



Ohio Legislative Service Commission

Bill Analysis

Michelle R. McGreevy

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Sens. Hughes and Cates, Lehner, Seitz, Skindell, Turner, Hite, Beagle, Burke, Gentile, Jones, LaRose, Niehaus, Patton, Sawyer, Schiavoni, Tavares, Wagoner

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.
- Defines "high volume breeder," requires a person who operates such an establishment to obtain a license from the Director of Agriculture, 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.
- States that application fees cannot be charged for the issuance of high volume breeder, dog retailer, and animal rescue for dogs licenses.
- 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.
- 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.
- Requires the Commercial Dog Breeding Oversight Board, created by the bill, to establish certain standards of care for dogs, including standards governing housing and nutrition, requires the Board to take into consideration specified factors when establishing those standards, and prohibits high volume breeders and dog retailers from failing to comply with the standards.
- Requires the Director to appoint inspectors for the purpose of enforcing the requirements and standards established under the bill, 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 or dog retailer 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 or by an animal rescue for dogs 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.
- Establishes requirements with which a pet store must comply regarding the sale of a dog.
- Provides for enforcement of its provisions through civil penalties, citations and orders, and injunctive relief.
- Creates the Commercial Dog Breeding Oversight Board, and includes in its duties the provision of oversight and evaluation of the administration of the bill.
- Creates the High Volume Breeder Kennel Control Fund, states that the Fund consists of money collected by the Director from civil penalties imposed under the bill and of any money appropriated to it, and requires the Board to request the Controlling Board to release not more than \$2.5 million per biennium from the Fund.

- Requires the Director of Budget and Management, upon request of the Director of Agriculture, to transfer money from the Fund to each county's dog and kennel fund in accordance with a formula established by the Director of Agriculture in rules.
- Requires the Director of Agriculture to use the remainder of the money in the Fund to administer the bill.

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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.¹ The fees are deposited into the county's dog and kennel fund.² 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

¹ R.C. 955.04 and 955.14, not in the bill.

² R.C. 955.20.

consideration received through a sale, exchange, or lease and that is not a high volume breeder that is licensed under the bill.³ 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 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.⁴

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.⁵

High volume breeders

Under the bill, a person is prohibited from operating a high volume breeder in Ohio without a license issued by the Director of Agriculture in accordance with the bill and rules adopted under it.⁶ An application fee cannot be charged to an applicant for a license.⁷ 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.⁸

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 dogs or puppies per calendar year.⁹ It defines "adult dog" as a dog that is 12 months of

³ R.C. 955.02.

⁴ R.C. 955.10.

⁵ R.C. 955.12.

⁶ R.C. 956.04(A)(1).

⁷ R.C. 956.04(A)(2).

⁸ R.C. 956.04(A)(3).

⁹ R.C. 956.01(F).

age or older and "puppy" as a dog that is under 12 months of age.¹⁰ 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.¹¹

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.¹²

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. 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 term of the license;

(3) Photographic evidence documenting the facilities where dogs will be kept, housed, and maintained by the applicant. The Director 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

(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.

¹⁰ R.C. 956.01(A) and (K).

¹¹ R.C. 956.01(E).

¹² R.C. 956.04(B).

An applicant must specify whether the applicant is applying for a license that is valid for a period of one year, three years, or five years.¹³

During the month of December of the last year in which a license is valid, 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 a period of one year, three years, or five years. The person must submit the application to the Director on or before the last day of November of the last year in which a license is valid.¹⁴

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.¹⁵

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.¹⁶

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).¹⁷

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 in accordance with the bill and rules adopted under it.¹⁸ An application fee cannot be charged to an applicant for a license.¹⁹ The Director is precluded from issuing a license unless the

¹³ R.C. 956.04(C).

¹⁴ R.C. 956.04(D).

¹⁵ R.C. 956.04(E).

¹⁶ R.C. 956.04(F).

¹⁷ R.C. 956.04(G).

¹⁸ R.C. 956.05(A)(1).

¹⁹ R.C. 956.05(A)(2).

Director determines that the applicant will act as or perform the functions of a dog retailer in accordance with the bill and rules adopted under it.²⁰

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.²¹ 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.²² Under the bill, "veterinarian" means a veterinarian who is licensed under state law.²³

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.²⁴

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.²⁵

²⁰ R.C. 956.05(A)(3).

²¹ R.C. 956.01(G).

²² R.C. 956.01(C).

²³ R.C. 956.01(M).

²⁴ R.C. 956.05(B).

²⁵ R.C. 956.05(C).

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 in accordance with rules adopted under the bill.²⁶ The bill defines "animal rescue for dogs" as an individual or organization recognized by the Director of Agriculture 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 spayed or neutered dogs for adoption and charges reasonable adoption fees approved by the Director under the bill to cover the costs of the individual or organization, including, but not limited to, costs related to spaying or neutering dogs.²⁷

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.²⁸

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.²⁹ 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.³⁰

Application denial; license suspension and revocation

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

²⁶ R.C. 956.06.

²⁷ R.C. 956.01(B).

²⁸ R.C. 956.06.

²⁹ R.C. 956.02.

³⁰ R.C. 956.01(I) and (L).

(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; or

(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.³¹

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.³²

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.³³

Rules

The bill requires the Director 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

³¹ R.C. 956.15(A).

³² R.C. 956.15(B)

³³ R.C. 956.15(C).

assigned by the Department of Taxation whenever it solicits business or it is solicited for business.³⁴

(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 Director. 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.³⁵

(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.³⁶

(4) 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.³⁷

(5) 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 state 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:

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

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

³⁴ R.C. 956.03(A).

³⁵ R.C. 956.03(B).

³⁶ R.C. 956.03(C).

³⁷ R.C. 956.03(D).

(c) \$50,000 for high volume breeders 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 high volume breeder in accordance with the bill.³⁸

(6) 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;³⁹

(7) 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);⁴⁰

(8) Both of the following:

(a) A requirement that an in-state retailer 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 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 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 breeders, 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 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;⁴¹

³⁸ R.C. 956.03(E).

³⁹ R.C. 956.03(F).

⁴⁰ R.C. 956.03(G).

⁴¹ R.C. 956.03(H).

(9) 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);⁴²

(10) Requirements and procedures governing the registration of litters under the bill (see "**Registration of litters**," below);⁴³

(11) 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.⁴⁴

(12) 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. However, those rules cannot establish additional requirements and procedures governing animal rescues for dogs other than those adopted regarding the form of license applications for animal rescues for dogs.⁴⁵

Standards of care

The bill requires the Commercial Dog Breeding Oversight Board created by the bill (see "**Commercial Dog Breeding Oversight Board**," below) to establish standards governing all of the following:

- (1) Housing;
- (2) Nutrition;
- (3) Exercise;
- (4) Grooming;
- (5) Biosecurity and disease control;
- (6) Waste management;

⁴² R.C. 956.03(I).

⁴³ R.C. 956.03(J).

⁴⁴ R.C. 956.03(K).

⁴⁵ R.C. 956.03(L).

- (7) Whelping; and
- (8) Any other general standards of care for dogs.⁴⁶

In establishing the standards, the Board must consider the following factors:

- (1) Best management practices for the care and well-being of dogs;
- (2) Biosecurity;
- (3) The prevention of disease;
- (4) Morbidity and mortality data; and
- (5) Generally accepted veterinary medical standards and ethical standards established by the American Veterinary Medical Association.⁴⁷

It then prohibits any person operating a high volume breeder or acting as or performing the functions of a dog retailer from failing to comply with the standards established by the Board.⁴⁸

Additionally, the Board must establish a system for rating high volume breeders licensed under the bill. Ratings must be based on compliance with the bill and rules adopted and standards established under it. The Board must determine criteria to be used in establishing ratings.⁴⁹

Inspectors and inspections

The bill requires the Director to appoint inspectors for the purpose of enforcing the requirements and standards established under the bill and rules adopted under it and to act as authorized representatives of the Director. Inspectors serve at the pleasure of the Director and must be employees of the Department of Agriculture. Inspectors may issue citations and orders that are necessary to enforce the bill and rules adopted under it. The Director must provide each inspector with an identifying badge and an

⁴⁶ R.C. 956.19(D).

⁴⁷ R.C. 956.19(E).

⁴⁸ R.C. 956.08.

⁴⁹ R.C. 956.19(F).

official uniform. An inspector must have training in animal husbandry, kennel management, record keeping, and first aid.⁵⁰

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 the standards of care established by the Commercial Dog Breeding Oversight Board under the bill (see above). In addition, upon a complaint, the Director may inspect an animal rescue for dogs to ensure compliance with 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 Director or the Director's authorized representative who is responsible for the inspection in accordance with those rules.

Upon completion of an inspection of a high volume breeder, the Director or the Director's authorized representative must rate the high volume breeder in accordance with the rating system established by the Commercial Dog Breeding Oversight Board under the bill (see above). The Director or the Director's authorized representative must notify the high volume breeder of the rating assigned to it.⁵¹

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

⁵⁰ R.C. 956.09.

⁵¹ R.C. 956.10(A).

appropriate court order or search warrant as necessary to achieve the purposes of the bill and rules adopted under it.⁵²

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 the Director or the Director's authorized representative 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.⁵³

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 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, 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.⁵⁴

⁵² R.C. 956.10(B).

⁵³ R.C. 956.10(C).

⁵⁴ R.C. 956.10(D).

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 violations of the bill and rules adopted under it to the Director or the Director's authorized representative and authorizes them to examine and copy any records that are required to be maintained in rules adopted under the bill.⁵⁵

Impoundment

Under the bill, the Director 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 or dog retailer 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. In addition, the Director or the Director's authorized representative may impound a dog that is being kept by an animal rescue for dogs 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 Director.⁵⁶

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 be made only to the Environmental Division of the Franklin County Municipal Court.⁵⁷

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 Director, the dog

⁵⁵ R.C. 956.10(E).

⁵⁶ R.C. 956.11(A) and (B).

⁵⁷ R.C. 956.11(C).

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, 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.⁵⁸

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 in accordance with rules adopted under the bill. The prohibition does not apply to an animal rescue for dogs or an animal shelter for dogs.⁵⁹

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 dog 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.⁶⁰

Under the bill, "pet store" means a retail store that sells dogs to the public.⁶¹

⁵⁸ R.C. 956.11(D).

⁵⁹ R.C. 956.21.

⁶⁰ R.C. 956.20(A).

⁶¹ R.C. 956.01(J).

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.⁶²

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 Department of Agriculture.⁶³

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.⁶⁴

The bill prohibits a pet store from failing to comply with the bill's requirements governing pet stores.⁶⁵ It requires the Director 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. Inspectors employed by the Director for the purposes of the bill may make inspections of pet stores for the purpose of enforcing the bill.⁶⁶

Enforcement

Citations and orders

Under the bill, if the Director or the Director's authorized representative determines that a person has violated or is violating the bill 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

⁶² R.C. 956.20(B).

⁶³ R.C. 956.20(C).

⁶⁴ R.C. 956.20(E).

⁶⁵ R.C. 956.20(D).

⁶⁶ R.C. 956.20(F) and (G).

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.⁶⁷

Civil penalty

The bill also authorizes the Director 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 or personal service 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 be appealed only to the Environmental Division of the Franklin County Municipal Court.

Civil penalties must be assessed in the following amounts:

(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 established by the Director in rules adopted under the bill.

⁶⁷ R.C. 956.12.

(2) A person who has violated any other provision of the bill or rules adopted under it, including the standards of care established by the Commercial Dog Breeding Oversight Board under the bill, must pay a civil penalty of \$25.

Each day that a violation continues constitutes a separate violation.⁶⁸

Injunctions

The Attorney General, upon the request of the Director, 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.⁶⁹

Hearings – witnesses, subpoenas

The bill authorizes the Director, 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 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, upon request of the witness following the hearing,

⁶⁸ R.C. 956.13.

⁶⁹ R.C. 956.14.

must be paid from the money in the High Volume Breeder Kennel Control Fund created by the bill (see "**High Volume Breeder Kennel Control Fund**," below).⁷⁰

Commercial Dog Breeding Oversight Board

The bill creates the Commercial Dog Breeding Oversight Board in the Department of Agriculture consisting of the State Veterinarian in the Department of Agriculture and the following six members appointed by the Director of Agriculture, with the advice and consent of the Senate:

- (1) One member representing a county humane society;
- (2) One member who is a county dog warden;
- (3) One member who is a veterinarian;
- (4) One member representing animal rescues for dogs in Ohio;
- (5) One member who is a member of a professional dog breeding association in Ohio; and
- (6) 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 for staggered three-year terms for the appointed members. Members may be reappointed. The bill establishes standard procedures for the filling of vacancies.

The Director 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.

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 in addition to establishing standards of care and a rating system for high volume breeders as discussed above. The oversight and evaluation may include, but not be limited to, a determination of

⁷⁰ R.C. 956.16.

whether the bill and rules adopted under it and the administration and enforcement of the bill and rules adopted under it by the Director 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 for changes to the administration of the bill and rules adopted under it and to the General Assembly for statutory changes 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 Director for the purposes of the bill and may interview inspectors employed by the Director to enforce the bill and rules adopted under it. Finally, the Board, by December 31 each year, must issue a report of its findings and submit it to the Director, the President of the Senate, and the Speaker of the House of Representatives.⁷¹

High Volume Breeder Kennel Control License Fund

All money collected by the Director 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 Fund must also consist of money appropriated to it. Under the bill, no money may be released from the Fund without Controlling Board approval. The Commercial Dog Breeding Oversight Board must request the Controlling Board to release money in an amount not to exceed \$2.5 million per biennium.⁷² The bill states that it is the intent of the General Assembly to appropriate money to the Fund to enable the Director to begin administering the bill and rules adopted under it.⁷³

The Director must do both of the following:

(1) Request the Director of Budget and Management to, and the Director of Budget and Management must, transfer money to each county's dog and kennel fund established in current law in accordance with a formula established by the Director of Agriculture in rules adopted in accordance with the Administrative Procedure Act;

(2) Use the remainder of the money in the Fund for the purpose of administering the bill and rules adopted under it.⁷⁴

⁷¹ R.C. 956.19.

⁷² R.C. 956.18(A) and (B).

⁷³ Section 3.

⁷⁴ R.C. 956.18(C).

Miscellaneous

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.⁷⁵

HISTORY

ACTION	DATE
Introduced	03-22-11
Reported, S. Agriculture, Environment & Natural Resources	02-01-12
Passed Senate (30-0)	02-01-12

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⁷⁵ R.C. 956.17.

