

CARE OF ANIMALS IN COMMERCIAL ESTABLISHMENTS

162.1 Policy.

The purpose of this chapter is:

1. To insure that all dogs and cats handled by boarding kennels, commercial kennels, commercial breeders, dealers, and public auctions are provided with humane care and treatment by regulating the transportation, sale, purchase, housing, care, handling, and treatment of such animals by persons or organizations engaged in transporting, buying, or selling them and to provide that all vertebrate animals consigned to pet shops are provided humane care and treatment by regulating the transportation, sale, purchase, housing, care, handling, and treatment of such animals by pet shops.
2. To authorize the sale, trade, or adoption of only those animals which appear to be free of infectious or communicable disease.
3. To protect the public from zoonotic disease.

[C75, 77, 79, 81, § 162.1]

96 Acts, ch 1034, §7

162.2 Definitions.

As used in this chapter, except as otherwise expressly provided:

1. "*Adequate feed*" means the provision at suitable intervals of not more than twenty-four hours or longer if the dietary requirements of the species so require, of a quantity of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition in each animal. The foodstuff shall be served in a clean receptacle, dish or container.
2. "*Adequate water*" means reasonable access to a supply of clean, fresh, potable water provided in a sanitary manner or provided at suitable intervals for the species and not to exceed twenty-four hours at any interval.
3. "*Animal shelter*" means a facility which is used to house or contain dogs or cats, or both, and which is owned, operated, or maintained by an incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection, and humane treatment of such animals.
4. "*Animal warden*" means any person employed, contracted, or appointed by the state, municipal corporation, or any political subdivision of the state, for the purpose of aiding in the enforcement of the provisions of this chapter or any other law or ordinance relating to the licensing of animals, control of animals or seizure and impoundment of animals and includes any peace officer, animal control officer, or other employee whose duties in whole or in part include assignments which involve the seizure or taking into custody of any animal.
5. "*Boarding kennel*" means a place or establishment other than a pound or animal shelter where dogs or cats not owned by the proprietor are sheltered, fed, and watered in return for a consideration.
6. "*Commercial breeder*" means a person, engaged in the business of breeding dogs or cats, who sells, exchanges, or leases dogs or cats in return for consideration, or who offers to do so, whether or not the animals are raised, trained, groomed, or boarded by the person. A person who owns or harbors three or fewer breeding males or females is not a commercial breeder. However, a person who breeds or harbors more than

three breeding male or female greyhounds for the purposes of using them for pari-mutuel racing shall be considered a commercial breeder irrespective of whether the person sells, leases, or exchanges the greyhounds for consideration or offers to do so.

7. "*Commercial kennel*" means a kennel which performs grooming, boarding, or training services for dogs or cats in return for a consideration.

8. "*Dealer*" means any person who is engaged in the business of buying for resale or selling or exchanging dogs or cats, or both, as a principal or agent, or who claims to be so engaged.

9. "*Euthanasia*" means the humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death or by a method that involves anesthesia, produced by an agent which causes painless loss of consciousness, and death during the loss of consciousness.

10. "*Housing facilities*" means any room, building or area used to contain a primary enclosure or enclosures.

11. "*Person*" means person as defined in chapter 4.

12. "*Pet shop*" means an establishment where a dog, cat, rabbit, rodent, nonhuman primate, fish other than live bait, bird, or other vertebrate animal is bought, sold, exchanged, or offered for sale. However, a pet shop does not include an establishment if one of the following applies:

a. The establishment receives less than five hundred dollars from the sale or exchange of vertebrate animals during a twelve-month period.

b. The establishment sells or exchanges less than six animals during a twelve-month period.

13. "*Pound*" or "*dog pound*" means a facility for the prevention of cruelty to animals operated by the state, a municipal corporation, or other political subdivision of the state for the purpose of impounding or harboring seized stray, homeless, abandoned or unwanted dogs, cats or other animals; or a facility operated for such a purpose under a contract with any municipal corporation or incorporated society.

14. "*Primary enclosure*" means any structure used to immediately restrict an animal to a limited amount of space, such as a room, pen, cage or compartment.

15. "*Public auction*" means any place or location where dogs or cats, or both, are sold at auction to the highest bidder regardless of whether the dogs or cats are offered as individuals, as a group, or by weight.

16. "*Research facility*" means any school or college of medicine, veterinary medicine, pharmacy, dentistry, or osteopathy, or hospital, diagnostic or research laboratories, or other educational or scientific establishment situated in this state concerned with the investigation of, or instruction concerning the structure or function of living organisms, the cause, prevention, control or cure of diseases or abnormal conditions of human beings or animals.

17. "*Vertebrate animal*" means those vertebrate animals other than members of the equine, bovine, ovine, and porcine species, and ostriches, rheas, or emus.

[C75, 77, 79, 81, § 162.2]

86 Acts, ch 1245, § 611; 88 Acts, ch 1186, § 14; 92 Acts, ch 1094, § 1; 92 Acts, ch 1212, § 6; 95 Acts, ch 43, § 4; 2005 Acts, ch 3, §40

Footnotes

Further definitions; see § 159.1

162.3 Certificate of registration for pound.

A pound shall not be operated unless a certificate of registration for the pound is granted by the secretary. Application for the certificate shall be made in the manner approved by the secretary. Certificates of registration expire one year from date of issue unless revoked and may be renewed upon application in the manner provided by the secretary. A registered pound may engage in the sale of dogs or cats under its control, if the privilege is allowed by the department, but no fee shall be charged unless the registered pound is privately owned. The registration fee for a privately owned pound that sells dogs or cats is fifteen dollars per year.

[C75, 77, 79, 81, § 162.3]

88 Acts, ch 1186, § 5; 88 Acts, ch 1272, § 12; 89 Acts, ch 296, § 17

162.4 Certificate of registration for animal shelter.

A person shall not operate an animal shelter unless a certificate of registration for the animal shelter is granted by the secretary. Application for the certificate shall be made in the manner provided by the secretary. A fee is not required for the application or certificate. Certificates of registration expire one year from date of issue unless revoked and may be renewed in the manner provided by the secretary. A registered animal shelter may engage in the sale of dogs or cats if the privilege is allowed by the department.

[C75, 77, 79, 81, § 162.4]

88 Acts, ch 1186, § 6

162.5 Pet shop license.

A person shall not operate a pet shop unless the person has obtained a license to operate a pet shop issued by the secretary. Application for the license shall be made in the manner provided by the secretary. The license expires one year from date of issue unless revoked and may be renewed in the manner provided by the secretary. The license fee is fifty dollars per year. The license may be renewed if the licensee has conformed to all statutory and regulatory requirements.

[C75, 77, 79, 81, § 162.5]

88 Acts, ch 1186, § 7; 88 Acts, ch 1272, § 13; 89 Acts, ch 296, § 17

162.6 Commercial kennel or public auction license.

A person shall not operate a commercial kennel or public auction unless the person has obtained a license to operate a commercial kennel or a public auction issued by the secretary or unless the person has obtained a certificate of registration issued by the secretary if the kennel is federally licensed. Application for the license or the certificate shall be made in the manner provided by the secretary. The license and the certificate expire one year from date of issue unless revoked. The license fee is forty dollars per year and the certification fee is twenty dollars annually. If the person has obtained a federal license, the person need only obtain a certificate. The license may be renewed upon application and payment of the prescribed fee in the manner provided by the secretary if the licensee has conformed to all statutory and regulatory requirements. The certificate may be renewed upon application and payment of the prescribed fee in the manner provided by the secretary.

[C75, 77, 79, 81, § 162.6]

88 Acts, ch 1186, § 8; 88 Acts, ch 1272, § 14; 89 Acts, ch 15, §1; 89 Acts, ch 296, § 17

162.7 Dealer license.

A person shall not operate as a dealer unless the person has obtained a license issued by the secretary or unless the person has obtained a certificate of registration issued by the secretary if the kennel is federally licensed. Application for the license or the certificate shall be made in the manner provided by the secretary. The license and certificate expire one year from date of issue unless revoked. The license fee is one hundred dollars per year and the certification fee is twenty dollars per year. The license may be renewed upon application and payment of the fee in the manner provided by the secretary if the licensee has conformed to all statutory and regulatory requirements. The certificate may be renewed upon application and payment of the fee in the manner provided by the secretary.

[C75, 77, 79, 81, § 162.7]

88 Acts, ch 1186, § 9; 88 Acts, ch 1272, § 15; 89 Acts, ch 15, § 2; 89 Acts, ch 296, §17

162.8 Commercial breeder's license.

A person shall not operate as a commercial breeder unless the person has obtained a license issued by the secretary or unless the person has obtained a certificate of registration issued by the secretary if the kennel is federally licensed. Application for the license or the certificate shall be made in the manner provided by the secretary. The annual license or the certification period expires one year from date of issue. The license fee is forty dollars per year and the certificate fee is twenty dollars per year. The license may be renewed upon application and payment of the prescribed fee in the manner provided by the secretary if the licensee has conformed to all statutory and regulatory requirements. The certificate may be renewed upon application and payment of the prescribed fee in the manner provided by the secretary.

[C75, 77, 79, 81, § 162.8]

88 Acts, ch 1186, § 10; 88 Acts, ch 1272, § 16; 89 Acts, ch 296, §18

162.9 Boarding kennel operator's license.

A person shall not operate a boarding kennel unless the person has obtained a license to operate a boarding kennel issued by the secretary. Application for the license shall be made in the manner provided by the secretary and expires one year from date of issue. The license fee is thirty dollars per year. The license may be renewed upon application and payment of the prescribed fee in the manner provided by the secretary if the licensee has conformed to all statutory and regulatory requirements.

[C75, 77, 79, 81, § 162.9]

88 Acts, ch 1186, § 11; 88 Acts, ch 1272, § 17; 89 Acts, ch 296, § 17

162.10 Research facility registration.

A person shall not operate a research facility unless the person obtains a certificate issued by the secretary. The certificate expires one year from date of issue. Application for the certificate shall be made in the manner provided by the secretary. A fee is not required for the application or certificate.

[C75, 77, 79, 81, § 162.10]

162.11 Exceptions.

1. Any dealer or commercial breeder and any person who operates a commercial kennel or public auction who has obtained and is operating the business under a current and valid federal license shall, upon payment of the prescribed fee, be forwarded a certificate of registration by the secretary.
2. The certificate of registration may be denied or revoked if the person no longer possesses a current and valid federal license. Other than obtaining the certificate of registration from the secretary, any dealer or commercial breeder and any person who operates a commercial kennel or public auction shall not be subject to further regulation under the provisions of this chapter.
3. Any person who possesses a current and valid federal license may, in lieu of obtaining a certificate of registration, make application for a state license as provided in this chapter. If properly qualified, and upon payment of the prescribed fee, a license shall be issued under the provisions of this chapter.
4. This chapter does not apply to a place or establishment which operates under the immediate supervision of a duly licensed veterinarian as a hospital where animals are harbored, hospitalized, and cared for incidental to the treatment, prevention, or alleviation of disease processes during the routine practice of the profession of veterinary medicine. However, if animals are accepted by such a place, establishment, or hospital for boarding or grooming for a consideration, the place, establishment, or hospital is subject to the licensing or registration requirements applicable to a boarding kennel or commercial kennel under this chapter and the rules adopted by the secretary.
5. This chapter does not apply to a noncommercial kennel at, in, or adjoining a private residence where dogs or cats are kept for the hobby of the householder, if the dogs or cats are used for hunting, for practice training, for exhibition at shows or field or obedience trials, or for guarding or protecting the householder's property. However, the dogs or cats must not be kept for breeding if a person receives consideration for providing the breeding.

[C75, 77, 79, 81, § 162.11]

88 Acts, ch 1186, § 13

162.12 Denial or revocation of license or registration.

A certificate of registration may be denied to any pound or animal shelter and a license or certificate of registration may be denied to any public auction, boarding kennel, commercial kennel, research facility, pet shop, commercial breeder, or dealer, or an existing certificate or license may be revoked by the secretary if, after public hearing, it is determined that the housing facilities or primary enclosures are inadequate under this chapter or if the feeding, watering, cleaning, and housing practices at the pound, animal shelter, public auction, pet shop, boarding kennel, commercial kennel, research facility, or those practices by the commercial breeder or dealer, are not in compliance with this chapter or with the rules adopted pursuant to this chapter. The premises of each licensee or certificate holder shall be open for inspection during normal business hours.

[C75, 77, 79, 81, § 162.12]

88 Acts, ch 1186, §14

162.13 Penalties.

Operation of a pound, animal shelter, pet shop, boarding kennel, commercial kennel, research facility, or public auction, or dealing in dogs or cats, or both, either as a dealer or a commercial breeder, without a currently valid license or a certificate of registration is a simple misdemeanor and each day of operation is a separate offense.

The failure of any pound, research facility, animal shelter, pet shop, boarding kennel, commercial kennel, commercial breeder, public auction, or dealer, to adequately house, feed, or water dogs, cats, or vertebrate animals in the person's or facility's possession or custody is a simple misdemeanor. The animals are subject to seizure and impoundment and may be sold or destroyed as provided by rules which shall be adopted by the department pursuant to chapter 17A. The rules shall provide for the destruction of an animal by a humane method, including by euthanasia. The failure to meet the requirements of this section is also cause for revocation or suspension of license or registration after public hearing. The commission of an act declared to be an unlawful practice under section 714.16 or prohibited under chapter 717 or 717B, by a person licensed or registered under this chapter is cause for revocation or suspension of the license or registration certificate. Dogs, cats, and other vertebrates upon which euthanasia is permitted by law may be destroyed by a person subject to this chapter or chapter 169, by a humane method, including euthanasia, as provided by rules which shall be adopted by the department pursuant to chapter 17A.

It is unlawful for a dealer to knowingly ship a diseased animal. A dealer violating this paragraph is subject to a fine not exceeding one hundred dollars. Each diseased animal shipped in violation of this paragraph is a separate offense.

[C75, 77, 79, 81, § 162.13]

83 Acts, ch 149, § 1; 88 Acts, ch 1186, § 15; 94 Acts, ch 1103, §1

162.14 Custody by animal warden.

An animal warden, upon taking custody of any animal in the course of the warden's official duties, shall immediately make a record of the matter in the manner prescribed by the secretary and the record shall include a complete description of the animal, reason for seizure, location of seizure, the owner's name and address if known, and all license or other identification numbers, if any. Complete information relating to the disposition of the animal shall be added in the manner provided by the secretary immediately after disposition.

[C75, 77, 79, 81, § 162.14]

162.15 Violation by animal warden.

Violation of any provision of this chapter which relates to the seizing, impoundment, and custody of an animal by an animal warden shall constitute a simple misdemeanor and each animal handled in violation shall constitute a separate offense.

[C75, 77, 79, 81, § 162.15]

162.16 Rules.

The secretary shall promulgate rules consistent with the objectives and intent of this chapter, for the purpose of carrying out such objectives and intent, within ninety days after July 1, 1974, subject to chapter 17A. However, rules adopted by the secretary shall not exceed any federal standards or rules except as specifically provided for in this chapter.

[C75, 77, 79, 81, § 162.16]

162.17 Exceptions. Repealed by 88 Acts, ch 1186, §16. See § 162.11.

162.18 Fees.

All fees collected by the secretary from licenses and certificates issued under this chapter shall be paid to the treasurer of state.

[C75, 77, 79, 81, § 162.18]

162.19 Abandoned animals destroyed.

Whenever any animal is left with a veterinarian, boarding kennel or commercial kennel pursuant to a written agreement and the owner does not claim the animal by the agreed date, the animal shall be deemed abandoned, and a notice of abandonment and its consequences shall be sent within seven days by certified mail to the last known address of the owner. For fourteen days after mailing of the notice the owner shall have the right to reclaim the animal upon payment of all reasonable charges, and after the fourteen days the owner shall be deemed to have waived all rights to the abandoned animal. If despite diligent effort an owner cannot be found for the abandoned animal within another seven days, the veterinarian, boarding kennel, or commercial kennel may humanely destroy the abandoned animal.

Each veterinarian, boarding kennel or commercial kennel shall warn its patrons of the provisions of this section by a conspicuously posted notice or by conspicuous type in a written receipt.

[C77, 79, 81, § 162.19]

162.20 Sterilization.

1. A pound or animal shelter shall not transfer ownership of a dog or cat by sale or adoption, unless the dog or cat is subject to sterilization. The sterilization shall involve a procedure which permanently destroys the capacity of a dog or cat to reproduce, either by the surgical removal or alteration of its reproductive organs, or by the injection or ingestion of a serum. The pound or animal shelter shall not relinquish custody until it provides for one of the following:

a. Sterilization performed by a veterinarian licensed pursuant to chapter 169.

b. The execution of an agreement with a person intended to be the permanent custodian of the dog or cat. The agreement must provide that the custodian shall have the dog or cat sterilized by a veterinarian licensed pursuant to chapter 169.

2. The pound or animal shelter maintaining custody of the dog or cat may require that a person being transferred ownership of the dog or cat reimburse the pound or animal shelter for the amount in expenses incurred by the pound or animal shelter in sterilizing the dog or cat, if the dog or cat is sterilized prior to the transfer of ownership of the dog or cat to the person.

3. a. The sterilization agreement may be on a form which shall be prescribed by the department. The agreement shall contain the signature and address of the person receiving custody of the dog or cat, and the signature of the representative of the pound or animal shelter.

b. The sterilization shall be completed as soon as practicable, but prior to the transfer of the ownership of the dog or cat by the pound or animal shelter. The pound or animal shelter may grant an extension of the period required for the completion of the sterilization if the extension is based on a reasonable determination by a licensed veterinarian.

c. A pound or animal shelter shall transfer ownership of a dog or cat, conditioned upon the confirmation that the sterilization has been completed by a licensed veterinarian who performed the procedure. The confirmation shall be a receipt furnished by the office of the attending veterinarian.

d. A person who fails to satisfy the terms of the sterilization agreement shall return the dog or cat within twenty-four hours following receipt of a demand letter which shall be delivered to the person by the pound or animal shelter personally or by certified mail.

4. a. A person who does not comply with the provisions of a sterilization agreement is guilty of a simple misdemeanor.

b. A person who fails to return a dog or cat upon receipt of a demand letter is guilty of a simple misdemeanor.

c. A pound or animal shelter which knowingly fails to provide for the sterilization of a dog or cat is subject to a civil penalty of up to two hundred dollars. The department may enforce and collect civil penalties according to rules which shall be adopted by the department. Each violation shall constitute a separate offense. Moneys collected from civil penalties shall be deposited into the general fund of the state and are appropriated on July 1 of each year in equal amounts to each track licensed to race dogs to support the racing dog adoption program as provided in section 99D.27. Upon the third offense, the department may suspend or revoke a certificate of registration issued to the pound or animal shelter pursuant to this chapter. The department may bring an action in district court to enjoin a pound or animal shelter from transferring animals in violation of this section. In bringing the action, the department shall not be required to allege facts necessary to show, or tending to show, a lack of adequate remedy at law, that irreparable damage or loss will result if the action is brought at law, or that unique or special circumstances exist.

5. This section shall not apply to the following:

a. The return of a dog or cat to its owner by a pound or animal shelter.

b. The transfer of a dog or cat by a pound or animal shelter which has obtained an enforcement waiver issued by the department. The pound or shelter may apply for an annual waiver each year as provided by rules adopted by the department. The department shall grant a waiver, if it determines that the pound or animal shelter is subject to an ordinance by a city or county which includes stricter requirements than provided in this section. The department shall not charge more than ten dollars as a waiver application fee. The fees collected by the department shall be deposited in the general fund of the state.

c. The transfer of a dog or cat to an institution as defined in section 145B.1, a research facility as defined in section 162.2, or a person licensed by the United States department of agriculture as a class B dealer pursuant to 9 C.F.R. subchapter A, part 2. However, a class B dealer who receives an unsterilized dog or cat from a pound or animal shelter shall either sterilize the dog or cat or transfer the unsterilized dog or cat to an institution or research facility provided in this paragraph. The class B dealer shall not transfer a dog to an institution or research facility, if the dog is a greyhound registered with the national greyhound association and the dog raced at a track associated with pari-mutuel racing, unless the class B dealer receives written approval of the transfer from a person who owned an interest in the dog while the dog was racing.