



# Ohio Legislative Service Commission

## Bill Analysis

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### **S.B. 130**

129th General Assembly  
(As Introduced)

**Sens.** Hughes and Cates, Lehner, Seitz, Skindell, Turner

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### **BILL SUMMARY**

- Revises the definition of dog kennels that are required to be registered under the Dogs Law, distinguishing them from high volume breeders that are required to be licensed under the bill.
- Creates the Kennel Control Authority for the purpose of administering the bill.
- Defines "high volume breeder," requires a person who operates such a kennel to obtain an annual license from the director of the Kennel Control Authority, and specifies information that must be included with an application for a high volume breeder license.
- Defines "dog retailer," and requires a person acting as or performing the functions of a dog retailer to obtain a license from the director.
- Defines "animal rescue for dogs," prohibits a person from operating an animal rescue for dogs without a license issued by the director, and requires the director to maintain a database of all persons licensed to operate an animal rescue for dogs in Ohio.
- Exempts medical kennels for dogs, research kennels for dogs, animals shelters for dogs that are operated by counties or municipal corporations (pounds), and veterinarians from the bill.
- Establishes application fees for high volume breeders and dog retailers, requires the money to be credited to the new High Volume Breeder Kennel Control License Fund with a portion of kennel application fees transferred to the applicable county dog and kennel fund, requires boarding kennels to be registered with the Authority, and establishes an annual registration fee.

- Authorizes the director to deny an application for a license under specified circumstances, and authorizes the director to suspend or revoke a license for violation of any of the bill's provisions or a rule adopted or order issued under it if the violation materially threatens the health or welfare of a dog.
- Requires the director to adopt rules establishing requirements and procedures that are necessary to administer and enforce the bill.
- Establishes specific standards applicable to high volume breeders, dog retailers, and animal rescues for dogs that are related to the feeding, care, and living conditions of dogs.
- Requires the director to appoint kennel control enforcement inspectors, requires the director and the inspectors to conduct inspections under certain circumstances and authorizes them to do so under other circumstances, and establishes authority for and procedures and requirements governing inspections.
- Authorizes the director or the director's authorized representative to impound a dog if there is probable cause to believe that the dog is being kept by a high volume breeder, dog retailer, or animal rescue for dogs in a manner that materially violates the bill or the rules adopted under it or if the dog's health or safety appears to be in imminent danger, and establishes procedures governing such an impoundment.
- Prohibits a high volume breeder from selling or otherwise transferring a puppy that is less than 90 days old without registering the litter in which the puppy was born with the director and paying a registration fee of \$25 per litter.
- Establishes requirements with which a pet store must comply regarding the sale of a dog.
- Provides for enforcement of its provisions through criminal and civil penalties, citations and orders, and injunctive relief.
- Creates the Kennel Control Authority Board to provide oversight and evaluation of the administration of the bill, including the operation of the Kennel Control Authority.

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## TABLE OF CONTENTS

Dogs Law provisions governing kennels .....	3
Kennel Control Authority .....	4
High volume breeders .....	4
Dog retailers .....	6
Animal rescues for dogs.....	7



Exemptions .....	8
Application fees; registration of boarding kennels .....	8
Application denial; license suspension and revocation .....	9
Rules .....	10
Standards of care.....	13
Inspectors and inspections.....	17
Impoundment.....	20
Registration of litters .....	21
Pet stores.....	21
Enforcement .....	22
Prohibition; criminal penalty .....	22
Citations and orders .....	22
Civil penalty.....	23
Injunctions.....	24
Hearings – witnesses, subpoenas.....	24
Kennel Control Authority Board.....	25
High Volume Breeder Kennel Control License Fund .....	26

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## CONTENT AND OPERATION

### Dogs Law provisions governing kennels

Under current law, the owner of a kennel of dogs must apply for the registration of the kennel and pay to the county auditor a \$10 registration fee for the kennel unless a greater fee has been established by the applicable board of county commissioners.<sup>1</sup> The fees are deposited into the county's dog and kennel fund.<sup>2</sup> Current law defines "kennel owner" as a person, partnership, firm, company, or corporation professionally engaged in the business of breeding dogs for hunting or for sale. The bill instead defines "dog kennel" or "kennel" for purposes of the Dogs Law as an establishment that keeps, houses, and maintains adult dogs for the purpose of breeding the dogs for a fee or other consideration received through a sale, exchange, or lease and that is not a high volume breeder that is licensed under the bill.<sup>3</sup> Thus, while retaining county registration of certain dog kennels, the bill distinguishes those kennels from high volume breeders that must be licensed under the bill's new regulatory program (see "**High volume breeders**," below). It also incorporates high volume breeders in certain provisions of the Dogs Law as discussed below.

Current law prohibits the owner of a dog, except a dog constantly confined to a registered kennel, from failing to require the dog to wear, at all times, a valid tag issued

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<sup>1</sup> R.C. 955.04 and 955.14, not in the bill.

<sup>2</sup> R.C. 955.20.

<sup>3</sup> R.C. 955.02.

in connection with a certificate of registration. The bill applies that exception also to a dog that is constantly confined to a high volume breeder that is licensed under the bill.<sup>4</sup>

Similarly, under current law, a county dog warden and the warden's deputies must seize and impound on sight all dogs found running at large and all dogs more than three months of age found not wearing a valid registration tag. Exceptions include any dog that wears a valid registration tag and is kept constantly confined in a registered dog kennel. The bill applies that exception also to a dog that is kept constantly confined in a high volume breeder that is licensed under the bill.<sup>5</sup>

## **Kennel Control Authority**

The bill creates the Kennel Control Authority for the purpose of administering the bill and rules adopted under it by the director of the Authority (see "**Rules**," below) and ensuring the welfare and humane treatment of dogs and their offspring in accordance with the bill and rules adopted under it. The Kennel Control Authority Board created by the bill must designate a suitable individual as director of the Authority who must serve at the Board's pleasure (see "**Kennel Control Authority Board**," below). The bill authorizes the director to contract with any political subdivision of the state to assist the director and the director's authorized representatives in administering and enforcing the bill and rules adopted under it.<sup>6</sup>

## **High volume breeders**

Under the bill, a person is prohibited from operating a high volume breeder in this state without a license issued by the director of the Kennel Control Authority in accordance with the bill and rules adopted under it.<sup>7</sup> The director is precluded from issuing a license unless the director determines that the applicant will operate or will continue to operate the high volume breeder in accordance with the bill and rules adopted under it.<sup>8</sup>

The bill defines "high volume breeder" as an establishment that keeps, houses, and maintains adult breeding dogs that produce at least nine litters of puppies in any given calendar year and, in return for a fee or other consideration, sells 60 or more adult

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<sup>4</sup> R.C. 955.10.

<sup>5</sup> R.C. 955.12.

<sup>6</sup> R.C. 956.02.

<sup>7</sup> R.C. 956.04(A)(1).

<sup>8</sup> R.C. 956.04(A)(2).

dogs or puppies per calendar year.<sup>9</sup> It defines "adult dog" as a dog that is 12 months of age or older and "puppy" as a dog that is under 12 months of age.<sup>10</sup> Under the bill, "breeding dog" means an unneutered, unspayed dog that is primarily harbored or housed on property that is the dog's primary residence.<sup>11</sup>

In determining whether an establishment is a high volume breeder requiring a license under the bill, the director must determine if, in any given year, the establishment is a high volume breeder as defined by the bill. All facilities that are located at an individual postal address must be licensed as one high volume breeder. Not more than one license must be issued for any given postal address.<sup>12</sup>

A person who is proposing to operate a new high volume breeder must submit an application for a license to the director at least 90 days before commencing operation of the kennel. The application must be submitted in the form and with the information required by rules adopted under the bill and must include with it at least all of the following:

(1) An affidavit signed under oath or solemn affirmation of the number of adult dogs that are kept, housed, and maintained by the applicant at the location that is the subject of the application;

(2) An estimate of the number of puppies to be kept, housed, and maintained and of the number of litters of puppies or total number of puppies to be produced during the annual term of the license;

(3) Photographic evidence documenting the facilities where dogs will be kept, housed, and maintained by the applicant. The Kennel Control Authority may conduct an inspection of the facilities that are the subject of an application in addition to reviewing photographic evidence submitted by an applicant for a license.

(4) A signed release permitting the performance of a background investigation regarding the applicant in accordance with rules adopted under the bill; and

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<sup>9</sup> R.C. 956.01(F).

<sup>10</sup> R.C. 956.01(A) and (L).

<sup>11</sup> R.C. 956.01(E).

<sup>12</sup> R.C. 956.04(B).

(5) The names and addresses and any other identifying information required by rules adopted under the bill of all persons who will have custody of or control over dogs kept by the applicant.<sup>13</sup>

During the month of December, but before the first day of January of the next year, a person who is proposing to continue the operation of a high volume breeder must obtain a license for the kennel from the director for the following year. The person must submit the application to the director on or before the last day of November of the year preceding the year for which the license is sought.<sup>14</sup>

The bill requires the owner or operator of a high volume breeder that is in operation on the bill's effective date to submit to the director an application for a high volume breeder license not later than three months after that date. The director must issue or deny the application within 90 days after the receipt of the completed application.<sup>15</sup>

A person who has received a high volume breeder license under the bill, upon sale or other disposition of the high volume breeder, may have the license transferred to another person with the consent of the director, provided that the transferee otherwise qualifies to be licensed as a high volume breeder under the bill and rules adopted under it and does not have a certified unpaid debt to the state.<sup>16</sup>

An applicant for a high volume breeder license must demonstrate that the high volume breeder that is the subject of the application complies with the standards of care and other standards established under the bill (see "**Standards of care**," below).<sup>17</sup>

## **Dog retailers**

The bill prohibits a person from acting as or performing the functions of a dog retailer in this state without a dog retailer license issued by the director of the Kennel Control Authority in accordance with the bill and rules adopted under it.<sup>18</sup> The director is precluded from issuing a license unless the director determines that the applicant will

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<sup>13</sup> R.C. 956.04(C).

<sup>14</sup> R.C. 956.04(D).

<sup>15</sup> R.C. 956.04(E).

<sup>16</sup> R.C. 956.04(F).

<sup>17</sup> R.C. 956.04(G).

<sup>18</sup> R.C. 956.05(A)(1).

act as or perform the functions of a dog retailer in accordance with the bill and rules adopted under it.<sup>19</sup>

Under the bill, "dog retailer" means a person who buys, sells, or offers to sell dogs at wholesale for resale to another or who sells or gives one or more dogs to a pet store annually. It does not include an animal rescue for dogs (see "**Animal rescues for dogs**," below), an animal shelter for dogs, a humane society established under state law, a medical kennel for dogs, a research kennel for dogs (see "**Exemptions**," below), a pet store, or a veterinarian.<sup>20</sup> The bill defines "animal shelter for dogs" as a facility that keeps, houses, and maintains dogs such as a dog pound operated by a municipal corporation, or by a county under the Dogs Law, or that is operated by a humane society established under state law, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization that is devoted to the welfare, protection, and humane treatment of dogs and other animals.<sup>21</sup> Under the bill, "veterinarian" means a veterinarian who is licensed under state law.<sup>22</sup>

A person who is proposing to act as or perform the functions of a dog retailer must submit an application for a license to the director. During the month of December, but before the first day of January of the next year, a person who is proposing to continue to act as or perform the functions of a dog retailer must obtain a license from the director for the following year. The person must submit the application to the director on or before the last day of November of the year preceding the year for which the license is sought.<sup>23</sup>

A person who is acting as or performing the functions of a dog retailer on the bill's effective date must submit to the director an application for a dog retailer license not later than three months after that date. The director must issue or deny the application within 90 days after the receipt of the completed application.<sup>24</sup>

### **Animal rescues for dogs**

The bill prohibits a person from operating an animal rescue for dogs without a license to do so issued by the director of the Kennel Control Authority in accordance

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<sup>19</sup> R.C. 956.05(A)(2).

<sup>20</sup> R.C. 956.01(G).

<sup>21</sup> R.C. 956.01(C).

<sup>22</sup> R.C. 956.01(N).

<sup>23</sup> R.C. 956.05(B).

<sup>24</sup> R.C. 956.05(C).

with rules adopted under the bill.<sup>25</sup> The bill defines "animal rescue for dogs" as an individual or organization recognized by the director of the Kennel Control Authority that keeps, houses, and maintains dogs and that is dedicated to the welfare, health, safety, and protection of dogs, provided that the individual or organization does not operate for profit, does not sell dogs for a profit, does not breed dogs, and does not purchase more than nine dogs in any given calendar year unless the dogs are purchased from a dog warden, a humane society, or another animal rescue for dogs. "Animal rescue for dogs" includes an individual or organization that offers dogs for adoption and charges reasonable adoption fees approved by the director of the Authority under the bill to cover the costs of the individual or organization, including, but not limited to, costs related to spaying or neutering dogs.<sup>26</sup>

Under the bill, no license application fee must be charged to an animal rescue for dogs. The director must maintain a database of all persons that are licensed to operate an animal rescue for dogs in Ohio.<sup>27</sup>

## **Exemptions**

Medical kennels for dogs, research kennels for dogs, animal shelters for dogs that are operated by a municipal corporation, or by a county under the Dogs Law, and veterinarians are not required to obtain a license under the bill or comply with any other requirements of the bill and rules adopted under it.<sup>28</sup> The bill defines "medical kennel for dogs" as a facility that is maintained by a veterinarian and operated primarily for the treatment of sick or injured dogs and "research kennel for dogs" as a facility housing dogs that is maintained exclusively for research purposes.<sup>29</sup>

## **Application fees; registration of boarding kennels**

Under the bill, a person who is applying for a license to operate a high volume breeder or to act as or perform the functions of a dog retailer must include with the application for a license a nonrefundable license application fee. For the purpose of calculating the application fee for a high volume breeder, the sale of one dog from a litter constitutes the sale of a litter. The application fees are as follows:

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<sup>25</sup> R.C. 956.06.

<sup>26</sup> R.C. 956.01(B).

<sup>27</sup> R.C. 956.06.

<sup>28</sup> R.C. 956.011.

<sup>29</sup> R.C. 956.01(J) and (M).

For a high volume breeder:

- (1) \$150 if the breeder annually sells at least nine, but not more than 15 litters;
- (2) \$250 if the breeder annually sells at least 16, but not more than 25 litters;
- (3) \$350 if breeder annually sells at least 26, but not more than 35 litters;
- (4) \$500 if the breeder annually sells at least 36, but not more than 45 litters; or
- (5) \$750 if the breeder annually sells 46 or more litters.

For a dog retailer, \$500.<sup>30</sup>

Additionally, the bill requires the owner of a boarding kennel to register the boarding kennel with the director of the Kennel Control Authority by paying an annual fee of \$50.<sup>31</sup> It defines "boarding kennel" as an establishment operating for profit that keeps, houses, and maintains dogs solely for the purpose of providing shelter, care, and feeding of the dogs in return for a fee or other consideration.<sup>32</sup>

The director must transmit money collected from application and registration fees to the Treasurer of State to be credited to the High Volume Breeder Kennel Control License Fund created by the bill (see "**High Volume Breeder Kennel Control License Fund**," below). However, the Treasurer of State must transfer to the county in which a high volume breeder is or will be located \$50 of the application fee received from the person who is applying for a license to operate the kennel or an amount equal to the fee charged by the county for the registration of a kennel under the Dogs Law (see above), whichever is greater. The county auditor must deposit the money in the county's dog and kennel fund.<sup>33</sup>

### **Application denial; license suspension and revocation**

The bill authorizes the director of the Kennel Control Authority to deny an application for a license that is submitted under the bill for either of the following reasons:

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<sup>30</sup> R.C. 956.07(A).

<sup>31</sup> R.C. 956.07(B).

<sup>32</sup> R.C. 956.01(D).

<sup>33</sup> R.C. 956.07(C).

(1) The applicant for the license has violated any provision of the bill or a rule adopted under it if the violation materially threatens the health or welfare of a dog;

(2) The applicant, in the past 20 years, has been convicted of or pleaded guilty to violating any of specified statutes prohibiting animal cruelty or animal fighting or an equivalent municipal ordinance, law of another state, or federal law or, in the past 20 years, has been convicted of or pleaded guilty to violating more than once the statute prohibiting domestic violence or an equivalent municipal ordinance, law of another state, or federal law.<sup>34</sup>

Additionally, the director may suspend or revoke a license issued under the bill for violation of any provision of the bill or a rule adopted or order issued under it if the violation materially threatens the health or welfare of a dog.<sup>35</sup>

An application or a license cannot be denied, suspended, or revoked without a written order of the director stating the findings on which the denial, suspension, or revocation is based. A copy of the order must be sent to the applicant or license holder by certified mail or may be provided to the applicant or license holder by personal service. In addition, the person to whom a denial, suspension, or revocation applies may request an adjudication hearing under the Administrative Procedure Act; the director must comply with such a request. The determination of the director at an adjudication hearing may be appealed in accordance with the Administrative Procedure Act, except that the determination may be appealed only to the Environmental Division of the Franklin County Municipal Court.<sup>36</sup>

## Rules

The bill requires the director of the Kennel Control Authority to adopt rules in accordance with the Administrative Procedure Act establishing all of the following:

(1) Requirements and procedures governing high volume breeders, including the licensing and inspection of and record keeping by high volume breeders, in addition to the requirements and procedures established by the bill. The rules must require that a high volume breeder be assigned a license number and that a high volume breeder provide the license number and the applicable vendor number

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<sup>34</sup> R.C. 956.15(A).

<sup>35</sup> R.C. 956.15(B)

<sup>36</sup> R.C. 956.15(C).

assigned by the Department of Taxation whenever it solicits business or it is solicited for business.<sup>37</sup>

(2) Requirements and procedures for conducting background investigations of each applicant for a high volume breeder license issued under the bill in order to determine if the applicant has been convicted of or pleaded guilty to any of the offenses specified in the bill the violation of which precludes a person from being licensed (see above). The rules must provide that background investigations must be conducted solely by the Attorney General on behalf of the Kennel Control Authority. The rules must establish procedures for annually updating background investigation information regarding an applicant after an initial background investigation has been conducted with respect to an initial application for a license.<sup>38</sup>

(3) Requirements and procedures governing dog retailers, including the licensing of and record keeping by dog retailers, in addition to the requirements and procedures established by the bill. The rules must require that a dog retailer be assigned a license number and that a dog retailer provide the license number and the applicable vendor number assigned by the Department of Taxation whenever it solicits business or it is solicited for business.<sup>39</sup>

(4) Requirements and procedures governing animal rescues for dogs, including the licensing and inspection of and record keeping by animal rescues for dogs, in addition to the requirements and procedures established by the bill;<sup>40</sup>

(5) The form of applications for licenses issued under the bill and the information that is required to be submitted in the applications. The rules must require an animal rescue for dogs to provide in an application for a license the name and address of each foster home that it utilizes.<sup>41</sup>

(6) A requirement that each high volume breeder submit to the director, with an application for a high volume breeder license, evidence of insurance or, in the alternative, evidence of a surety bond payable to the Authority to ensure compliance with the bill and rules adopted under it. The face value of the insurance coverage or bond must be in the following amounts:

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<sup>37</sup> R.C. 956.03(A).

<sup>38</sup> R.C. 956.03(B).

<sup>39</sup> R.C. 956.03(C).

<sup>40</sup> R.C. 956.03(D).

<sup>41</sup> R.C. 956.03(E).

(a) \$5,000 for high volume breeder kennels keeping, housing, and maintaining not more than 25 adult dogs;

(b) \$10,000 for high volume breeder kennels keeping, housing, and maintaining at least 26 adult dogs, but not more than 50 adult dogs; and

(c) \$50,000 for high volume breeder kennels keeping, housing, and maintaining more than 50 adult dogs.

The rules must require that the insurance be payable to the state or that the surety bond be subject to redemption by the state, as applicable, upon a suspension or revocation of a high volume breeder license for the purpose of paying for the maintenance and care of dogs that are seized or otherwise impounded from the kennel in accordance with the bill.<sup>42</sup>

(7) Procedures for inspections conducted under the bill in addition to the procedures established by the bill (see "**Inspectors and inspections**," below), and procedures for making records of the inspections;<sup>43</sup>

(8) Requirements and procedures that are necessary to implement and enforce the requirements pertaining to pet stores that are established by the bill (see "**Pet stores; other sales of dogs**," below);<sup>44</sup>

(9) Both of the following:

(a) A requirement that an in-state retailer or direct seller of a puppy or adult dog provide to the purchaser the complete name, address, and telephone number of all high volume breeders, dog retailers, and private owners that kept, housed, or maintained the puppy or adult dog prior to its coming into the possession of the retailer or direct seller, or proof that the puppy or adult dog was acquired through an animal rescue for dogs, animal shelter for dogs, or humane society, or a valid health certificate from the state of origin pertaining to the puppy or adult dog; and

(b) A requirement that an out-of-state retailer or direct seller of a puppy or adult dog that is conducting business in this state provide to the purchaser a valid health certificate from the state of origin pertaining to the puppy or adult dog and the complete name, address, and telephone number of all dog breeding kennels, sellers, and private owners that kept, housed, or maintained the puppy or adult dog prior to its

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<sup>42</sup> R.C. 956.03(F).

<sup>43</sup> R.C. 956.03(G).

<sup>44</sup> R.C. 956.03(H).

coming into the possession of the retailer or direct seller or proof that the puppy or adult dog was acquired through an animal rescue for dogs, animal shelter for dogs, or humane society in this state or another state;<sup>45</sup>

(10) A requirement that a high volume breeder or a dog retailer who advertises the sale of a puppy or adult dog include with the advertisement the vendor number assigned by the Tax Commissioner if the sale of the puppy or dog is subject to the Sales Tax Law (sales of animals by nonprofit animal adoption services or county humane societies are not subject to the sales tax);<sup>46</sup>

(11) Requirements and procedures governing the registration of litters under the bill (see "**Registration of litters**," below);<sup>47</sup>

(12) A requirement that a licensed high volume breeder and a licensed dog retailer comply with the Sales Tax Law. The rules must authorize the director to suspend or revoke a license for failure to comply with that Law. The director must work in conjunction with the Tax Commissioner for the purposes of those rules.<sup>48</sup>

(13) Any other requirements and procedures that are determined by the director to be necessary for the administration and enforcement of the bill and rules adopted under it.<sup>49</sup>

## **Standards of care**

Under the bill, no person operating a high volume breeder or acting as or performing the functions of a dog retailer or animal rescue for dogs must do any of the following:

(1) Fail to keep or confine a dog in accordance with one of the following:

(a) In an indoor enclosure with an attached outdoor enclosure that is accessible to the dog, provided that not more than three dogs are kept or confined in the indoor or outdoor enclosure at any one time. For dogs that weigh less than 20 pounds, the indoor enclosure must be at least four feet by four feet with an attached outdoor enclosure of at least four feet by eight feet. For dogs that weigh at least 20 pounds, but less than 51

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<sup>45</sup> R.C. 956.03(I).

<sup>46</sup> R.C. 956.03(J).

<sup>47</sup> R.C. 956.03(K).

<sup>48</sup> R.C. 956.03(L).

<sup>49</sup> R.C. 956.03(M).

pounds, the indoor enclosure must be at least four feet by six feet with an attached outdoor enclosure of at least four feet by twelve feet. For dogs that weigh 51 pounds or more, the indoor enclosure must be at least four feet by eight feet with an attached outdoor enclosure of at least four feet by sixteen feet.

(b) In an indoor enclosure with no attached outdoor enclosure, but with an exercise period in an outdoor enclosure that is provided at least two hours each day, provided that not more than three dogs are kept or confined in the indoor or outdoor enclosure at any one time. For dogs that weigh less than 20 pounds, the indoor enclosure must be at least four feet by four feet, and outdoor exercise must take place in an enclosed area that is at least ten feet by ten feet. For dogs that weigh at least 20 pounds, but less than 51 pounds, the indoor enclosure must be at least four feet by six feet, and outdoor exercise must take place in an enclosed area that is at least 20 feet by 20 feet. For dogs that weigh 51 pounds or more, the indoor enclosure must be at least four feet by eight feet, and outdoor exercise must take place in an enclosed area that is at least 40 feet by 40 feet.

For purposes of complying with item (1)(b), above, an indoor enclosure may be utilized for exercise when weather does not permit access to an outdoor enclosure. However, the indoor exercise enclosure must comply with the size requirements that are established by the bill for outdoor enclosures that are used for exercise. In addition, exercise is not required for a dog that has an illness and for which exercise would be detrimental to recovering from the illness. Finally, enclosures may be stacked on top of one another, but there must be a nonporous barrier separating the floor and ceiling of stacked enclosures.

(2) Keep or confine dogs in an enclosure, crate, or cage with any dog exhibiting vicious or aggressive behavior. Any dog exhibiting vicious or aggressive behavior must be housed separately to avoid injury to other dogs. Under the bill, "enclosure, crate, or cage" does not include an enclosure, crate, or cage that is used during the transportation of a dog or used for medical purposes.<sup>50</sup>

(3) Keep or confine more than three adult dogs in one enclosure, crate, or cage;

(4) Keep or confine a female dog that is nursing in an enclosure, crate, or cage with another adult dog;

(5) Keep or confine a dog in an enclosure, crate, or cage without access to either natural or artificial light during daytime hours;

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<sup>50</sup> R.C. 956.01(H).

(6) Keep or confine a dog in an enclosure, crate, or cage outdoors unless the dog has access at all times to a dry insulated indoor shelter or dog house with clean straw or other nontoxic insulating material in an amount that is sufficient to permit the dog to burrow under the straw or material while at the same time using the straw or material as bedding;

(7) Keep or confine a dog in an enclosure, crate, or cage if urine or feces have accumulated beyond an amount that is expected to accumulate in a normal 24-hour period or, if the dog is a female dog with a litter, in a normal 12-hour period;

(8) Keep or confine a dog in an enclosure, crate, or cage without access to clean unfrozen water at all times unless the dog is being used for hunting or sledding, in which case access to clean unfrozen water must be provided not less than one time per eight-hour period. Water must be provided to a dog in an open bowl or container that is not a drip bottle or limited intake mechanism.

(9) Keep or confine a dog in an enclosure, crate, or cage without access to adequate and wholesome food on a daily basis so as to ensure a proper and healthy weight unless medically contraindicated;

(10) Keep or confine a dog in an enclosure, crate, or cage with flooring material that is incapable of being cleaned or sanitized or that is likely to cause injury to the pads of a dog's feet;

(11) Keep or confine a dog in an enclosure, crate, or cage without providing a solid, nonporous surface, free from moisture or feces, that comprises at least 50% of the floor of the enclosure, crate, or cage. The solid surface may include soft bedding. Female dogs with litters and puppies 12 weeks of age or less must be housed in an enclosure, crate, or cage with a solid, nonporous surface, free from moisture or feces, that comprises 100% of the floor of the enclosure, crate, or cage. If a nonporous surface that is made of metal is used as flooring in the enclosure, crate, or cage, sufficient straw or soft bedding must be added to offer protection to the dog.

(12) Keep or confine a dog in an enclosure, crate, or cage in unsanitary conditions. Hard surfaces used by dogs must be spot-cleaned daily and sanitized at least once every two weeks to prevent the accumulation of dirt, debris, food waste, excreta, and other disease hazards.

(13) Keep or confine a dog in an enclosure, crate, or cage that is in contact with or in the immediate vicinity of any animal with a diagnosed or suspected disease that is contagious to dogs;

(14) Keep or confine a dog in an enclosure, crate, or cage without adequate ventilation to minimize odors, drafts, and ammonia levels and to prevent the condensation of moisture;

(15) Keep or confine a dog in an enclosure, crate, or cage without providing shelter from the elements;

(16) Keep or confine a dog in an outdoor run or kennel where shade is not provided during the months of May through September;

(17) Keep or confine a dog in an indoor enclosure, crate, or cage where the temperature is below 50 degrees Fahrenheit or over 90 degrees Fahrenheit;

(18) Fail to keep the area around a kennel in good repair, clean, and free from accumulations of junk, waste products, and discarded materials to protect dogs from injury and to prevent infestation by birds, rodents, or other pests. Weeds, grasses, bushes, and trees must be controlled at the property on which a kennel is located to allow for effective pest control and to protect the health and safety of the dogs that are housed at the kennel.

(19) Fail to provide a dog with sufficient interaction with other dogs. The opportunity for interaction must allow the animal to move relative to age, breed, sex, and reproductive status and must take place separately from the primary enclosure in an area that is clean and free of pests and vermin and that will prevent escape. Dogs in activity groups must be compatible and free of infectious disease.

(20) Fail to sanitize food and water receptacles at least every two weeks or more often if necessary to prevent an accumulation of dirt, debris, food waste, excreta, and other disease hazards;

(21) Fail to provide a dog with appropriate veterinary care and treatment for any disease, illness, or injury;

(22) Fail to provide all bitches with a clean, appropriate whelping box to securely house their puppies during whelping. The whelping box must be designed so that the bitch can lay fully recumbent, stand, turn around, and have some freedom of movement. No other animals can inhabit the whelping box besides the bitch and puppies.

(23) Fail to trim an adult dog's nails so that there is curling or an impairment of the dog's gait;

(24) Fail to provide regular care to a dog to prevent matting of fur from fecal matter or bodily fluids;

(25) Fail to provide a dog with appropriate protection from ectopic parasites or treatment for worms if the dog is so afflicted;

(26) Fail to provide an adult dog with appropriate vaccinations as determined by the dog's veterinarian;

(27) Fail to provide each puppy that is three months of age or older with appropriate phase-in booster vaccines as recommended by a veterinarian;

(28) Fail to provide heartworm preventative to a breeding dog as determined by the dog's veterinarian;

(29) Fail to ensure that a dog in the person's possession or control requiring euthanization is euthanized by a veterinarian or a person under the direct supervision of a veterinarian;

(30) Beat or brutalize a dog within the person's custody or control;

(31) Breed a female dog that has not had a physical examination from a veterinarian in the last 12 months before breeding;

(32) Dock a dog's tail, crop a dog's ear, remove a dog's claws, or debark a dog. Tail docking, ear cropping, the removal of a dog's claws, or debarking must only be conducted by a veterinarian.

(33) Fail to prepare and implement a plan for the disposal of waste that is generated by dogs at the kennel; or

(34) Keep a dog in an enclosure, crate, or cage that includes exposed metal caging without a protective plastic or rubber coating.

Certain of the above prohibitions regarding confinement do not apply during the temporary transportation of a dog from one location to another location.<sup>51</sup>

## **Inspectors and inspections**

The bill requires the director of the Kennel Control Authority to appoint kennel control enforcement inspectors for the purpose of enforcing the requirements and standards established by the bill and rules adopted under it and to act as authorized

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<sup>51</sup> R.C. 956.08.

agents of the Authority. Inspectors serve at the pleasure of the director and are employees of the Authority. Inspectors may issue citations and orders that are necessary to enforce the bill and rules adopted under it. The director must provide each kennel control enforcement inspector with an identifying badge and an official uniform. An inspector must have training in animal husbandry, kennel management, record keeping, and first aid.<sup>52</sup>

At least once biennially, the director or the director's authorized representative must inspect a high volume breeder that is subject to licensure under the bill and rules adopted under it to ensure compliance with the bill and rules, including, but not limited to, the standards of care established by the bill. In addition, upon a complaint, the director may inspect an animal rescue for dogs to ensure compliance with the bill and rules adopted under it, including, but not limited to, the standards of care established by the bill. Inspections must be conducted without prior notification to the licensee or persons associated with the licensee. In addition, upon the request of a member of the public, a public official, an animal rescue for dogs, or an animal shelter for dogs, the director or the director's authorized representative must inspect any facility at which a person is acting as or performing the functions of a dog retailer to ensure such compliance. The director or the director's authorized representative must inspect a boarding kennel when the director or the director's authorized representative has received information that the boarding kennel is breeding dogs and may be subject to licensure under the bill and rules adopted under it.

Inspections must be conducted in accordance with rules adopted under the bill. A record of each inspection must be made by the inspector who is responsible for the inspection in accordance with those rules.<sup>53</sup>

Under the bill, the director or the director's authorized representative, upon proper identification and upon stating the purpose and necessity of an inspection, may enter at reasonable times on any public or private property, real or personal, to inspect or investigate and to examine or copy records in order to determine compliance with the bill and rules adopted under it. The director, the director's authorized representative, or the Attorney General upon the request of the director may apply to the appropriate court in the county in which the inspection will occur for an appropriate court order or search warrant as necessary to achieve the purposes of the bill and rules adopted under it.<sup>54</sup>

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<sup>52</sup> R.C. 956.09.

<sup>53</sup> R.C. 956.10(A).

<sup>54</sup> R.C. 956.10(B).

The bill prohibits an owner or operator of a regulated dog breeding kennel, person acting as or performing the functions of a dog retailer, owner or operator of an animal rescue for dogs, or owner or operator of a boarding kennel from interfering with an inspection or refusing to allow an inspector full access to all areas where dogs are kept or cared for. If entry is refused or inspection or investigation is refused, hindered, or thwarted by a high volume breeder, dog retailer, or animal rescue for dogs, the director may suspend or revoke the breeder's, retailer's, or rescue's license in accordance with the bill.<sup>55</sup>

If entry that is authorized by the bill is refused or if an inspection or investigation is refused, hindered, or thwarted by intimidation or otherwise and if the director, an authorized representative of the director, or the Attorney General applies for and obtains a court order or a search warrant under the bill to conduct the inspection or investigation, the owner or operator of the premises where entry was refused or inspection or investigation was refused, hindered, or thwarted is liable to the director for the reasonable costs incurred by the director for the regular salaries and fringe benefit costs of personnel assigned to conduct the inspection or investigation from the time the court order or search warrant was issued until the court order or search warrant is executed; for the salary, fringe benefits, and travel expenses of the director, an authorized representative of the director, or the Attorney General incurred in obtaining the court order or search warrant; and for expenses necessarily incurred for the assistance of local law enforcement officers in executing the court order or search warrant. In the application for a court order or a search warrant, the director, the director's authorized representative, or the Attorney General may request and the court, in its order granting the court order or search warrant, may order the owner or operator of the premises to reimburse the director for any of those costs that the court finds reasonable. From money so recovered under the bill, the director must reimburse the Attorney General for the costs incurred by the Attorney General in connection with proceedings for obtaining the court order or search warrant, must reimburse the political subdivision in which the premises is located for the assistance of its law enforcement officers in executing the court order or search warrant, and must deposit the remainder in the state treasury to the credit of the High Volume Breeder Kennel Control License Fund created by the bill.<sup>56</sup>

The bill requires a dog warden or an agent of a humane society entering on public or private property to make investigations and inspections under their authorizing statutes to report any open and obvious violations of the bill and rules

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<sup>55</sup> R.C. 956.10(C).

<sup>56</sup> R.C. 956.10(D).

adopted under it to the director or a kennel control enforcement inspector and authorizes them to examine and copy any records that are required to be maintained in rules adopted under the bill.<sup>57</sup>

## **Impoundment**

Under the bill, the director of the Kennel Control Authority or the director's authorized representative may impound a dog if the director or the director's authorized representative has probable cause to believe that the dog is being kept by a high volume breeder, dog retailer, or animal rescue for dogs in a manner that materially violates the bill or rules adopted under it and if the dog's health or safety appears to be in imminent danger. The director or the director's authorized representative must give written notice of the impoundment by posting a notice on the door of the premises from which the dog was taken or by otherwise posting the notice in a conspicuous place at the premises from which the dog was taken. The notice must provide a date for an adjudication hearing, which must take place not later than five business days after the dog is taken and at which the director must determine if the dog should be permanently relinquished to the custody of the Kennel Control Authority.<sup>58</sup>

The owner or operator of the applicable high volume breeder, the person acting as or performing the functions of a dog retailer, or the owner or operator of the applicable animal rescue for dogs may appeal the determination made at the adjudication hearing in accordance with the Administrative Procedure Act, except that the appeal may only be made to the Environmental Division of the Franklin County Municipal Court.<sup>59</sup>

The director may enter into contracts or agreements with an animal rescue for dogs, an animal shelter for dogs, a boarding kennel, a veterinarian, a board of county commissioners, or a humane society for the purpose of keeping, housing, and maintaining dogs that are impounded under the bill. If, after the final disposition of an adjudication hearing and any appeals from that adjudication hearing, it is determined that a dog must be permanently relinquished to the custody of the Kennel Control Authority, the dog may be adopted directly from the animal rescue for dogs, animal shelter for dogs, boarding kennel, veterinarian, county dog pound, or humane society where it is being kept, housed, and maintained, provided that the dog has been spayed or neutered unless there are medical reasons against spaying or neutering as determined by a veterinarian. The animal rescue for dogs, animal shelter for dogs,

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<sup>57</sup> R.C. 956.10(E).

<sup>58</sup> R.C. 956.11(A) and (B).

<sup>59</sup> R.C. 956.11(C).

boarding kennel, veterinarian, county pound, or humane society may charge a reasonable adoption fee, which must be at least sufficient to cover the costs of spaying or neutering the dog unless it is medically contraindicated. Impounded dogs must be returned to persons acquitted of any alleged violations.<sup>60</sup>

### **Registration of litters**

The bill prohibits a high volume breeder from selling or otherwise transferring a puppy that is less than 90 days old without registering the litter in which the puppy was born with the director of the Kennel Control Authority in accordance with rules adopted under the bill and paying a registration fee of \$25 per litter. The prohibition does not apply to an animal rescue for dogs or an animal shelter for dogs.<sup>61</sup>

### **Pet stores**

The bill requires a pet store, at the time of the sale of a dog and in accordance with rules adopted under the bill, to provide the buyer of the dog with either of the following:

(1) A record of veterinary examination that states that the animal presents no evidence of disease or physical deformity at the time of the examination; or

(2) A money-back guarantee that is valid for not less than 21 days after the date of purchase of the dog. The guarantee must authorize the purchaser of the dog to receive the purchase price of the dog from the pet store within that 21-day period if the purchaser presents a statement to the pet store from a veterinarian who has examined the dog within 14 days of the purchase of the dog that the dog has a significant disease, illness, or injury that was in existence at the time of the purchase of the dog.<sup>62</sup> Under the bill, "pet store" means a retail store that sells dogs to the public.<sup>63</sup>

A pet store must post written notice of the pet store's responsibility under the bill in a conspicuous location near the pet store's cash register. The written notice must be posted in accordance with rules and must be in prominent and easily read type that is not less than 18-point type.<sup>64</sup>

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<sup>60</sup> R.C. 956.11(D).

<sup>61</sup> R.C. 956.20.

<sup>62</sup> R.C. 956.19(A).

<sup>63</sup> R.C. 956.01(K).

<sup>64</sup> R.C. 956.19(B).

Before the sale of a dog, a pet store must provide the name, complete address, and telephone number of the breeder that bred the dog, the high volume breeder where the dog was kept, housed, and maintained, and the dog retailer from whom the pet store acquired the dog, as applicable. The pet store also must provide the telephone number and address of the Kennel Control Authority.<sup>65</sup>

Under the bill, a pet store that fails to comply with item (1), above, with respect to the sale of a dog or a pet store that fails to refund the purchase price of a dog in accordance with item (2), above, is liable to the purchaser of the dog for an amount that is equal to the actual damages incurred by the purchaser within one year after the date of the purchase of the dog, except that veterinary expenses are limited to not more than \$500. The pet store also is liable for reasonable attorney's fees and costs incurred by the purchaser. In addition, the buyer of the dog may keep the dog.<sup>66</sup>

The bill prohibits a pet store from failing to comply with the bill's requirements governing pet stores.<sup>67</sup> It requires the director of the Kennel Control Authority or the director's authorized representative to enforce those requirements. A purchaser must commence any action necessary to recover damages for a pet store's failure to provide required information or comply with the money back guarantee within two years from the date of purchase of the dog. Kennel control enforcement inspectors may make inspections of pet stores for the purpose of enforcing the bill.<sup>68</sup>

## **Enforcement**

### **Prohibition; criminal penalty**

The bill prohibits anyone from violating the bill or a rule adopted or order issued under it.<sup>69</sup> Violation is a first degree misdemeanor.<sup>70</sup> The bill establishes other enforcement mechanisms as discussed below.

### **Citations and orders**

Under the bill, if the director of the Kennel Control Authority or the director's authorized representative determines that a person has violated or is violating the bill

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<sup>65</sup> R.C. 956.19(C).

<sup>66</sup> R.C. 956.19(E).

<sup>67</sup> R.C. 956.19(D).

<sup>68</sup> R.C. 956.19(F) and (G).

<sup>69</sup> R.C. 956.98.

<sup>70</sup> R.C. 956.99.

or rules adopted under it, the director may issue and cause to be served by certified mail or personal service a citation of violation and an order requiring the person to cease the acts or practices that constitute a violation or requiring the person to take corrective actions to eliminate the conditions that constitute a violation. The order must state specifically the provision or provisions of the bill or the rule or rules adopted under it that have been violated and the facts constituting the violation, the actions that the person must take to correct the deficiencies, and the time period within which the person must correct the violations.<sup>71</sup>

### **Civil penalty**

The bill authorizes the director of the Kennel Control Authority to assess a civil penalty against a person violating the bill or rules adopted under it if all of the following occur:

(1) The person has received an order and been notified of the violation by certified mail as required by the bill;

(2) After the time period for correcting the violation specified in the order has elapsed, the director or the director's authorized representative has inspected the premises where the violation has occurred and determined that the violation has not been corrected, and the director has issued a notice of an adjudication hearing as discussed below; and

(3) The director affords the person an opportunity for an adjudication hearing under the Administrative Procedure Act to challenge the director's determination that the person is not in compliance with the bill or rules adopted under it, the imposition of the civil penalty, or both. A person may waive the opportunity for an adjudication hearing.

If the opportunity for an adjudication hearing is waived or if, after an adjudication hearing, the director determines that a violation of the bill or a rule adopted under it has occurred or is occurring, the director may assess a civil penalty. The civil penalty may be appealed in accordance with the Administrative Procedure Act, except that the civil penalty may only be appealed to the Environmental Division of the Franklin County Municipal Court.

Civil penalties must be assessed in the following amounts:

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<sup>71</sup> R.C. 956.12.

(1) A person who has operated a high volume breeder or acted as or performed the functions of a dog retailer without the required license must pay a civil penalty in an amount that is equal to two times the amount of the license fee that should have been paid by the person under the bill.

(2) A person who has violated any other provision of the bill or rules adopted under it, including, but not limited to, the standards of care established by the bill, must pay a civil penalty of \$25.

Each day that a violation continues constitutes a separate violation.<sup>72</sup>

### **Injunctions**

The Attorney General, upon the request of the director of the Kennel Control Authority, may bring an action for injunction against a person who has violated or is violating the bill, rules adopted under it, or an order issued under it. An action for injunction must be filed in the appropriate court in the county in which the violation is alleged to have occurred. That court must grant such injunctive relief upon a showing that the person against whom the action is brought has violated or is violating the bill, rules adopted under it, or an order issued under it. The court must give precedence to such an action over all other cases.<sup>73</sup>

### **Hearings – witnesses, subpoenas**

The bill authorizes the director of the Kennel Control Authority, the director's authorized representative, or the Attorney General to require the attendance of witnesses and the production of books, records, papers, and dogs that are needed either by the director or the Attorney General or by any party to a hearing before the director and for that purpose may issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records, papers, or dogs. The subpoena must be served by personal service or by certified mail. If the subpoena is returned because of inability to deliver, or if no return is received within 30 days after the date of mailing, the subpoena may be served by ordinary mail. If no return of ordinary mail is received within 30 days after the date of mailing, service must be deemed to have been made. If the subpoena is returned because of inability to deliver, the director or the Attorney General may designate a person or persons to effect either personal or residence service on the witness. The person so designated may be the sheriff of the county in which the witness resides or may be found or any other duly designated person. The fees and mileage of the person serving the subpoena must be the same as those allowed by the

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<sup>72</sup> R.C. 956.13.

<sup>73</sup> R.C. 956.14.

courts of common pleas in criminal cases and must be paid from the funds of the Authority. Fees and mileage for the witness must be the same as those allowed for witnesses by the courts of common pleas in criminal cases and must be paid from the funds of the Authority upon request of the witness following the hearing.<sup>74</sup>

### **Kennel Control Authority Board**

The bill creates the Kennel Control Authority Board consisting of one member of the Senate appointed by the President of the Senate, one member of the House of Representatives appointed by the Speaker of the House of Representatives, and the following seven members appointed by the Governor:

- (1) One member representing animal care and welfare organizations in Ohio;
- (2) One member who is a county dog warden;
- (3) One member who is a veterinarian;
- (4) One member representing pet stores in Ohio that are licensed under the bill as high volume breeders or dog retailers;
- (5) One member who is a member in good standing of a national breed parent club of the American Kennel Club;
- (6) One member who is licensed as a high volume breeder; and
- (7) One member representing the public.

Initial appointments to the Board must be made not later than 60 days after the bill's effective date. The bill provides that for the two members that must be licensed, it is sufficient for initial appointments of those members if they have applied for the requisite licenses within 30 days after their appointments are made. Their continued membership on the Board is contingent on the satisfactory completion of the application process and receipt of the requisite license from the director of the Kennel Control Authority. An inability to obtain approval for licensure will render the office vacant. All subsequent members who are required to have a license must be licensed, or be in the process of renewing a license, before being appointed to the Board.<sup>75</sup>

Terms of office of the members appointed by the President of the Senate and the Speaker of the House of Representatives must coincide with their terms of office as

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<sup>74</sup> R.C. 956.16.

<sup>75</sup> Section 4.

members of the Senate and the House of Representatives, as applicable. The bill provides for staggered three-year terms for the members who are appointed by the Governor. Members may be reappointed. The bill establishes standard procedures for the filling of vacancies.

The Governor must select a chairperson from among the Board's members. A majority of the members constitutes a quorum. The Board must meet at least four times a year in Columbus or at other locations selected by the chairperson. The chairperson must determine the agenda for each meeting. However, if the member appointed by the President of the Senate and the member appointed by the Speaker of the House of Representatives jointly request in writing that an item be placed on the agenda for a meeting, the chairperson must place the item on the agenda at the Board's next regularly scheduled meeting occurring more than ten days after the request has been made.

Members of the Board must serve without compensation for attending Board meetings, but must be reimbursed for their actual and necessary expenses incurred in the performance of official duties as members of the Board.

The bill requires the Board to provide oversight and evaluation of the administration of the bill and rules adopted under it, including the operation of the Kennel Control Authority. The oversight and evaluation may include, but not be limited to, a determination of whether the bill and rules adopted under it and the operation of the Authority have resulted in the prevention of cruelty to and abuse of dogs and an evaluation of the sanctions imposed on violators of the bill and rules adopted under it. In addition, the Board may make recommendations to the director of the Authority for changes to the administration of the bill and rules adopted under it and to the General Assembly for changes to the bill that the Board considers necessary for the effective enforcement of the bill and rules adopted under it. The Board may inspect records kept by the Authority and may interview kennel control enforcement inspectors. Finally, the Board, by December 31 each year, must issue a report of its findings and submit it to the Authority, the President of the Senate, and the Speaker of the House of Representatives.<sup>76</sup>

### **High Volume Breeder Kennel Control License Fund**

All money collected by the director of the Kennel Control Authority from license and registration fees under the bill and all money collected from civil penalties assessed under the bill must be deposited in the state treasury to the credit of the High Volume Breeder Kennel Control License Fund, which the bill creates. The director must use

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<sup>76</sup> R.C. 956.18.

money in the Fund for the purpose of administering the bill and rules adopted under it.<sup>77</sup> The bill states that it is the intent of the General Assembly to appropriate money to the Fund to enable the Authority to begin administering the bill and rules adopted under it.<sup>78</sup>

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## HISTORY

ACTION	DATE
Introduced	03-22-11

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<sup>77</sup> R.C. 956.17.

<sup>78</sup> Section 3.

