. A person who operates an auction at which 50 or more dogs are sold or offered for sale in a year.
4. A person who operates an animal shelter that is used to shelter at least 25 dogs in a year.

5. A person who operates an animal control facility under a contract with a city, village, town, or county.

The substitute amendment requires DATCP to inspect each location in this state at which a person who applies for a license operates before issuing an initial license and at least once every two years thereafter, except that during the first 12 months in which licenses are required DATCP may issue a temporary initial license before conducting the required inspection. The substitute amendment allows DATCP to make additional inspections during regular business hours to ensure compliance with requirements established in the substitute amendment.

The substitute amendment specifies fees for licenses, generally based on the number of dogs sold, and authorizes DATCP to set higher fees by rule if necessary to cover the costs of administering the program.

Sale of dogs

This substitute amendment prohibits a licensee from transferring a dog to a buyer before the dog is seven weeks old. The substitute amendment requires a licensee to provide the purchaser of a dog with a copy of the dog's vaccination records and with a statement from a veterinarian who examined the dog stating that the dog had no signs of infectious or contagious diseases at the time of examination.

The substitute amendment prohibits any person from selling at auction a dog that is not spayed or neutered unless the dog has tested negative for brucellosis.

The substitute amendment also requires a person who sells or offers to sell a dog at a temporary dog market, such as a flea market, to provide information about the dog to the operator of the temporary dog market. It requires the operator of a temporary dog market to register with DATCP, review and keep the information provided by sellers, and, if dogs are sold or offered for sale on two or more consecutive days, have a veterinarian examine the dogs.

Standards of care

The substitute amendment requires licensees to provide dogs with adequate food, water, veterinary care, shelter, and opportunity for exercise. The substitute amendment requires enclosures for dogs to be of appropriate size and structurally sound. It requires licensees to keep enclosures clean and to follow restrictions on the use of wire flooring. Under the substitute amendment, a licensee must ensure that each dog is observed every day in order to monitor the health and temperament of the dog and provide care as needed.

Enforcement and administration

A person who fails to obtain a license required under this substitute amendment may be fined not more than \$10,000 or imprisoned not more than nine months or both. Violations of other requirements in the substitute amendment are punishable by forfeitures (civil monetary penalties). The substitute amendment authorizes the use of a citation, which is similar to a traffic ticket, in case of a violation that is punishable by a forfeiture.

The substitute amendment provides DATCP with authority to deny, revoke, or refuse to renew a license for cause. It also authorizes DATCP to summarily suspend a license if an inspection reveals a condition that imminently threatens an animal or there is evidence that an animal has been criminally mistreated.

The substitute amendment requires DATCP to promulgate rules for the administration of the program. It also requires DATCP to appoint an advisory committee for the rule making.

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.* All moneys
3 received under ss. 95.21 (9) (c), 173.27, 173.41, and 174.09 (1) and (3), to provide dog
4 license tags and forms under s. 174.07 (2), to perform other program responsibilities
5 under ch. 174, to administer the rabies control program under s. 95.21, to help
6 administer the rabies control media campaign, and to carry out activities under s.
7 93.07 (11) and ch. 173.

8 **SECTION 2.** 93.21 (5) (a) of the statutes is amended to read:

9 93.21 **(5)** (a) In this subsection, “license” means a permit, certificate,
10 registration, or license issued by the department under chs. 91 to 100 ~~or ch. 126, or~~
11 173.

12 **SECTION 3.** 173.41 of the statutes is created to read:

13 **173.41 Regulation of persons who sell dogs or operate animal shelters.**

14 **(1) DEFINITIONS.** In this section:

15 (a) “Animal control facility” means a facility for the care of animals operated
16 under a contract with a political subdivision under s. 173.15 (1).

17 (b) “Animal shelter” means a facility that is operated for the purpose of
18 providing for and promoting the welfare, protection, and humane treatment of
19 animals, that is used to shelter at least 25 dogs in a year, and that is operated by a

1 humane society, animal welfare society, animal rescue group, or other nonprofit
2 group.

3 (c) “Dog breeder” means a person who sells 25 or more dogs in a year that the
4 person has bred and raised, except that “dog breeder” does not include a person who
5 sells 25 or more dogs in a year that the person has bred and raised if all of those dogs
6 are from no more than 3 litters.

7 (d) “Dog breeding facility” means a place at which dogs are bred and raised and
8 from which 25 or more dogs are sold in a year, except that “dog breeding facility” does
9 not include a place at which dogs are bred and raised and from which 25 or more dogs
10 are sold in a year if all of the dogs that are sold in a year are from no more than 3
11 litters.

12 (e) “Dog dealer” means a person, other than an out-of-state dog dealer, who
13 sells, distributes, or trades, or offers for sale, distribution, or trade, 25 or more dogs
14 in a year that the person has not bred and raised or who operates an auction at which
15 50 or more dogs are sold or offered for sale in a year.

16 (em) “Dog trial” means an organized competitive field event involving sporting
17 dog breeds that is sanctioned, licensed, or recognized by a local, state, regional, or
18 national dog organization.

19 (f) “Out-of-state dog dealer” means a person who is not a resident of this state
20 who brings 25 or more dogs into this state for sale in this state in a year.

21 (g) “Temporary dog market” means a place at which persons sell dogs, and may
22 sell other items, from booths or other spaces that are rented from or provided at no
23 cost by the person operating the place, except that “temporary dog market” does not
24 include a dog trial.

25 (h) “Transfer” means to grant physical possession to another.

1 **(2) LICENSE REQUIRED.** (a) Except as provided in par. (e), (f), or (g), beginning
2 on the first day of the 18th month beginning after the effective date of this paragraph
3 [LRB inserts date], no person may do any of the following without an annual
4 license from the department:

- 5 1. Operate an animal shelter.
- 6 2. Operate an animal control facility.
- 7 3. Operate as a dog breeder.
- 8 4. Operate a dog breeding facility.
- 9 5. Operate as a dog dealer.
- 10 6. Operate as an out-of-state dog dealer.

11 (b) A person operating as an out-of-state dog dealer shall obtain one license
12 under this subsection. Any other person required to obtain a license under this
13 subsection shall obtain one license for each premises at which the person operates
14 an animal shelter, animal control facility, or dog breeding facility or operates as a dog
15 breeder or dog dealer.

16 (c) A person shall apply for a license under par. (a) on a form provided by the
17 department and shall provide information reasonably required by the department.
18 An applicant shall submit the applicable fees required under sub. (3) with the
19 application.

20 (d) The department shall grant or deny an application for an initial license
21 within 30 days after the application is complete and the applicable fees have been
22 submitted.

23 (e) A veterinarian licensed under ch. 453 practicing in the normal course of
24 veterinary business within the scope of the license is not required to obtain a license
25 under this subsection.

1 (f) An individual providing foster care to a dog in the individual's home at the
2 request of a person operating an animal shelter that is licensed under this subsection
3 is not required to obtain a license under this subsection.

4 (g) An individual is not required to obtain a license for the purpose of
5 conducting a one-time kennel liquidation, if all of the following apply:

6 1. The individual sells no more than 30 dogs and makes all of the dogs initially
7 available for sale at the same time.

8 2. The individual sells only dogs that he or she owns.

9 3. The individual does not intend to engage in activities for which a license is
10 required under this subsection in the next year.

11 4. The individual was not licensed under this subsection during the previous
12 year.

13 5. The individual notifies the department at least 30 days before offering the
14 dogs for sale.

15 (h) A person licensed under par. (a) 1. to 5. shall post a copy of the license in a
16 location visible to any person coming onto the licensed premises.

17 **(3) LICENSE FEES.** (a) Except as provided under par. (b) or (c), the annual fee
18 for a license under sub. (2) is as follows:

19 1. For a person who sells or offers to sell at least 25 but fewer than 50 dogs per
20 year, \$250.

21 2. For a person who sells or offers to sell at least 50 but fewer than 100 dogs per
22 year, \$500.

23 3. For a person who sells or offers to sell at least 100 but fewer than 250 dogs
24 per year, \$750.

25 4. For a person who sells or offers to sell 250 or more dogs per year, \$1,000.

1 5. For a person who operates an animal shelter or animal control facility, \$125.

2 (b) Except as provided under par. (c), the annual license fee for an out-of-state
3 dog dealer is 150 percent of the fee determined under par. (a), based on the number
4 of dogs sold in this state.

5 (c) The department may promulgate rules specifying fees for licenses under
6 sub. (2) that are higher than the fees in pars. (a) and (b) if necessary to cover the costs
7 of administering this section.

8 **(4) LICENSE DENIAL OR REVOCATION.** (a) The department may deny, refuse to
9 renew, or revoke any license under sub. (2) if the applicant or licensee is not fit,
10 qualified, or equipped to conduct the activity for which the license is required, has
11 violated or failed to obey any applicable law, order, or regulation, or has
12 misrepresented or intentionally failed to disclose a material fact in applying for the
13 license.

14 (b) The department may issue any license under sub. (2) conditioned upon
15 relevant circumstances or acts. If a license is conditioned upon compliance within
16 a specified period and the condition is not met within the specified period, the license
17 is void.

18 **(5) SUMMARY LICENSE SUSPENSION.** (a) The department may, by written notice,
19 without prior notice or hearing, suspend a license issued under sub. (2) if, upon
20 inspection of the licensed premises, the department finds any condition that
21 imminently threatens the health, safety, or welfare of any animal on the licensed
22 premises or there is evidence that an act of animal cruelty in violation of ch. 951 has
23 been committed by the licensee or has occurred on the licensed premises.

24 (b) In the notice under par. (a), the department shall state the reasons for the
25 suspension and specify conditions that must be met for reinstatement.

1 (c) The department shall specify in the notice under par. (a) a date after which
2 a reinspection of the licensed premises may take place. The department may conduct
3 a reinspection without notice to the licensee. The department may reinstate a license
4 following a summary suspension if the department finds, based upon reinspection
5 or evidence presented by the licensee, that circumstances warrant reinstatement.
6 The department may specify a reinstatement date that it considers appropriate.

7 (d) A licensee may request a hearing contesting a summary suspension under
8 par. (a), by written appeal to the department, within 10 days of receiving the notice
9 of summary suspension. The department shall describe the right of hearing in the
10 notice to the licensee under par. (a). The department shall promptly initiate
11 proceedings to hear the appeal.

12 **(6) INSPECTIONS.** (a) The department shall inspect the premises at which a
13 person who is required to obtain a license under sub. (2) (a) 1. to 5. operates before
14 issuing the initial license and at least once every 2 years after the year in which the
15 person is first licensed. The department is not required to inspect the out-of-state
16 premises at which an out-of-state dog dealer operates.

17 (b) The department may enter and inspect the premises for which a person is
18 required to obtain a license under sub. (2) at any time during normal business hours
19 to ensure compliance with this section.

20 (c) The department may charge a fee for an inspection that it undertakes to
21 determine whether a previous violation of this section or rules promulgated under
22 this section has been corrected.

23 (d) An inspection fee under par. (c) is due upon written demand from the
24 department. Unless otherwise specified by the department by rule, the fee for an
25 inspection under par. (c) is \$150.

1 **(7) OUT-OF-STATE DEALERS.** The department may not issue a license under sub.
2 (2) to a person who is an out-of-state dog dealer unless the person provides to the
3 department a copy of any license required by the person's state of residence and any
4 license required under federal law.

5 **(8) HEALTH REQUIREMENTS FOR SELLING DOGS.** (a) No person who is required to
6 be licensed under sub. (2) may sell a dog without providing all of the following to the
7 purchaser:

8 1. A certificate of veterinary inspection from a licensed veterinarian stating
9 that the veterinarian has examined the dog and found that it has no signs of
10 infectious or contagious diseases as of the date of the examination.

11 2. A copy of all vaccination records for the dog showing the date the vaccine was
12 administered and the name of the person who administered the vaccine.

13 (b) A person may not sell at auction a dog that is not spayed or neutered without
14 providing written proof that the dog has tested negative for brucellosis using a test
15 approved by the department that was conducted no more than 30 days before the day
16 of sale.

17 **(9) AGE FOR TRANSFER OF PUPPY.** A person required to be licensed under sub. (2)
18 may not transfer a dog to a buyer until the dog is 7 weeks of age.

19 **(10) STANDARDS OF CARE.** A person who is required to be licensed under sub. (2)
20 shall do all of the following with respect to each dog kept by the person:

21 (a) Provide sufficient food to maintain the dog in good health.

22 (b) Provide sufficient water to maintain the dog in good health. If fresh water
23 is not available to the dog at all times, the person shall provide fresh water daily and
24 in sufficient quantity for the health of the dog.

1 (c) Ensure that necessary and standard veterinary care is provided in a timely
2 manner.

3 (d) Ensure that the dog is not kept in an enclosure unless all of the following
4 apply:

5 1. The enclosure is of an appropriate size, as determined by the department,
6 based on the size, age, and number of dogs kept in the enclosure and the length of
7 time the dog is kept in the enclosure.

8 2. The enclosure is structurally sound and maintained in good repair to protect
9 the dog from injury.

10 3. If wire flooring is used, it is coated, is of a sufficient gauge to ensure that it
11 will not cause injury to the dog, and is used only in the manner specified by the
12 department.

13 4. The enclosure is maintained in a clean and sanitary condition.

14 (e) Ensure that the dog is not kept in an enclosure for a period that the
15 department determines to be excessive, considering the size of the enclosure and any
16 other factors that the department considers relevant.

17 (f) Ensure that the dog is kept outdoors only if all of the following apply:

18 1. The dog is of a breed or type that is typically kept outdoors.

19 2. The dog is acclimated to the outdoors.

20 3. The person provides adequate shelter from the sun and inclement weather.

21 (g) Ensure that all facilities in which the person keeps the dog have adequate
22 lighting and ventilation and that a proper temperature is maintained for the dog,
23 considering its type or breed.

24 (h) Ensure that the dog is provided adequate daily access to exercise, as
25 determined by the department.

1 (i) Ensure that the dog is observed every day by the caretaker of the premises
2 at which the person operates or an individual under the direct supervision of the
3 caretaker to monitor the health and temperament of the dog and to provide care to
4 the dog as needed.

5 **(10m) VACCINATIONS.** A person who is required to be licensed under sub. (2) may
6 have a dog kept by the person vaccinated by an individual who is not a veterinarian
7 unless that is prohibited by law.

8 **(11) RECORD KEEPING.** A person who is required to be licensed under sub. (2)
9 shall keep a record of each dog that comes into the person's possession that includes
10 all of the following information:

11 (a) A description of the dog including the dog's breed or type, sex, date of birth
12 or approximate age, color, and any distinctive markings.

13 (b) The dog's official federal department of agriculture tag number or tattoo or
14 microchip information, if any.

15 (c) A statement that the dog was born in the person's possession or the name
16 and address of the person from whom the dog was acquired and that person's federal
17 department of agriculture license or registration number or, if the person is not
18 licensed or registered by the federal department of agriculture, the person's state of
19 residence.

20 (d) If the dog was not born in the person's possession, the date on which the
21 person acquired the dog.

22 (e) The date and method of disposition of the dog.

23 (f) Any other information required by the department.

24 **(12) TEMPORARY DOG MARKETS.** (a) *Operator responsibilities.* A person who
25 operates a temporary dog market shall do all of the following:

1 1. Register with the department.

2 2. Take reasonable steps to ensure that all persons selling or offering to sell
3 dogs at the temporary dog market comply with par. (b).

4 3. Obtain, review, and keep, for at least 5 years, copies of the information
5 provided under par. (b) and make the information available to the department for
6 inspection and copying upon request.

7 4. If persons sell or offer to sell dogs at the temporary dog market for 2 or more
8 consecutive days, employ or contract with a veterinarian licensed under ch. 453 to
9 conduct an examination of the dogs offered for sale at the temporary dog market on
10 each day on which dogs are offered for sale and to review the information provided
11 under par. (b).

12 (b) *Seller responsibilities.* A person who sells or offers to sell a dog at a
13 temporary dog market shall provide all of the following information to the operator
14 of the temporary dog market:

15 1. The person's name and address.

16 2. If the person is required to be licensed under sub. (2), the person's license
17 number.

18 3. A description of each dog sold or being offered for sale, including the dog's
19 breed or type, sex, date of birth or approximate age, color, and any distinctive
20 markings, and either a statement that the dog was born in the person's possession
21 or the name and address of the person from whom the dog was acquired.

22 4. Documentation showing that the person complied with s. 95.21 (2) and with
23 any applicable rules of the department relating to bringing dogs into this state.

24 (c) *Inspection.* The department may inspect a temporary dog market and the
25 information provided under par. (b) at any time during normal business hours.

1 **(13) REPORTING MISTREATMENT OF DOGS.** If the department has reasonable
2 grounds to believe that a dog in the possession of a person required to be licensed
3 under sub. (2) is being mistreated in violation of ch. 951, the department shall report
4 the information that supports its belief to a humane officer or law enforcement
5 agency with jurisdiction over the area in which the dog is located.

6 **(14) RULES.** (a) The department, in consultation with the advisory committee
7 established under par. (b), shall promulgate rules to implement and administer this
8 section.

9 (b) Before the department promulgates rules under par. (a), it shall establish
10 an advisory committee to assist in writing the rules that consists of at least one
11 representative from each of the following groups but that does not consist of more
12 than 12 members:

- 13 1. Persons selling dogs at retail.
- 14 2. Dog breeders that sell large dogs and that sell fewer than 50 dogs per year.
- 15 3. Dog breeders that sell small dogs and that sell fewer than 50 dogs per year.
- 16 4. Dog breeders that sell large dogs and that sell 50 or more dogs per year.
- 17 5. Dog breeders that sell small dogs and that sell 50 or more dogs per year.
- 18 6. Sporting associations whose primary activities involve dogs.
- 19 7. Humane societies providing shelter to fewer than 500 dogs per year.
- 20 8. Humane societies providing shelter to 500 or more dogs per year.
- 21 9. Veterinarians.
- 22 10. Animal control facilities.
- 23 11. Breed rescue groups.

24 (c) The department shall select any member of an advisory committee under
25 par. (b) who represents veterinarians from nominations made by the Wisconsin

1 Veterinary Medical Association and shall select each other member from
2 nominations made by one or more organizations representing the group that the
3 member represents.

4 (d) An advisory committee under par. (b) does not expire until 12 months after
5 the rules are promulgated and shall make recommendations to the department for
6 amendments to the rules.

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

10 (b) 1. Except as provided under par. (a), a person who violates this section or
11 a rule promulgated under this section may be required to forfeit not more than \$1,000
12 for the first offense and may be required to forfeit not less than \$200 nor more than
13 \$2,000 for the 2nd or any subsequent offense within 5 years.

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

16 (c) In addition to the penalties under pars. (a) and (b), a court may order a
17 person who violates this section to pay the expenses of caring for dogs that are
18 removed from the person's possession because of mistreatment.

19 **SECTION 4.** 778.25 (1) (a) 8. of the statutes is created to read:

20 778.25 (1) (a) 8. Under s. 173.41 (15) (b).

21 **SECTION 5. Nonstatutory provisions.**

22 (1) POSITION AUTHORIZATION. The authorized FTE positions for the department
23 of agriculture, trade and consumer protection are increased by 6.0 PR positions to be
24 funded from the appropriation under section 20.115 (2) (j) of the statutes to inspect
25 and respond to complaints concerning dog facilities.

