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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. 573

February 5, 2009

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The bill was read for the first time and referred to the Committee on Public Safety Policy and Oversight

1.1 A bill for an act
1.2 relating to companion animals; creating a required permit for certain dog and cat
1.3 breeders; proposing coding for new law in Minnesota Statutes, chapter 347.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. **CITATION.**

1.6 Sections 2 to 5 may be cited as the Minnesota Puppy and Kitten Mill Cruelty
1.7 Prevention Act.

1.8 Sec. 2. **[347.60] DEFINITIONS.**

1.9 Subdivision 1. **Terms.** The definitions in this section apply to sections 347.65
1.10 to 347.70.

1.11 Subd. 2. **Animal cruelty.** "Animal cruelty" means causing or allowing unnecessary
1.12 pain, suffering, or unjustifiable injury or death to a cat or dog and includes any act
1.13 prohibited under chapter 343, section 346.39, or any other statute that prohibits cruelty
1.14 to cats or dogs.

1.15 Subd. 3. **Board.** "Board" means the Board of Animal Health or its agents.

1.16 Subd. 4. **Commercial breeder.** "Commercial breeder" means a person who
1.17 produces puppies or kittens for sale and who owns, houses, possesses, or maintains an
1.18 ownership interest in 40 or more cats or dogs older than nine months of age and capable of
1.19 breeding.

1.20 Subd. 5. **Imminent danger.** "Imminent danger" means conditions or practices that
1.21 exist on a premises which could reasonably be expected to cause death or serious physical
1.22 harm to an animal immediately or before the imminence of such danger can be eliminated
1.23 through the enforcement procedures otherwise provided in sections 347.65 and 347.70.

2.1 Subd. 6. **Minimum requirements.** "Minimum requirements" means the standards
 2.2 contained in the most recent set of best management standards for care of dogs and cats by
 2.3 dealers, commercial breeders, and brokers as set forth by the commissioner of agriculture
 2.4 and the standards contained in the most recent edition of the Animal and Plant Health
 2.5 Inspection Service's Animal Care Dealer Inspection Manual.

2.6 Subd. 7. **Neglect.** "Neglect" has the meaning provided in section 346.36,
 2.7 subdivision 5.

2.8 **Sec. 3. [347.65] COMMERCIAL BREEDER PERMIT.**

2.9 Subdivision 1. **Permit.** A commercial breeder must hold a valid permit issued by
 2.10 the board. A commercial breeder must apply for a permit annually on forms provided by
 2.11 the board and must submit all information required by the board.

2.12 Subd. 2. **Fees.** A commercial breeder must submit an application and inspection fee
 2.13 along with a completed permit application. If the board approves the permit application,
 2.14 the commercial breeder must pay an additional annual permit fee before the board may
 2.15 grant or renew a permit. The board must establish a per animal rate for each fee so as to
 2.16 fully cover the board's reasonable administration and inspection costs and to make grants
 2.17 to local units of government under subdivision 8. The board's rate setting activities are
 2.18 exempt from all rulemaking requirements in chapter 14.

2.19 Subd. 3. **Commercial breeder account.** The commercial breeder account is
 2.20 established as an account in the agricultural fund. All fee receipts and penalties collected
 2.21 under this section or section 347.70 must be deposited in the agricultural fund and credited
 2.22 to the commercial breeder account. The money in the account is continuously appropriated
 2.23 to the board to pay for the activities required by this section and section 347.70.

2.24 Subd. 4. **Application review, inspection.** (a) Before the board may approve a
 2.25 new or renewal permit application, it must:

2.26 (1) verify that the application is complete and the applicant has paid in full the
 2.27 appropriate fees;

2.28 (2) perform a criminal background check on the applicant; and

2.29 (3) within two months of receiving a completed application and obtaining the
 2.30 criminal background report or reports, perform an unannounced inspection of the
 2.31 applicant's place of business or places of business as authorized in paragraph (b).

2.32 (b) The board, upon presentation of official credentials, must be granted immediate
 2.33 access at reasonable times to the place of business or places of business listed on a
 2.34 person's application for a new or renewal commercial breeder permit. The board must

3.1 enter each premises and verify via inspection that the applicant is in full compliance with
3.2 the minimum requirements as well as all applicable animal cruelty laws.

3.3 Subd. 5. **Application denial.** The board may not issue a permit to an applicant who:

3.4 (1) failed to satisfy the requirements in subdivision 4;

3.5 (2) was convicted of a crime of animal cruelty or of violating a law in another state
3.6 that prohibits the cruel treatment of cats or dogs; or

3.7 (3) proposes to commence a new commercial breeder operation and fails to satisfy
3.8 the minimum requirements after three permit applications and unannounced board
3.9 inspections during any 12-month period.

3.10 Subd. 6. **Appeal and reapplication.** (a) If the board denies a person a permit due to
3.11 findings of animal cruelty or failure to satisfy the minimum requirements as documented
3.12 during an unannounced inspection, the applicant has 30 days from receipt of notice from
3.13 the board to appeal the decision as provided under section 347.70 or address all issues
3.14 cited in the board's denial notice and reapply to the board for a permit.

3.15 (b) A denied applicant may apply a total of three times in a 12-month period and
3.16 must submit a new application along with the required administration and inspection fee
3.17 each time. The board must perform an unannounced inspection to verify that the applicant
3.18 has achieved full compliance with the minimum requirements and addressed all issues
3.19 documented during any previous inspection to the satisfaction of the board.

3.20 (c) If the board discovers during an inspection that the applicant has failed to
3.21 adequately address any prior documented issue, the board must deny the applicant a
3.22 permit and may assess a fine as provided in section 347.70, paragraph (b). The applicant
3.23 has 30 days from receipt of the notice of permit denial to request in writing that the board
3.24 initiate a contested case hearing under chapter 14. Upon receipt of the request, the board
3.25 must initiate a contested case hearing and the ruling by an administrative law judge as to
3.26 whether the board must grant a permit is final. If the administrative law judge determines
3.27 that the board was correct to deny a permit to an applicant, the applicant may reapply
3.28 according to the terms of paragraph (b).

3.29 Subd. 7. **Failure to address inspection findings; depopulation order.** (a) The
3.30 board must notify the appropriate law enforcement agency of each documented finding of
3.31 animal cruelty and must serve the applicant a mandatory animal depopulation order if:

3.32 (1) an applicant denied a permit does not address each documented board finding
3.33 and reapply for a permit within 30 days of the board's decision to deny the permit based
3.34 on the results of an inspection;

3.35 (2) the board denies an applicant's permit application three times in a 12-month
3.36 period; or

4.1 (3) the board's inspection identifies cats or dogs that are in imminent danger due to
 4.2 animal cruelty or neglect.

4.3 (b) An applicant who is served a mandatory animal depopulation order must
 4.4 depopulate a sufficient number of animals so as to possess no more than 39 cats or dogs of
 4.5 breeding age. The appropriate local unit of government, upon request of the board, must
 4.6 perform an unannounced inspection to verify compliance with the order and in the event
 4.7 of noncompliance must confiscate a sufficient number of animals so that the applicant
 4.8 possesses no more than 39 cats or dogs of breeding age.

4.9 (c) In the case of paragraph (a), clause (3), the board must immediately contact
 4.10 the appropriate law enforcement agency and order confiscation of the affected cats and
 4.11 dogs as soon as possible.

4.12 Subd. 8. **Enforcement grants to local units of government.** The board must
 4.13 reimburse local units of government fully or partially for costs incurred by the local unit
 4.14 of government to perform the inspections and depopulations required under subdivision 7,
 4.15 paragraphs (b) and (c). A local unit of government seeking a reimbursement grant must
 4.16 apply to the board on forms provided by the board.

4.17 **Sec. 4. [347.70] PENALTIES AND APPEALS.**

4.18 (a) The board may seek to remedy violations of this section and section 347.65 by
 4.19 authorizing the executive director to issue a written warning, administrative meeting,
 4.20 cease and desist, stop-sale, or other special order, seizure, stipulation, or agreement, if the
 4.21 board determines that the remedy is in the public interest.

4.22 (b) A person who violates this section is subject to an administrative fine of up to
 4.23 \$10,000 as determined by the board.

4.24 (c) After service of an order or notice of a fine, a person has 30 days from the date of
 4.25 receipt to notify the board in writing that the person intends to contest the order or fine.
 4.26 If the person fails to notify the board that the person intends to contest the order or fine,
 4.27 the order or fine is final and not subject to further judicial or administrative review. If a
 4.28 person notifies the board that the person intends to contest an order or fine within 30 days
 4.29 of receipt, the board must initiate a contested case hearing in accordance with chapter 14.

4.30 **Sec. 5. INSPECTIONS PERFORMED DURING THE FIRST CALENDAR**
 4.31 **YEAR.**

4.32 Notwithstanding Minnesota Statutes, section 347.65, subdivision 4, paragraph (a),
 4.33 clause (3), in the first calendar year after the effective date of that section, the board may
 4.34 make its initial unannounced inspection of a commercial breeder applicant within 12

- 5.1 months after receipt of a completed permit application. In that first year, a commercial
- 5.2 breeder who applies for a permit may continue to legally operate until the board has
- 5.3 issued its final permitting decision.