

HOUSE BILL NO. 608

INTRODUCED BY M. MACDONALD

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4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE MONTANA COMMERCIAL PET PROTECTION
5 ACT; ESTABLISHING THE BOARD OF COMMERCIAL PET BREEDERS; REQUIRING COMMERCIAL
6 BREEDERS TO BE LICENSED BY THE BOARD OF COMMERCIAL PET BREEDERS; REQUIRING BREEDING
7 FACILITY INSPECTIONS; CREATING THE COMMERCIAL PET PROTECTION STATE SPECIAL REVENUE
8 ACCOUNT; PROVIDING CIVIL AND CRIMINAL PENALTIES FOR VIOLATIONS; PROVIDING AN
9 APPROPRIATION; PROVIDING RULEMAKING AUTHORITY; AND PROVIDING AN EFFECTIVE DATE."

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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12
13 NEW SECTION. **Section 1. Board of commercial pet breeders.** (1) There is a board of commercial
14 pet breeders.

15 (2) The board consists of eight members appointed by the governor and confirmed by the senate. The
16 members are:

- 17 (a) a commercial breeder as defined in [section 4];
- 18 (b) a breeder who is not a commercial breeder as defined in [section 4];
- 19 (c) a licensed veterinarian;
- 20 (d) an animal control officer;
- 21 (e) a representative from a humane organization;
- 22 (f) a person who operates an animal shelter;
- 23 (g) a person who operates a pet shop; and
- 24 (h) a member of the public.

25 (3) Members shall serve staggered 5-year terms.

26 (4) A vacancy on the board must be filled in the same manner as the original appointment and may be
27 only for the unexpired portion of the term.

28 (5) The board is allocated to the department of labor and industry for administrative purposes only as
29 prescribed in 2-15-121.

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1 NEW SECTION. **Section 2. Short title.** [Sections 2 through 10] may be cited as the "Montana
2 Commercial Pet Protection Act".

3
4 NEW SECTION. **Section 3. Purpose.** The purpose of [sections 2 through 10] is to ensure that dogs
5 and cats that are bred, sold, exchanged, or adopted in Montana are healthy and to ensure that an animal does
6 not enter commerce with diseases or injuries that cause suffering to the animal and are unfairly and unexpectedly
7 financially and emotionally expensive to purchasers and adopters.

8
9 NEW SECTION. **Section 4. Definitions.** As used in [sections 2 through 10], the following definitions
10 apply:

11 (1) "Animal" means a dog or cat.

12 (2) "Board" means the board of commercial pet breeders established in [section 1].

13 (3) "Breeding facility" or "facility" means the premises used by one or more licensed breeders for
14 keeping, housing, or breeding dogs or cats. The term includes all buildings, property, and confinement areas in
15 a single location used to conduct the breeding activities.

16 (4) "Cat" means a mammal that is wholly or partly of the species *Felis catus*;

17 (5) "Commercial breeder" means an individual, entity, association, trust, or corporation engaged in the
18 business of breeding dogs or cats that:

19 (a) owns, keeps, or harbors eight or more intact dogs or cats that are used for breeding; or

20 (b) sells, exchanges, leases, or transfers or offers to sell, exchange, lease, or transfer 31 or more dogs
21 in a 12-month period beginning January 1 of each year.

22 (6) "Department" means the department of labor and industry.

23 (7) "Dog" means a mammal that is wholly or partly of the species *Canis familiaris*.

24 (8) "Inspection" means the examination of premises, equipment, records, and procedures or the
25 examination of a breeding facility by the board to determine whether the breeding operation is being conducted
26 in a manner consistent with the requirements of [sections 2 through 10] and the public health, safety, and welfare.

27 (9) "Intact" means an animal 9 months of age or older that is capable of reproduction.

28 (10) "Licensed breeder" means a commercial breeder licensed under [section 5(1)] or a breeder that
29 voluntarily obtains a license under [section 5(2)].

30

1 **NEW SECTION. Section 5. Licensure -- fees.** (1) A commercial breeder must be licensed annually by
2 the board. The applicant shall provide the name, address, and contact information for the commercial breeding
3 facility, and any other information required by the board on a license application form furnished by the board.

4 (2) A breeder who does not meet the criteria for a commercial breeder may voluntarily apply for a license
5 with the board.

6 (3) The board shall collect annual license fees based on a schedule of fees to be established by the
7 board pursuant to 37-1-134. The board shall consider volume related to animal breeding and retailing activities
8 when setting the fee schedule.

9 (4) All fees must be deposited in the account provided for in [section 8].

10

11 **NEW SECTION. Section 6. Facility inspection -- reports.** (1) (a) A commercial breeder that is required
12 to be licensed under [section 5(1)] or a breeder that voluntarily obtains a license under [section 5(2)] is subject
13 to inspection by the board.

14 (b) The board is responsible for ensuring that all inspections required under [sections 2 through 10] are
15 performed. The board shall delegate its inspection duties to the state veterinarian appointed under 81-1-301, or
16 the state veterinarian's designee. A designee appointed under this section must also be a state employee.

17 (c) The state veterinarian or the state veterinarian's designee is authorized to inspect the part of the
18 premises where it is reasonably believed that breeding animals are housed of all licensees and applicants for
19 licensure. For purposes of inspection, the board, inspectors, and other designees of the board are authorized to
20 enforce the provisions of this act and any board rules adopted pursuant to [section 10].

21 (2) The board, inspectors, and other designees of the board are authorized to inspect records required
22 under [sections 2 through 10] for all licensed breeders, breeding facilities, and breeders that are applying for a
23 license under [section 5].

24 (3) The board shall keep accurate records of all inspections performed on a form furnished by the board.
25 The inspection reports must be made available to the public upon request under 2-6-102. The inspector shall
26 deliver the report to the board within 5 days of the inspection, except that when animals may be in imminent
27 danger, the inspector shall deliver the report to the board as soon as practicable.

28 (4) The board shall provide a report of the findings to the commercial breeder within 10 days of the
29 inspection. The report must contain a statement of whether the licensed breeder and the breeding facility passed
30 the inspection, and if the breeder or the facility did not pass the inspection, the actions that the licensee must take

1 to correct any violations.

2 (5) (a) The board shall issue a certificate of passage of inspection to facilities that are in compliance with
3 all applicable standards. The board shall post the names of all inspected licensed breeders and facilities and
4 whether each facility passed the most recent inspection on the board's website.

5 (b) A licensed breeder that receives a certificate of passage of inspection shall display the certificate in
6 a prominent place on the premises of the breeding facility.

7 (6) A licensed breeder must be inspected at the following times:

8 (a) upon applying for a license;

9 (b) at least annually thereafter; and

10 (c) whenever a complaint, as defined by the board in rule, is filed against the licensed breeder or the
11 breeding facility.

12 (7) A commercial breeder that fails to obtain a license from the department as required by [section 5] may
13 not breed, sell, exchange, or adopt any animals until the board approves a license.

14 (8) A licensed breeder that fails to meet the prescribed standards during the inspection must be
15 reinspected within 30 days and is prohibited from breeding, selling, exchanging, or adopting any animals until the
16 breeder is in compliance with the applicable standards, except that the breeder may transfer an animal without
17 remuneration to another licensed facility or a public animal control agency.

18 (9) If, during an inspection, an inspector or other designee of the board observes conditions or treatment
19 of any animal that the inspector or designee suspects or knows violates any provision of 45-8-210, 45-8-211,
20 45-8-217, or 45-8-218, the inspector or designee shall report the violation or suspected violation to the proper
21 enforcement authorities in the jurisdiction immediately.

22

23 **NEW SECTION. Section 7. Denial of license -- revocation -- suspension.** (1) The board may not
24 grant a license to a person who has been convicted of a violation under 45-8-209 through 45-8-211, 45-8-217,
25 or 45-8-218 or of substantially similar conduct under an animal cruelty law in another state within the last 10
26 years.

27 (2) The board shall revoke a breeder's license if the breeder is convicted of a violation of 45-8-209
28 through 45-8-211, 45-8-217, or 45-8-218 or of substantially similar conduct under an animal cruelty law in another
29 state.

30 (3) The board may deny, suspend, or revoke the license of a person applying for or holding the license

1 if the person:

2 (a) has made a material omission or misstatement on the license application;

3 (b) has made a material omission or misstatement to an employee of the board regarding a matter
4 relevant to the license;

5 (c) fails to comply with [sections 2 through 10] or any rule adopted pursuant to [section 10];

6 (d) has been convicted of violating any law relating to cruelty to animals and the conviction is more than
7 10 years old, if there is evidence that the person has not been rehabilitated and approving the registration would
8 jeopardize the health, safety, or welfare of an animal;

9 (e) has been convicted of a felony;

10 (f) has, within the last 10 years:

11 (i) violated a provision of Title 30, chapter 14;

12 (ii) been ordered to cease and desist from operating a commercial breeding facility or from owning,
13 selling, or caring for animals; or

14 (iii) entered into an agreement with the office of the attorney general that requires the person to cease
15 and desist from operating a commercial breeding facility or from owning, selling, or caring for animals.

16 (g) has received a final, binding order that is not subject to a pending legal challenge that declares the
17 person's facility is not permitted under the applicable zoning ordinance;

18 (h) has acted or is acting in concert with a person who has violated a provision of Title 50, chapter 23;

19 (i) has had a commercial breeder license application denied or a commercial breeder license revoked
20 within the past 10 years; or

21 (j) is involved with another person who plays a role in the ownership of the facility or in caring for the
22 animals and the other person would be denied a license if that person were the applicant. For the purpose of this
23 subsection (2)(j), "role" includes having an ownership interest or a financial interest in the facility, providing care
24 for the animals, or participating in the management of the facility.

25 (4) The board shall provide written notice of the denial, suspension, or revocation of the license to the
26 person whose license is denied, suspended, or revoked. The notice must set forth the factual and legal basis for
27 the board's action and must advise the affected person that within 10 days of receiving the notice the affected
28 person may file a written request for an administrative hearing with the board. The administrative hearing must
29 be conducted in accordance with the Montana Administrative Procedure Act and any rules adopted by the board.

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1 **NEW SECTION. Section 8. Commercial pet protection state special revenue account.** (1) There
2 is a commercial pet protection account within the state special revenue fund established in 17-2-102. The purpose
3 of the account is to offset the costs incurred by the board for the commercial pet breeder licensing program,
4 facility inspections, and reporting. There must be paid into this account:

- 5 (a) revenue obtained under [section 5] for registration fees;
6 (b) revenue from penalties collected under [section 9];
7 (c) interest or other income earned on the money in the account.

8 (2) Money in the account is available to the board by appropriation and must be used to establish and
9 maintain the commercial pet breeder licensing program provided for in [sections 2 through 10].
10

11 **NEW SECTION. Section 9. Civil penalties -- criminal penalties -- equitable relief.** (1) (a) A person
12 who violates any of the provisions of [sections 2 through 10] or rules adopted by the board pursuant to [section
13 10] is subject to a civil penalty. The board may assess a civil penalty of not less than \$100 and not more than
14 \$1,000 per day against a licensed breeder for each violation.

15 (b) In setting the amount of the penalty, the board shall provide in writing the basis for the amount of the
16 penalty, including an evaluation of the following factors:

- 17 (i) the gravity of the violation;
18 (ii) the potential harm to the public;
19 (iii) the potential effect on the animal;
20 (iv) the willfulness of the violation;
21 (v) previous violations, if any;
22 (vi) the economic benefit to the person for failing to comply with [sections 2 through 10] or with rules
23 adopted pursuant to [section 10].

24 (c) The board shall provide written notice to the person of the factual and legal basis for the penalty. The
25 notice must advise the person that within 20 days of receiving the notice the person may file a written request for
26 an administrative hearing with the board. Unless a timely request has been filed, the written notice is final. The
27 administrative hearing must be conducted in accordance with the Montana Administrative Procedure Act
28 governing contested cases and any rules adopted by the board.

29 (d) If the board is unable to collect a civil penalty or if a person fails to pay all or a portion of a penalty
30 assessed under this section, the board may refer the matter to the office of the attorney general to institute an

1 action in the appropriate court to recover the penalty.

2 (2) (a) A person who violates [sections 2 through 10] in a manner that results in cruelty to an animal in
3 violation of 45-8-210, 45-8-211, 45-8-217, or 45-8-218 is subject to the criminal penalties established in 45-8-211.

4 (b) A person who makes a material omission or misstatement on the license application is guilty of a
5 misdemeanor and upon conviction shall be punished by a fine not more than \$500, by imprisonment not
6 exceeding 90 days, or both.

7 (c) A commercial breeder that operates without a license is guilty of a misdemeanor and upon conviction
8 shall be punished by a fine not less than \$100 and not more than \$500, by imprisonment not exceeding 90 days,
9 or both.

10 (3) In cases in which the circumstances require it, the board may seek a preliminary injunction or
11 temporary restraining order, provided that notice has been given to the respondent. The court shall issue the
12 injunction or restraining order if it finds the respondent is engaging in unlawful conduct in violation of [sections
13 2 through 10] or engaging in conduct that causes or may cause immediate and irreparable harm to the public.
14 In addition to an injunction or restraining order, the court may assess civil penalties under this section.

15 (4) All civil penalties collected under [sections 2 through 10] must be deposited in the commercial pet
16 protection state special revenue account established in [section 8].

17 (5) Each day of violation constitutes a separate violation under this section.

18
19 **NEW SECTION. Section 10. Rulemaking.** The board shall adopt rules governing inspection, record
20 keeping, and standards of care for commercial breeding facilities within 1 year of [the effective date of this act].

21 The rules must include:

22 (1) standards for commercial breeding facilities, including:

23 (a) enclosure size;

24 (b) construction material;

25 (c) proper drainage;

26 (d) sanitation;

27 (e) requirements for indoor and outdoor access;

28 (f) special provisions for an animal with a nursing litter;

29 (g) protection from weather;

30 (h) ventilation;

- 1 (i) temperature control;
- 2 (j) lighting; and
- 3 (k) any other housing standards necessary for ensuring the proper care of animals;
- 4 (2) standards for feeding, watering, and bedding;
- 5 (3) standards for animal health;
- 6 (4) adequate proof of regular and necessary veterinary care, including an annual hands-on veterinary
- 7 exam for each breeding animal, provided as part of a veterinarian-client-patient relationship;
- 8 (5) adequate proof that veterinary care was provided if an animal exhibits signs of poor health;
- 9 (6) standards for breeding of dogs and cats;
- 10 (7) a requirement that each facility has a written plan for disaster response and recovery; and
- 11 (8) departmental procedures for implementation of facility registration and inspection required under
- 12 [sections 2 through 10].

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14 **NEW SECTION. Section 11. Appropriation.** (1) There is appropriated \$18,000 from the general fund

15 to the department of labor and industry for the biennium ending June 30, 2017, for the purpose of establishing

16 the board of commercial pet breeders created in [section 1].

17 (2) There is appropriated \$62,000 from the general fund to the board of commercial pet breeders for the

18 biennium June 30, 2017, to establish the commercial breeder licensing program as described in [sections 2

19 through 10].

20

21 **NEW SECTION. Section 12. Codification instruction.** (1) [Section 1] is intended to be codified as an

22 integral part of Title 2, chapter 15, part 17, and the provisions of Title 2, chapter 15, part 17, apply to [section 1].

23 (2) [Sections 2 through 10] are intended to be codified as an integral part of Title 37, and the provisions

24 of Title 37 apply to [sections 2 through 10].

25

26 **NEW SECTION. Section 13. Severability.** If a part of [this act] is invalid, all valid parts that are

27 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,

28 the part remains in effect in all valid applications that are severable from the invalid applications.

29

30 **NEW SECTION. Section 14. Effective date.** [This act] is effective July 1, 2015.

31 - END -