

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 360

FINAL READING

Introduced by Johnson, 23.

Read first time January 15, 2015

Committee: Agriculture

1 A BILL FOR AN ACT relating to animals; to amend sections 28-1011, 54-603,
2 54-628, 54-628.01, 54-632, and 54-633, Reissue Revised Statutes of
3 Nebraska, and sections 28-1006, 28-1008, 28-1012, 28-1013, 28-1014,
4 28-1015, 28-1016, 28-1019, 29-818, 54-625, 54-626, 54-627, and
5 54-630, Revised Statutes Cumulative Supplement, 2014; to change
6 enforcement procedures related to crimes involving animals; to
7 provide for seizure and disposition of certain animals; to define
8 and redefine terms; to change state licensing fees relating to dogs
9 and cats; to change provisions relating to fees, inspections,
10 licenses, and enforcement under the Commercial Dog and Cat Operator
11 Inspection Act; to harmonize provisions; to provide an operative
12 date; and to repeal the original sections.

13 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-1006, Revised Statutes Cumulative Supplement,
2 2014, is amended to read:

3 28-1006 (1) It shall be the duty of the sheriff, a police officer,
4 or the Nebraska State Patrol to make prompt investigation of and arrest
5 for any violation of section 28-1005 or 28-1005.01.

6 (2) Any ~~animal~~, equipment, device, or other property or things
7 involved in any violation of section 28-1005 or 28-1005.01 shall be
8 subject to seizure, and disposition may be made in accordance with the
9 method of disposition directed for contraband in sections 29-818 and
10 29-820.

11 (3) Any animal involved in any violation of section 28-1005 or
12 28-1005.01 shall be subject to seizure. Distribution or disposition shall
13 be made as provided in section 5 of this act ~~29-818~~ and in such manner as
14 the court may direct. The court may give preference to adoption
15 alternatives through humane societies or comparable institutions and to
16 the protection of such animal's welfare. For a humane society or
17 comparable institution to be considered as an adoption alternative under
18 this subsection, it must first be licensed by the Department of
19 Agriculture as having passed the inspection requirements in the
20 Commercial Dog and Cat Operator Inspection Act and paid the fee for
21 inspection under the act. The court may prohibit an adopting or
22 purchasing party from selling such animal for a period not to exceed one
23 year.

24 (4) In addition to any other sentence given for a violation of
25 section 28-1005 or 28-1005.01, the sentencing court may order the
26 defendant to reimburse a public or private agency for expenses incurred
27 in conjunction with the care, impoundment, or disposal, including
28 adoption, of an animal involved in the violation of section 28-1005 or
29 28-1005.01. Whenever the court believes that such reimbursement may be a
30 proper sentence or the prosecuting attorney requests, the court shall
31 order that the presentence investigation report include documentation

1 regarding the nature and amount of the expenses incurred. The court may
2 order that reimbursement be made immediately, in specified installments,
3 or within a specified period of time, not to exceed five years after the
4 date of judgment.

5 Sec. 2. Section 28-1008, Revised Statutes Cumulative Supplement,
6 2014, is amended to read:

7 28-1008 For purposes of sections 28-1008 to 28-1017, 28-1019, and
8 28-1020 and section 5 of this act:

9 (1) Abandon means to leave any animal in one's care, whether as
10 owner or custodian, for any length of time without making effective
11 provision for its food, water, or other care as is reasonably necessary
12 for the animal's health;

13 (2) Animal means any vertebrate member of the animal kingdom. Animal
14 does not include an uncaptured wild creature or a livestock animal as
15 defined in section 54-902;

16 (3) Cruelly mistreat means to knowingly and intentionally kill,
17 maim, disfigure, torture, beat, mutilate, burn, scald, or otherwise
18 inflict harm upon any animal;

19 (4) Cruelly neglect means to fail to provide any animal in one's
20 care, whether as owner or custodian, with food, water, or other care as
21 is reasonably necessary for the animal's health;

22 (5) Humane killing means the destruction of an animal by a method
23 which causes the animal a minimum of pain and suffering;

24 (6) Law enforcement officer means any member of the Nebraska State
25 Patrol, any county or deputy sheriff, any member of the police force of
26 any city or village, or any other public official authorized by a city or
27 village to enforce state or local animal control laws, rules,
28 regulations, or ordinances. Law enforcement officer also includes a
29 special investigator appointed as a deputy state sheriff as authorized
30 pursuant to section 81-201 while acting within the authority of the
31 Director of Agriculture ~~any inspector under the Commercial Dog and Cat~~

1 ~~Operator Inspection Act to the extent that such inspector may exercise~~
2 ~~the authority of a law enforcement officer under section 28-1012 while in~~
3 ~~the course of performing inspection activities~~ under the Commercial Dog
4 and Cat Operator Inspection Act;

5 (7) Mutilation means intentionally causing permanent injury,
6 disfigurement, degradation of function, incapacitation, or imperfection
7 to an animal. Mutilation does not include conduct performed by a
8 veterinarian licensed to practice veterinary medicine and surgery in this
9 state or conduct that conforms to accepted veterinary practices;

10 (8) Owner or custodian means any person owning, keeping, possessing,
11 harboring, or knowingly permitting an animal to remain on or about any
12 premises owned or occupied by such person;

13 (~~9~~ 8) Police animal means a horse or dog owned or controlled by the
14 State of Nebraska or any county, city, or village for the purpose of
15 assisting a law enforcement officer in the performance of his or her
16 official enforcement duties;

17 (~~10~~ 9) Repeated beating means intentional successive strikes to an
18 animal by a person resulting in serious bodily injury or death to the
19 animal;

20 (~~11~~ ~~10~~) Serious injury or illness includes any injury or illness to
21 any animal which creates a substantial risk of death or which causes
22 broken bones, prolonged impairment of health, or prolonged loss or
23 impairment of the function of any bodily organ; and

24 (~~12~~ ~~11~~) Torture means intentionally subjecting an animal to extreme
25 pain, suffering, or agony. Torture does not include conduct performed by
26 a veterinarian licensed to practice veterinary medicine and surgery in
27 this state or conduct that conforms to accepted veterinary practices.

28 Sec. 3. Section 28-1011, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 28-1011 (1) In addition to any other sentence given for a violation
31 of section 28-1009 or 28-1010, the sentencing court may order the

1 defendant to reimburse a public or private agency for any unreimbursed
2 expenses incurred in conjunction with the care, impoundment, seizure, or
3 disposal of an animal involved in the violation of such section. Whenever
4 the court believes that such reimbursement may be a proper sentence or
5 the prosecuting attorney requests, the court shall order that the
6 presentence investigation report include documentation regarding the
7 nature and amount of the expenses incurred. The court may order that
8 reimbursement be made immediately, in specified installments, or within a
9 specified period of time, not to exceed five years after the date of
10 judgment.

11 (2) Even if reimbursement for expenses is not ordered under
12 subsection (1) of this section, the defendant shall be liable for all
13 unreimbursed expenses incurred by a public or private agency in
14 conjunction with the care, impoundment, seizure, or disposal of an
15 animal. The expenses shall be a lien upon the animal.

16 Sec. 4. Section 28-1012, Revised Statutes Cumulative Supplement,
17 2014, is amended to read:

18 28-1012 (1) A Any law enforcement officer who has reason to believe
19 that an animal has been abandoned or is being cruelly neglected or
20 cruelly mistreated may seek a warrant authorizing entry upon private
21 property to inspect, care for, or impound the animal.

22 (2) A Any law enforcement officer who has reason to believe that an
23 animal has been abandoned or is being cruelly neglected or cruelly
24 mistreated may issue a citation to the owner or custodian as prescribed
25 in sections 29-422 to 29-429.

26 (3) Any ~~animal,~~ equipment, device, or other property or things
27 involved in a violation of section 28-1009 or 28-1010 shall be subject to
28 seizure, and distribution or disposition may be made ~~shall be made under~~
29 ~~section 29-818 and~~ in such manner as the court may direct. Any animal
30 involved in a violation of section 28-1009 or 28-1010 shall be subject to
31 seizure. Distribution or disposition shall be made under section 5 of

1 this act as the court may direct.

2 ~~(4) Any animal involved in a violation of section 28-1009 or 28-1010~~
3 ~~shall be subject to seizure. Distribution or disposition shall be made~~
4 ~~under section 29-818 and in such manner as the court may direct. The~~
5 ~~court may consider adoption alternatives through humane societies or~~
6 ~~comparable institutions and the protection of such animal's welfare. For~~
7 ~~a humane society or comparable institution to be considered as an~~
8 ~~adoption alternative under this subsection, it must first be licensed by~~
9 ~~the Department of Agriculture as having passed the inspection~~
10 ~~requirements in the Commercial Dog and Cat Operator Inspection Act and~~
11 ~~paid the fee for inspection under the act. The court may prohibit an~~
12 ~~adopting or purchasing party from selling such animal for a period not to~~
13 ~~exceed one year.~~

14 (4 5) Any law enforcement officer acting under this section shall
15 not be liable for damage to property if such damage is not the result of
16 the officer's negligence.

17 Sec. 5. (1) Any animal seized under a search warrant or validly
18 seized without a warrant may be kept on the property of the owner or
19 custodian by the law enforcement officer seizing the animal. When a
20 criminal complaint has been filed in connection with a seized animal, the
21 court in which such complaint was filed shall have exclusive jurisdiction
22 for disposition of the animal and to determine any rights therein,
23 including questions respecting the title, possession, control, and
24 disposition thereof as provided in this section.

25 (2) Within seven days after the date an animal has been seized
26 pursuant to section 28-1006 or 28-1012, the county attorney of the county
27 where the animal was seized shall file an application with the court
28 having appropriate jurisdiction for a hearing to determine the
29 disposition and the cost for the care of the animal. Notice of such
30 hearing shall be given to the owner or custodian from whom such animal
31 was seized and to any holder of a lien or security interest of record in

1 such animal specifying the date, time, and place of such hearing. Such
2 notice shall be served by personal or residential service or by certified
3 mail. If such notice cannot be served by such methods, service may be
4 made by publication in the county where such animal was seized. Such
5 publication shall be made after application and order of the court. The
6 hearing shall be held as soon as practicable and not more than ten
7 business days after the date of application for the hearing unless
8 otherwise determined and ordered by the court.

9 (3) If the court finds that probable cause exists that an animal has
10 been abandoned or cruelly neglected or mistreated, the court may:

11 (a) Order immediate forfeiture of the animal to the agency that took
12 custody of the animal and authorize appropriate disposition of the animal
13 including adoption, donation to a suitable shelter, humane destruction,
14 or any other manner of disposition approved by the court. The court may
15 consider adoption alternatives through humane societies or comparable
16 institutions and the protection of such animal's welfare. For a humane
17 society or comparable institution to be considered as an adoption
18 alternative under this subsection, it must first be licensed by the
19 Department of Agriculture as having passed the inspection requirements in
20 the Commercial Dog and Cat Operator Inspection Act and paid the fee for
21 inspection under the act. The court may prohibit an adopting or
22 purchasing party from selling such animal for a period not to exceed one
23 year;

24 (b) Issue an order to the owner or custodian setting forth the
25 conditions under which custody of the animal shall be returned to the
26 owner or custodian from whom the animal was seized or to any other person
27 claiming an interest in the animal. Such order may include any management
28 actions deemed necessary and prudent by the court, including reducing the
29 number of animals harbored or owned by the owner or custodian by humane
30 destruction or forfeiture and securing necessary care, including
31 veterinary care, sufficient for the maintenance of any remaining animals;

1 or

2 (c) Order the owner or custodian from whom the animal was seized to
3 post a bond or other security or to otherwise order payment in an amount
4 that is sufficient to reimburse all reasonable expenses, as determined by
5 the court, for the care of the animal including veterinary care incurred
6 by the agency from the date of seizure and necessitated by the possession
7 of the animal. Payments shall be for a succeeding thirty-day period with
8 the first payment due on or before the tenth day following the hearing.
9 Payments for each subsequent thirty-day period, if any, shall be due on
10 or before the tenth day of such period. The bond or security shall be
11 placed with, or payments ordered under this subdivision shall be paid to,
12 the agency that took custody of the animal. The agency shall provide an
13 accounting of expenses to the court when the animal is no longer in the
14 custody of the agency or upon request by the court. The county attorney
15 of the county where the animal was seized may apply to the court for a
16 subsequent hearing under this section at any time. The hearing shall be
17 held as soon as practicable and not more than ten business days after the
18 date of application for the hearing unless otherwise determined and
19 ordered by the court. When all expenses covered by the bond or security
20 are exhausted and subsequent bond or security has not been posted, or if
21 a person becomes delinquent in his or her payments for the expenses of
22 the animal, the animal shall be forfeited to the agency.

23 (4) If custody of an animal is returned to the owner or custodian
24 prior to seizure, any proceeds of a bond or security or any payment or
25 portion of payment ordered under this section not used for the care of
26 the animal during the time the animal was held by the agency shall be
27 returned to the owner or custodian.

28 (5) Nothing in this section shall prevent the humane destruction of
29 a seized animal at any time as determined necessary by a licensed
30 veterinarian or as authorized by court order.

31 (6) An appeal may be filed within ten days after a hearing held

1 under this section. Any person filing an appeal shall post a bond or
2 security sufficient to pay reasonable costs of care of the animal for
3 thirty days. Such bond or surety shall be required for each succeeding
4 thirty-day period until the appeal is final.

5 (7) If the owner or custodian from whom the animal was seized is
6 found not guilty in an associated criminal proceeding, all funds paid for
7 the expenses of the animal remaining after the actual expenses incurred
8 by the agency have been paid shall be returned to the owner or custodian.

9 (8) This section shall not preempt any ordinance of a city of the
10 metropolitan or primary class.

11 Sec. 6. Section 28-1013, Revised Statutes Cumulative Supplement,
12 2014, is amended to read:

13 28-1013 Sections 28-1008 to 28-1017 and 28-1019 and section 5 of
14 this act shall not apply to:

15 (1) Care or treatment of an animal or other conduct by a
16 veterinarian or veterinary technician licensed under the Veterinary
17 Medicine and Surgery Practice Act that occurs within the scope of his or
18 her employment, that occurs while acting in his or her professional
19 capacity, or that conforms to commonly accepted veterinary practices;

20 (2) Commonly accepted care or treatment of a police animal by a law
21 enforcement officer in the normal course of his or her duties;

22 (3) Research activity carried on by any research facility currently
23 meeting the standards of the federal Animal Welfare Act, 7 U.S.C. 2131 et
24 seq., as such act existed on January 1, 2010;

25 (4) Commonly accepted practices of hunting, fishing, or trapping;

26 (5) Humane killing of an animal by the owner or by his or her agent
27 or a veterinarian upon the owner's request;

28 (6) Use of reasonable force against an animal, other than a police
29 animal, which is working, including killing, capture, or restraint, if
30 the animal is outside the owned or rented property of its owner or
31 custodian and is injuring or posing an immediate threat to any person or

1 other animal;

2 (7) Killing of house or garden pests; and

3 (8) Commonly accepted animal training practices.

4 Sec. 7. Section 28-1014, Revised Statutes Cumulative Supplement,
5 2014, is amended to read:

6 28-1014 Any city, village, or county may adopt and promulgate rules,
7 regulations, and ordinances which are not inconsistent with the
8 provisions of sections 28-1008 to 28-1017, 28-1019, and 28-1020 and
9 section 5 of this act for the protection of the public, public health,
10 and animals within its jurisdiction.

11 Sec. 8. Section 28-1015, Revised Statutes Cumulative Supplement,
12 2014, is amended to read:

13 28-1015 When an animal is owned by a minor child, the parent of such
14 minor child with whom the child resides or legal guardian with whom the
15 child resides shall be subject to the penalties provided under sections
16 28-1008 to 28-1017, 28-1019, and 28-1020 and section 5 of this act if the
17 animal is abandoned or cruelly neglected.

18 Sec. 9. Section 28-1016, Revised Statutes Cumulative Supplement,
19 2014, is amended to read:

20 28-1016 Nothing in sections 28-1008 to 28-1017, 28-1019, and 28-1020
21 and section 5 of this act shall be construed as amending or changing the
22 authority of the Game and Parks Commission as established in the Game Law
23 or to prohibit any conduct authorized or permitted by such law.

24 Sec. 10. Section 28-1019, Revised Statutes Cumulative Supplement,
25 2014, is amended to read:

26 28-1019 (1)(a) If a person is convicted of a Class IV felony under
27 section 28-1005 or 28-1009, the sentencing court shall order such person
28 not to own, possess, or reside with any animal for at least five years
29 after the date of conviction, but such time restriction shall not exceed
30 fifteen years. Any person violating such court order shall be guilty of a
31 Class I misdemeanor.

1 (b) If a person is convicted of a Class I misdemeanor under section
2 28-1005.01 or 28-1009 or a Class III misdemeanor under section 28-1010,
3 the sentencing court may order such person not to own, possess, or reside
4 with any animal after the date of conviction, but such time restriction,
5 if any, shall not exceed five years. Any person violating such court
6 order shall be guilty of a Class IV misdemeanor.

7 (c) Any animal involved in a violation of a court order under
8 subdivision (a) or (b) of this subsection shall be subject to seizure by
9 law enforcement. Distribution or disposition shall be made under section
10 5 of this act 29-818.

11 (2) This section shall not apply to any person convicted under
12 section 28-1005, 28-1005.01, or 28-1009 if a licensed physician confirms
13 in writing that ownership or possession of or residence with an animal is
14 essential to the health of such person.

15 Sec. 11. Section 29-818, Revised Statutes Cumulative Supplement,
16 2014, is amended to read:

17 29-818 ~~(1)~~ Except for pet animals as provided in section 5 of this
18 act subsection (2) of this section, property seized under a search
19 warrant or validly seized without a warrant shall be safely kept by the
20 officer seizing the same, unless otherwise directed by the judge or
21 magistrate, and shall be so kept so long as necessary for the purpose of
22 being produced as evidence in ~~on~~ any trial. Property seized may not be
23 taken from the officer having it in custody by replevin or other writ so
24 long as it is or may be required as evidence in any trial, nor may it be
25 so taken in any event where a complaint has been filed in connection with
26 which the property was or may be used as evidence, and the court in which
27 such complaint was filed shall have exclusive jurisdiction for
28 disposition of the property or funds and to determine rights therein,
29 including questions respecting the title, possession, control, and
30 disposition thereof.

31 ~~(2)(a) Any pet animal seized under a search warrant or validly seized~~

1 ~~without a warrant may be kept by the officer seizing the same on the~~
2 ~~property of the person who owns, keeps, harbors, maintains, or controls~~
3 ~~such pet animal.~~

4 ~~(b) When any pet animal is seized under this subsection, the court shall~~
5 ~~provide the person who owns, keeps, harbors, maintains, or controls such~~
6 ~~pet animal with notice that a hearing will be had and specify the date,~~
7 ~~time, and place of such hearing. Such notice shall be served by personal~~
8 ~~or residential service or by certified mail. If such notice cannot be~~
9 ~~served by such methods, service may be made by publication in the county~~
10 ~~where such pet animal was seized. Such publication shall be made after~~
11 ~~application and order of the court. Unless otherwise determined and~~
12 ~~ordered by the court, the date of such hearing shall be no later than ten~~
13 ~~days after the seizure.~~

14 ~~(c) At the hearing, the court shall determine the disposition of the pet~~
15 ~~animal, and if the court determines that any pet animal shall not be~~
16 ~~returned, the court shall order the person from whom the pet animal was~~
17 ~~seized to pay all expenses for the support and maintenance of the pet~~
18 ~~animal, including expenses for shelter, food, veterinary care, and board,~~
19 ~~necessitated by the possession of the pet animal. At the hearing, the~~
20 ~~court shall also consider the person's ability to pay for the expenses of~~
21 ~~the pet animal and the amount of such payments. Payments shall be for a~~
22 ~~succeeding thirty-day period with the first payment due on or before the~~
23 ~~tenth day following the hearing. Payments for each subsequent succeeding~~
24 ~~thirty-day period, if any, shall be due on or before the tenth day of~~
25 ~~such period.~~

26 ~~(d) If a person becomes delinquent in his or her payments for the~~
27 ~~expenses of the pet animal, the court shall hold a hearing to determine~~
28 ~~the disposition of the seized pet animal. Notice of such hearing shall be~~
29 ~~given to the person who owns, keeps, harbors, maintains, or controls such~~
30 ~~pet animal and to any lienholder or security interest holder of record as~~
31 ~~provided in subdivision (b) of this subsection.~~

1 ~~(e) An appeal may be entered within ten days after a hearing under~~
2 ~~subdivision (c) or (d) of this subsection. Any person filing an appeal~~
3 ~~shall post a bond sufficient to pay all costs of care of the pet animal~~
4 ~~for thirty days. Such payment will be required for each succeeding~~
5 ~~thirty-day period until the appeal is final.~~

6 ~~(f) Should the person be found not guilty, all funds paid for the~~
7 ~~expenses of the pet animal shall be returned to the person.~~

8 ~~(g) For purposes of this subsection, pet animal means any domestic dog,~~
9 ~~domestic cat, mini pig, domestic rabbit, domestic ferret, domestic~~
10 ~~rodent, bird except a bird raised as an agricultural animal and~~
11 ~~specifically excluding any bird possessed under a license issued by the~~
12 ~~State of Nebraska or the United States Fish and Wildlife Service,~~
13 ~~nonlethal aquarium fish, nonlethal invertebrate, amphibian, turtle,~~
14 ~~nonvenomous snake that will not grow to more than eight feet in length at~~
15 ~~maturity, or such other animal as may be specified and for which a permit~~
16 ~~shall be issued by an animal control authority after inspection and~~
17 ~~approval, except that any animal forbidden to be sold, owned, or~~
18 ~~possessed by federal or state law is not a pet animal.~~

19 ~~(h) This section shall not preempt, and shall not be construed to~~
20 ~~preempt, any ordinance of a city of the metropolitan or primary class.~~

21 Sec. 12. Section 54-603, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 54-603 (1) Any county, city, or village shall have authority by
24 ordinance or resolution to impose a license tax, in an amount which shall
25 be determined by the appropriate governing body, on the owner or harborer
26 of any dog or dogs, to be paid under such regulations as shall be
27 provided by such ordinance or resolutions.

28 (2) Every service animal shall be licensed as required by local
29 ordinances or resolutions, but no license tax shall be charged. Upon the
30 retirement or discontinuance of the animal as a service animal, the owner
31 of the animal shall be liable for the payment of a license tax as

1 prescribed by local ordinances or resolutions.

2 (3) Any county, city, or village that imposes a license tax on the
3 owner or harborer of any cat or cats or any dog or dogs under this
4 section shall, in addition to the license tax imposed by the licensing
5 jurisdiction, collect from the licensee a fee of one dollar and twenty-
6 five cents. The person designated by the licensing jurisdiction to
7 collect and administer the license tax shall act as agent for the State
8 of Nebraska in the collection of the fee. From each ~~one-dollar~~ fee of one
9 dollar and twenty-five cents collected, such person shall retain three
10 cents and remit the balance to the State Treasurer for credit to the
11 Commercial Dog and Cat Operator Inspection Program Cash Fund. If the
12 person collecting the fee is the licensing jurisdiction, the three cents
13 shall be credited to the licensing jurisdiction's general fund. If the
14 person collecting the fee is a private contractor, the three cents shall
15 be credited to an account of the private contractor. The remittance to
16 the State Treasurer shall be made at least annually at the conclusion of
17 the licensing jurisdiction's fiscal year, except that any licensing
18 jurisdiction or private contractor that collects fifty dollars or less of
19 such fees during the fiscal year may remit the fees when the cumulative
20 amount of fees collected reaches fifty dollars.

21 Sec. 13. Section 54-625, Revised Statutes Cumulative Supplement,
22 2014, is amended to read:

23 54-625 Sections 54-625 to 54-643 and sections 18 and 22 of this act
24 shall be known and may be cited as the Commercial Dog and Cat Operator
25 Inspection Act.

26 Sec. 14. Section 54-626, Revised Statutes Cumulative Supplement,
27 2014, is amended to read:

28 54-626 For purposes of the Commercial Dog and Cat Operator
29 Inspection Act:

30 (1) Animal control facility means a facility operated by or under
31 contract with the state or any political subdivision of the state for the

1 purpose of impounding or harboring seized, stray, homeless, abandoned, or
2 unwanted animals;

3 (2) Animal rescue means a person or group of persons who hold
4 themselves out as an animal rescue, accept or solicit for dogs or cats
5 with the intention of finding permanent adoptive homes or providing
6 lifelong care for such dogs or cats, or who use foster homes as the
7 primary means of housing dogs or cats;

8 (3) Animal shelter means a facility used to house or contain dogs or
9 cats and owned, operated, or maintained by an incorporated humane
10 society, an animal welfare society, a society for the prevention of
11 cruelty to animals, or another nonprofit organization devoted to the
12 welfare, protection, and humane treatment of such animals;

13 (4) Boarding kennel means a facility which is primarily used to
14 house or contain dogs or cats owned by persons other than the operator of
15 such facility. The primary function of a boarding kennel is to
16 temporarily harbor dogs or cats when the owner of the dogs or cats is
17 unable to do so or to provide training, grooming, or other nonveterinary
18 service for consideration before returning the dogs or cats to the owner.
19 A facility which provides such training, grooming, or other nonveterinary
20 service is not a boarding kennel for the purposes of the act unless dogs
21 or cats owned by persons other than the operator of such facility are
22 housed at such facility overnight. Veterinary clinics, animal control
23 facilities, animal rescues, and nonprofit animal shelters are not
24 boarding kennels for the purposes of the act;

25 (5) Breeding dog means any sexually intact male or female dog six
26 months of age or older owned or harbored by a commercial dog breeder;

27 (6) Cat means any animal which is wholly or in part of the species
28 *Felis domesticus*;

29 (7) Commercial cat breeder means a person engaged in the business of
30 breeding cats:

31 (a) Who sells, exchanges, leases, or in any way transfers or offers

1 to sell, exchange, lease, or transfer thirty-one or more cats in a
2 twelve-month period beginning on April 1 of each year;

3 (b) Who owns or harbors four or more cats, intended for breeding, in
4 a twelve-month period beginning on April 1 of each year;

5 (c) Whose cats produce a total of four or more litters within a
6 twelve-month period beginning on April 1 of each year; or

7 (d) Who knowingly sells, exchanges, or leases cats for later retail
8 sale or brokered trading;

9 (8) Commercial dog breeder means a person engaged in the business of
10 breeding dogs:

11 (a) Who sells, exchanges, leases, or in any way transfers or offers
12 to sell, exchange, lease, or transfer thirty-one or more dogs in a
13 twelve-month period beginning on April 1 of each year;

14 (b) Who owns or harbors four or more dogs, intended for breeding, in
15 a twelve-month period beginning on April 1 of each year;

16 (c) Whose dogs produce a total of four or more litters within a
17 twelve-month period beginning on April 1 of each year; or

18 (d) Who knowingly sells, exchanges, or leases dogs for later retail
19 sale or brokered trading;

20 (9) Dealer means any person who is not a commercial dog or cat
21 breeder or a pet shop but is engaged in the business of buying for resale
22 or selling or exchanging dogs or cats as a principal or agent or who
23 claims to be so engaged. A person who purchases, sells, exchanges, or
24 leases thirty or fewer dogs or cats in a twelve-month period is not a
25 dealer;

26 (10) Department means the Bureau of Animal Industry of the
27 Department of Agriculture with the State Veterinarian in charge,
28 subordinate only to the director;

29 (11) Director means the Director of Agriculture or his or her
30 designated employee;

31 (12) Dog means any animal which is wholly or in part of the species

1 Canis familiaris;

2 (13) Foster home means any person who provides temporary housing for
3 twenty or fewer dogs or cats that are six months of age or older in any
4 twelve-month period and is affiliated with a person operating as an
5 animal rescue that uses foster homes as its primary housing of dogs or
6 cats. To be considered a foster home, a person shall not participate in
7 the acquisition of the dogs or cats for which temporary care is provided.
8 Any foster home which houses more than twenty dogs or cats that are six
9 months of age or older in any twelve-month period or who participates in
10 the acquisition of dogs or cats shall be licensed as an animal rescue;

11 (14) Harbor means:

12 (a) Providing shelter or housing for a dog or cat regulated under
13 the act; or

14 (b) Maintaining the care, supervision, or control of a dog or cat
15 regulated under the act;

16 (15 14) Housing facility means any room, building, or areas used to
17 contain a primary enclosure;

18 (16 15) Inspector means any person who is employed by the department
19 and who is authorized to perform inspections pursuant to the act;

20 (17 16) Licensee means a person who has qualified for and received a
21 license from the department pursuant to the act;

22 (18) Normal business hours means daily between 7 a.m. and 7 p.m.
23 unless an applicant, a licensee, or any other person the department has
24 reasonable cause to believe is required by the act to be licensed
25 provides in writing to the department a description of his or her own
26 normal business hours which reasonably allows the department to make
27 inspections;

28 (19) Operator means a person performing the activities of an animal
29 control facility, an animal rescue, an animal shelter, a boarding kennel,
30 a commercial cat breeder, a commercial dog breeder, a dealer, or a pet
31 shop;

1 (20 17) Pet animal means an animal kept as a household pet for the
2 purpose of companionship, which includes, but is not limited to, dogs,
3 cats, birds, fish, rabbits, rodents, amphibians, and reptiles;

4 (21 18) Pet shop means a retail establishment which sells pet
5 animals and related supplies;

6 (22 19) Premises means all public or private buildings, vehicles,
7 equipment, containers, kennels, pens, and cages used by an operator a
8 facility and the public or private ground upon which an operator's a
9 facility is located if such buildings, vehicles, equipment, containers,
10 kennels, pens, cages, or ground are used by the owner or operator ~~of such~~
11 ~~facility~~ in the usual course of business;

12 (23 20) Primary enclosure means any structure used to immediately
13 restrict a dog or cat to a limited amount of space, such as a room, pen,
14 cage, or compartment;

15 (24 21) Secretary of Agriculture means the Secretary of Agriculture
16 of the United States Department of Agriculture;

17 (25) Significant threat to the health or safety of dogs or cats
18 means:

19 (a) Not providing shelter or protection from extreme weather
20 resulting in life-threatening conditions predisposing to hyperthermia or
21 hypothermia in dogs or cats that are not acclimated to the temperature;

22 (b) Acute injuries involving potentially life-threatening medical
23 emergencies in which the owner refuses to seek immediate veterinary care;

24 (c) Not providing food or water resulting in conditions of potential
25 starvation or severe dehydration;

26 (d) Egregious human abuse such as trauma from beating, torturing,
27 mutilating, burning, or scalding; or

28 (e) Failing to maintain sanitation resulting in egregious situations
29 where a dog or cat cannot avoid walking, lying, or standing in feces;

30 (26 22) Stop-movement order means a directive preventing the
31 movement ~~or removal~~ of any dog or cat onto or from the premises; and

1 (27 23) Unaltered means any male or female dog or cat which has not
2 been neutered or spayed or otherwise rendered incapable of reproduction.

3 Sec. 15. Section 54-627, Revised Statutes Cumulative Supplement,
4 2014, is amended to read:

5 54-627 (1) A person shall not operate as a commercial dog or cat
6 breeder, a dealer, a boarding kennel, an animal control facility, an
7 animal shelter, an animal rescue, or a pet shop unless the person obtains
8 the appropriate license. A pet shop shall only be subject to the
9 Commercial Dog and Cat Operator Inspection Act and the rules and
10 regulations adopted and promulgated pursuant thereto in any area or areas
11 of the establishment used for the keeping and selling of pet animals. If
12 a facility listed in this subsection is not located at the owner's
13 residence, the name and address of the owner shall be posted on the
14 premises.

15 (2) An applicant for a license shall submit an application for the
16 appropriate license to the department, on a form prescribed by the
17 department, together with a one-time ~~the annual~~ license fee of one
18 hundred twenty-five dollars. Such fee is nonreturnable. Any license
19 issued on or before November 30, 2015, shall remain valid after
20 expiration unless it lapses pursuant to this section, is revoked pursuant
21 to section 54-631, or is voluntarily surrendered. Upon receipt of an the
22 application and the ~~annual~~ license fee and upon completion of a
23 qualifying inspection ~~if required pursuant to section 54-630 for an~~
24 ~~initial license applicant or if a qualifying inspection is deemed~~
25 ~~appropriate by the department before a license is issued for any other~~
26 ~~applicant,~~ the appropriate license may be issued by the department. The
27 department may enter the premises of any applicant for a license to
28 determine if the applicant meets the requirements for licensure under the
29 act. If an applicant does not at the time of inspection harbor any dogs
30 or cats, the inspection shall be of the applicant's records and the
31 planned housing facilities. Such license shall not be transferable to

1 another person or location and shall lapse automatically upon a change of
2 ownership or location.

3 (3)(a) In addition to the license fee required in subsection (2) of
4 this section, an annual fee shall also be charged. Except as otherwise
5 provided in this subsection, the annual ~~license~~ fee shall be determined
6 according to the following fee schedule based upon the daily average
7 number of dogs or cats harbored ~~housed~~ by the licensee over the previous
8 twelve-month annual licensure period:

9 (i) Ten or fewer dogs or cats, one hundred seventy-five ~~fifty~~
10 dollars;

11 (ii) Eleven to fifty dogs or cats, two hundred twenty-five dollars;

12 (iii) Fifty-one to one hundred dogs or cats, two hundred seventy-
13 five ~~fifty~~ dollars;

14 (iv) One hundred one to one hundred fifty dogs or cats, three
15 hundred twenty-five dollars;

16 (v) One hundred fifty-one to two hundred dogs or cats, three hundred
17 seventy-five ~~fifty~~ dollars;

18 (vi) Two hundred one to two hundred fifty dogs or cats, four hundred
19 twenty-five dollars;

20 (vii) Two hundred fifty-one to three hundred dogs or cats, four
21 hundred seventy-five ~~fifty~~ dollars;

22 (viii) Three hundred one to three hundred fifty dogs or cats, five
23 hundred twenty-five dollars;

24 (ix) Three hundred fifty-one to four hundred dogs or cats, five
25 hundred seventy-five ~~fifty~~ dollars;

26 (x) Four hundred one to four hundred fifty dogs or cats, six hundred
27 twenty-five dollars;

28 (xi) Four hundred fifty-one to five hundred dogs or cats, six
29 hundred seventy-five ~~fifty~~ dollars; and

30 (xii) More than five hundred dogs or cats, two thousand one hundred
31 dollars.

1 (b) If a person operates with more than one type of license at the
2 same location, the person shall pay only one annual fee based on the
3 primary licensed activity occurring at that location as determined by the
4 number of dogs or cats affected by the licensed activity ~~The initial~~
5 ~~license fee for any person required to be licensed pursuant to the act~~
6 ~~shall be one hundred twenty-five dollars.~~

7 (c) The annual license fee for a licensee that does not own or
8 harbor ~~house~~ dogs or cats shall be one hundred fifty dollars.

9 (d) The annual license fee for an animal rescue shall be one hundred
10 fifty dollars.

11 (e) The annual license fee for a commercial dog or cat breeder shall
12 be determined according to the fee schedule set forth in subdivision (a)
13 of this subsection based upon the total number of breeding dogs or cats
14 owned or harbored by the commercial breeder over the previous twelve-
15 month period.

16 (f) In addition to the fee as prescribed in the fee schedule set
17 forth in subdivision (a) of this subsection, the annual fee for a
18 commercial dog or cat breeder, pet shop, dealer, or boarding kennel shall
19 include a fee of two dollars times the daily average number of dogs or
20 cats owned or harbored by the licensee over the previous twelve-month
21 period numbering more than ten dogs or cats subject to subdivision (g) of
22 this subsection.

23 (g ~~f~~) The fees charged under subdivision (a) of this subsection ~~this~~
24 ~~subsection~~ may be increased or decreased by rule and regulation as
25 adopted and promulgated by the department, but the director after a
26 ~~public hearing is held outlining the reason for any proposed change in~~
27 ~~the fee.~~ The maximum fee that may be charged shall not result in a fee
28 for any license category that exceeds the annual license fee set forth in
29 subdivision (a) of this subsection ~~this subsection~~ by more than one
30 hundred dollars. The fee charged under subdivision (f) of this subsection
31 may be increased or decreased by rule and regulation as adopted and

1 promulgated by the department, but such fee shall not exceed three
2 dollars times the number of dogs or cats harbored by the licensee over
3 the previous twelve-month period numbering more than ten dogs or cats.

4 (4) ~~A license to operate as a commercial dog or cat breeder, dealer,~~
5 ~~boarding kennel, or pet shop shall pay the annual fee to be renewed by~~
6 ~~filing with the department on or before April 1 of each year. An a~~
7 ~~renewal application and the annual license fee. A license to operate as~~
8 ~~an animal control facility, animal rescue, or animal shelter shall pay~~
9 ~~the annual fee to be renewed by filing with the department on or before~~
10 ~~October 1 of each year a renewal application and the annual license fee.~~
11 ~~Failure to pay the annual fee by the due date renew a license prior to~~
12 ~~the expiration of the license shall result in a late renewal fee equal to~~
13 ~~twenty percent of the annual license fee due and payable each month, not~~
14 ~~to exceed one hundred percent of such fee, in addition to the annual~~
15 ~~license fee. The purpose of the late renewal fee is to pay for the~~
16 ~~administrative costs associated with the collection of fees under this~~
17 ~~section. The assessment of the late renewal fee shall not prohibit the~~
18 ~~director from taking any other action as provided in the act.~~

19 (5) An applicant, a licensee, or a person the department has reason
20 to believe is an operator and required to obtain a license A licensee
21 under this section shall make any applicable its premises available for
22 inspection pursuant to section 54-628 during normal business hours.

23 (6) The state or any political subdivision of the state which
24 contracts out its animal control duties to a facility not operated by the
25 state or any political subdivision of the state may be exempted from the
26 licensing requirements of this section if such facility is licensed as an
27 animal control facility, animal rescue, or animal shelter for the full
28 term of the contract with the state or its political subdivision.

29 (7) Any fees collected pursuant to this section shall be remitted to
30 the State Treasurer for credit to the Commercial Dog and Cat Operator
31 Inspection Program Cash Fund.

1 Sec. 16. Section 54-628, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 54-628 (1) The department shall inspect all licensees at least once
4 in a twenty-four-month period to determine whether the licensee is in
5 compliance with the Commercial Dog and Cat Operator Inspection Act.

6 (2) Any additional inspector or other field personnel employed by
7 the department to carry out inspections pursuant to the act that are
8 funded through General Fund appropriations to the department Bureau of
9 Animal Industry shall be assigned to the Bureau of Animal Industry and
10 shall be available for temporary reassignment as needed to other
11 activities and functions of the department Bureau of Animal Industry in
12 the event of a livestock disease emergency or any other threat to
13 livestock or public health.

14 (3) When an inspection produces evidence of a violation of the act
15 or the rules and regulations of the department, a copy of a written
16 report of the inspection and violations shown thereon, prepared by the
17 inspector, shall be given to the applicant, ~~or~~ licensee, or person the
18 department has reason to believe is an operator, together with written
19 notice to comply within the time limit established by the department and
20 set out in such notice. If the department performs a reinspection for the
21 purpose of determining if an operator has complied within the time limit
22 for compliance established pursuant to this subsection or has complied
23 with section 54-628.01 or if the inspector must return to the operator's
24 location because the operator was not available within a reasonable time
25 as required by subsection (4) of this section, the applicant, licensee,
26 or person the department has reason to believe is an operator shall pay a
27 reinspection fee of one hundred fifty dollars together with the mileage
28 of the inspector at the rate provided in section 81-1176. The purpose of
29 the reinspection fee is to pay for the administrative costs associated
30 with the additional inspection. Any fees collected pursuant to this
31 section shall be remitted to the State Treasurer for credit to the

1 Commercial Dog and Cat Operator Inspection Program Cash Fund. The
2 assessment of the reinspection fee shall not prohibit the director from
3 taking any other action as provided in the act.

4 (4) The department, at its discretion, may make unannounced
5 inspections of any applicant, licensee, or person the department has
6 reason to believe is an operator during normal business hours. An
7 applicant, a licensee, and any person the department has reason to
8 believe is an operator shall provide the department, in writing, and keep
9 updated if there is any change, a telephone number where the operator can
10 be reached during normal business hours. The applicant, licensee, or
11 person the department has reason to believe is an operator shall provide
12 a person over the age of nineteen to be available at the operation for
13 the purpose of allowing the department to perform an inspection.

14 (5) ~~2~~ If deemed necessary under the act or any rule or regulation
15 adopted and promulgated pursuant to the act, the department may, for
16 purposes of inspection, enter, without being subject to any action for
17 trespass or damages, the premises of any applicant, or licensee, or
18 person the department has reason to believe is an operator, during normal
19 business hours and in a reasonable manner, including all premises in or
20 upon which dogs or cats are housed, harbored, sold, exchanged, or leased
21 or are suspected of being housed, harbored, sold, exchanged, or leased.
22 ~~For purposes of this subsection, premises includes all buildings,~~
23 ~~vehicles, equipment, cages, kennels, containers, and pens and all records~~
24 ~~on such premises. The department shall not be subject to any action for~~
25 ~~trespass or damages resulting from compliance with this subsection.~~

26 (6) Pursuant to an inspection under the act this subsection, the
27 department may:

28 (a) Enter and have full access to all premises where dogs or cats
29 regulated under the act are harbored or housed or are suspected of being
30 harbored or housed the premises of any applicant for a license under the
31 act to determine if the applicant meets the requirements for licensure

1 ~~under the act;~~

2 (b) Access all records pertaining to dogs or cats regulated under
3 the act or suspected of pertaining to such dogs or cats ~~all premises~~ and
4 examine and copy all records pertaining to compliance with the act and
5 the rules or regulations adopted and promulgated under the act. The
6 department shall have authority to gather evidence, including, but not
7 limited to, photographs;

8 (c) Inspect or reinspect any vehicle or carrier transporting or
9 holding dogs or cats that is in the state to determine compliance with
10 the act or any rules or regulations adopted and promulgated under the
11 act;

12 (d) Obtain an inspection warrant in the manner prescribed in
13 sections 29-830 to 29-835 if any person refuses to allow the department
14 to conduct an inspection pursuant to the act ~~this section~~; or

15 (e) Issue and enforce a written stop-movement order pursuant to
16 section 54-628.01.

17 (~~7~~ 3) For purposes of this section, the private residence of any
18 applicant, ~~or~~ licensee, or person the department has reason to believe is
19 an operator shall be available for purposes of inspection only if dogs or
20 cats are housed in a primary enclosure ~~as defined in 9 C.F.R. 1.1~~ within
21 the residence, including a room in such residence, and only such portion
22 of the residence that is used as a primary enclosure shall be open to an
23 inspection pursuant to this section.

24 (8) An applicant, licensee, or person the department has reason to
25 believe is an operator shall not seek to avoid inspection by hiding dogs
26 or cats regulated under the act in a private residence, on someone else's
27 property, or at any other location. An applicant, licensee, or person the
28 department has reason to believe is an operator shall provide full and
29 accurate information to the department regarding the location of all dogs
30 or cats harbored by the operator.

31 (9) Any applicant, licensee, or person the department has reason to

1 believe is an operator who intentionally refuses to answer the door,
2 fails to be available as provided in subsection (4) of this section,
3 fails to comply with subsection (8) of this section, or otherwise
4 obstructs the department's attempt to perform an inspection shall be in
5 violation of section 54-634 and subject to an administrative fine or
6 other proceedings as provided in section 54-633 or 54-634.

7 Sec. 17. Section 54-628.01, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 54-628.01 (1) The director department may issue a stop-movement
10 order if he or she the department has reasonable cause to believe that
11 there exists (a) noncompliance with the Commercial Dog and Cat Operator
12 Inspection Act or any rule or regulation adopted and promulgated pursuant
13 to the act, including, but not limited to, reasonable cause to believe
14 unreasonable sanitation or housing conditions, failure to comply with
15 standards for handling, care, treatment, or transportation for dogs or
16 cats, operating without a license, or interfering with the department in
17 the performance of its duties, or (b) any condition that, without medical
18 attention, provision of shelter, facility maintenance or improvement,
19 relocation of animals, or other management intervention, poses a
20 significant threat to the health or safety of the dogs or cats owned or
21 harbored by a violator exist.

22 (2) Such stop-movement order may require the violator to maintain
23 the dogs or cats subject to the order at the existing location or other
24 department-approved premises until such time as the director depart
25 has issued a written release from the stop-movement order. The stop-
26 movement order shall clearly advise the violator that he or she may
27 request in writing a an immediate hearing before the director pursuant to
28 section 54-632 within two business days after receiving the order. The
29 order issued pursuant to this section shall be final unless modified or
30 rescinded by the director pursuant to section 54-632 at a hearing
31 requested under this subsection.

1 (3) Pursuant to the stop-movement order, the department shall have
2 the authority to enter the premises to inspect and determine if the dogs
3 or cats subject to the order or the facilities used to house or transport
4 such dogs or cats are kept and maintained in compliance with the
5 requirements of the act and the rules and regulations adopted and
6 promulgated pursuant to the act or if any management intervention imposed
7 by the stop-movement order is being implemented to mitigate conditions
8 posing a significant threat to the health or safety of dogs or cats
9 harbored or owned by a violator. The department shall not be liable for
10 any costs incurred by the violator or any personnel of the violator due
11 to such departmental action or in enforcing the stop-movement order. The
12 department shall be reimbursed by the violator for the actual costs
13 incurred by the department in issuing and enforcing any stop-movement
14 order.

15 (4) A stop-movement order shall include:

16 (a) A description of the nature of the violations of the act or any
17 rule or regulation adopted and promulgated pursuant to the act ~~violation;~~

18 (b) If applicable, a description of conditions that pose a
19 significant threat to the health or safety of the dogs or cats owned or
20 harbored by the violator;

21 (c) ~~h~~ The action necessary to bring the violator into compliance
22 with the act and the rules and regulations adopted and promulgated
23 pursuant to the act or, if applicable, to mitigate conditions posing a
24 significant threat to the health and safety of the dogs or cats harbored
25 or owned by the violator; ~~and~~

26 (d) Notice that if violations of the act or any rule or regulation
27 or any conditions that pose a significant threat to the health or safety
28 of the dogs or cats owned or harbored by the violator persist, the
29 department may refer the matter to appropriate law enforcement for
30 investigation and potential prosecution pursuant to Chapter 28, article
31 10; and

1 (e e) The name, address, and telephone number of the violator who
2 owns or harbors ~~houses~~ the dogs or cats subject to the order.

3 (5) Before receipt of a written release, the person to whom the
4 stop-movement order was issued shall:

5 (a) Provide the department with an inventory of all dogs or cats on
6 the premises at the time of the issuance of the order;

7 (b) Provide the department with the identification tag number, the
8 tattoo number, the microchip number, or any other approved method of
9 identification for each individual dog or cat;

10 (c) Notify the department within forty-eight hours of the death or
11 euthanasia of any dog or cat subject to the order. Such notification
12 shall include the dog's or cat's individual identification tag number,
13 tattoo number, microchip number, or other approved identification;

14 (d) Notify the department within forty-eight hours of any dog or cat
15 giving birth after the issuance of the order, including the size of the
16 litter; and

17 (e) Maintain on the premises any dog or cat subject to the order,
18 except that a dog or cat under one year of age under contract to an
19 individual prior to the issuance of the order may be delivered to the
20 individual pursuant to the contractual obligation. The violator shall
21 provide to the department information identifying the dog or cat and the
22 name, address, and telephone number of the individual purchasing the dog
23 or cat. The department may contact the purchaser to ascertain the date of
24 the purchase agreement to ensure that the dog or cat was sold prior to
25 the stop-movement order and to determine that he or she did purchase such
26 dog or cat. No additional dogs or cats shall be transferred onto the
27 premises without written approval of the department.

28 (6) The department shall reinspect the premises to determine
29 compliance within ten business days after the initial inspection that
30 resulted in the stop-movement order. At the time of reinspection pursuant
31 to this subsection, if conditions that pose a significant threat to the

1 health or safety of the dogs or cats harbored or owned by the violator or
2 noncompliant conditions continue to exist, further reinspections shall be
3 at the discretion of the department. The violator may request an
4 immediate hearing with the director pursuant to any findings under this
5 subsection.

6 Sec. 18. Whenever the director has reason to believe that any
7 person has violated any provision of the Commercial Dog and Cat Operator
8 Inspection Act, any rule or regulation adopted and promulgated pursuant
9 to the act, or any order of the director, the director may issue a notice
10 of hearing as provided in section 54-632 requiring the person to appear
11 before the director to (1) show cause why an order should not be entered
12 requiring such person to cease and desist from the violation charged, (2)
13 determine whether an administrative fine should be imposed or levied
14 against the person pursuant to subsection (2) of section 54-633, or (3)
15 determine whether the person fails to qualify for a license pursuant to
16 section 54-630. Proceedings initiated pursuant to this section shall not
17 preclude the department from pursuing other administrative, civil, or
18 criminal actions according to law.

19 Sec. 19. Section 54-630, Revised Statutes Cumulative Supplement,
20 2014, is amended to read:

21 54-630 (1) Before the department approves an application for a ~~an~~
22 ~~initial~~ license, an inspector of the department shall inspect the
23 operation of the applicant to determine whether the applicant qualifies
24 to hold a license pursuant to the Commercial Dog and Cat Operator
25 Inspection Act. Except as provided in subsection (2) of this section, an
26 applicant who qualifies shall be issued a license.

27 (2) The department may deny an application for a ~~an initial or~~
28 ~~renewal~~ license as a commercial dog or cat breeder, a ~~a~~ dealer, a ~~a~~ boarding
29 kennel, an ~~an~~ animal control facility, an ~~an~~ animal shelter, an ~~an~~ animal rescue,
30 or a ~~a~~ pet shop upon a finding that the applicant is unsuited to perform
31 the obligations of a licensee. The applicant shall be determined unsuited

1 to perform the obligations of a licensee if the department finds that the
2 applicant has deliberately misrepresented or concealed any information
3 provided on or with the application or any other information provided to
4 the department under this section or that within the previous five years
5 the applicant:

6 (a) Has been convicted of any law regarding the disposition or
7 treatment of dogs or cats in any jurisdiction; or

8 (b) Has operated a breeder facility under a license or permit issued
9 by any jurisdiction that has been revoked, suspended, or otherwise
10 subject to a disciplinary proceeding brought by the licensing authority
11 in that jurisdiction if such proceeding resulted in the applicant having
12 voluntarily surrendered a license or permit to avoid disciplinary
13 sanctions.

14 (3) In addition to the application, the department may require the
15 applicant to provide additional documentation pertinent to the
16 department's determination of the applicant's suitability to perform the
17 duties of a licensee under the act.

18 (4) An applicant who is denied ~~a an initial or renewal~~ license under
19 this section shall be afforded the opportunity for a hearing before the
20 director or the director's designee to present evidence that the
21 applicant is qualified to hold a license pursuant to the act and the
22 rules and regulations adopted and promulgated by the department and
23 should be issued a license ~~be issued or renewed~~. All such hearings shall
24 be in accordance with the Administrative Procedure Act.

25 Sec. 20. Section 54-632, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 54-632 (1) Any notice or order provided for in the Commercial Dog
28 and Cat Operator Inspection Act shall be properly served when it is
29 personally served on the applicant, licensee, or violator or on the
30 person authorized by the applicant or licensee to receive notices and
31 orders of the department or when it is sent by certified or registered

1 mail, return receipt requested, to the last-known address of the
2 applicant, licensee, or violator or the person authorized ~~by the licensee~~
3 to receive such notices and orders. A copy of the notice and the order
4 shall be filed in the records of the department.

5 (2) A notice to comply with the act or the rules and regulations
6 adopted and promulgated pursuant to the act ~~conditions set out in the~~
7 ~~order of the director provided in section 54-631~~ shall set forth the acts
8 or omissions with which the applicant, licensee, or violator is charged.

9 (3) A notice of the ~~licensee's~~ right to a hearing ~~provided for in~~
10 ~~sections 54-630 and 54-631~~ shall set forth the time and place of the
11 hearing except as otherwise provided in subsection (4) of this section
12 and section 54-631. A notice of the ~~licensee's~~ right to such hearing
13 shall include notice that such right to a hearing may be waived pursuant
14 to subsection (6) of this section. A notice of the licensee's right to a
15 hearing shall include notice to the licensee that the license may be
16 subject to sanctions as provided in section 54-631.

17 (4) A request for a hearing under subsection (2) of section
18 54-628.01 shall request that the director set forth the time and place of
19 the hearing. The director shall consider the interests of the violator in
20 establishing the time and place of the hearing. Within three business
21 days after receipt by the director of the hearing request, the director
22 shall set forth the time and place of the hearing on the stop-movement
23 order. A notice of the violator's right to such hearing shall include
24 notice that such right to a hearing may be waived pursuant to subsection
25 (6) of this section.

26 (5) The hearings provided for in the act shall be conducted by the
27 director at the time and place he or she designates. The director shall
28 make a final finding based on the complete hearing record and issue an
29 order. If the director has suspended a license pursuant to subsection (4)
30 of section 54-631, the director shall sustain, modify, or rescind the
31 order after the hearing. If the department has issued a stop-movement

1 order under section 54-628.01, the director may sustain, modify, or
2 rescind the order after the hearing. All hearings shall be in accordance
3 with the Administrative Procedure Act.

4 (6) An applicant, a A licensee, or a violator waives the right to a
5 hearing if such applicant, licensee, or violator does not attend the
6 hearing at the time and place set forth in the notice described in
7 subsection (3) or (4) of this section, without requesting that the
8 director, at least two days before the designated time, change the time
9 and place for the hearing, except that before an order of the director
10 becomes final, the director may designate a different time and place for
11 the hearing if the applicant, licensee, or violator shows the director
12 that the applicant, licensee, or violator had a justifiable reason for
13 not attending the hearing and not timely requesting a change of the time
14 and place for such hearing. If the applicant, licensee, or violator
15 waives the right to a hearing, the director shall make a final finding
16 based upon the available information and issue an order. If the director
17 has suspended a license pursuant to subsection (4) of section 54-631, the
18 director may sustain, modify, or rescind the order after the hearing. If
19 the department has issued a stop-movement order under section 54-628.01,
20 the director may sustain, modify, or rescind the order after the hearing.

21 (7) Any person aggrieved by the finding of the director has ten days
22 after the entry of the director's order to request a new hearing if such
23 person can show that a mistake of fact has been made which affected the
24 director's determination. Any order of the director becomes final upon
25 the expiration of ten days after its entry if no request for a new
26 hearing is made.

27 Sec. 21. Section 54-633, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 54-633 (1) In order to ensure compliance with the Commercial Dog and
30 Cat Operator Inspection Act, the department may apply for a restraining
31 order, temporary or permanent injunction, or mandatory injunction against

1 any person violating or threatening to violate the act, the rules and
2 regulations, or any order of the director issued pursuant thereto. The
3 district court of the county where the violation is occurring or is about
4 to occur shall have jurisdiction to grant relief upon good cause shown.
5 Relief may be granted notwithstanding the existence of any other remedy
6 at law and shall be granted without bond.

7 The county attorney of the county in which such violations are
8 occurring or about to occur shall, when notified of such violation or
9 threatened violation, cause appropriate proceedings under this section to
10 be instituted and pursued without delay.

11 ~~(2) If alleged violations of the Commercial Dog and Cat Operator~~
12 ~~Inspection Act, the rules and regulations, or an order of the director or~~
13 ~~an offense against animals observed by an inspector in the course of~~
14 ~~performing an inspection under the act poses a significant threat to the~~
15 ~~health or safety of the dogs or cats harbored or owned by an applicant or~~
16 ~~licensee, the department may direct an inspector to impound the dogs or~~
17 ~~cats pursuant to sections 28-1011 and 28-1012 or may request any other~~
18 ~~law enforcement officer as defined in section 28-1008 to impound the dogs~~
19 ~~or cats pursuant to sections 28-1011 and 28-1012. The department shall~~
20 ~~cooperate and coordinate with law enforcement agencies, political~~
21 ~~subdivisions, animal shelters, humane societies, and other appropriate~~
22 ~~entities, public or private, to provide for the care, shelter, and~~
23 ~~disposition of animals impounded by the department pursuant to this~~
24 ~~section.~~

25 (2 3) The department may impose an administrative fine of not more
26 than five thousand dollars for any violation of the act or the rules and
27 regulations adopted and promulgated under the act. Each violation of the
28 act or such rules and regulations shall constitute a separate offense for
29 purposes of this subsection.

30 Sec. 22. If the director has reason to believe that any alleged
31 violation of the Commercial Dog and Cat Operator Inspection Act, any

1 alleged violation of the rules and regulations of the department, any
2 alleged violation of an order of the director, or any other existing
3 condition posing a significant threat to the health or safety of the dogs
4 or cats harbored or owned by an applicant or a licensee constitutes cruel
5 neglect, abandonment, or cruel mistreatment pursuant to section 28-1009,
6 the director may direct a special investigator employed by the department
7 as authorized pursuant to section 81-201 to exercise the authorities of a
8 law enforcement officer pursuant to sections 28-1011 and 28-1012 with
9 respect to the dogs or cats or may request any other law enforcement
10 officer as defined in section 28-1008 to inspect, care for, or impound
11 the dogs or cats pursuant to sections 28-1011 and 28-1012. Any assignment
12 of a special investigator by the director or referral to another law
13 enforcement officer pursuant to this section shall be in cooperation and
14 coordination with appropriate law enforcement agencies, political
15 subdivisions, animal shelters, humane societies, and other appropriate
16 entities, public or private, to provide for the care, shelter, and
17 disposition of animals impounded pursuant to this section.

18 Sec. 23. This act becomes operative on December 1, 2015.

19 Sec. 24. Original sections 28-1011, 54-603, 54-628, 54-628.01,
20 54-632, and 54-633, Reissue Revised Statutes of Nebraska, and sections
21 28-1006, 28-1008, 28-1012, 28-1013, 28-1014, 28-1015, 28-1016, 28-1019,
22 29-818, 54-625, 54-626, 54-627, and 54-630, Revised Statutes Cumulative
23 Supplement, 2014, are repealed.