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Bill 800

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A BILL

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT "THE PROFESSIONAL DOG BREEDER ASSURANCE ACT" BY ADDING ARTICLE 17 TO CHAPTER 3, TITLE 47 SO AS TO DEFINE NECESSARY TERMS, TO REQUIRE A PROFESSIONAL DOG BREEDER TO BE LICENSED BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, TO PRESCRIBE APPLICATION STANDARDS FOR A PROFESSIONAL DOG BREEDER LICENSE, TO GRANT THE DIRECTOR THE AUTHORITY TO REFUSE TO ISSUE OR RENEW A LICENSE IN CERTAIN CIRCUMSTANCES, TO PRESCRIBE THAT A LICENSE MUST BE RENEWED EVERY OTHER YEAR, TO ESTABLISH A LICENSING FEE SCHEDULE AND TO DESCRIBE WHERE THE FUNDS COLLECTED ARE TO BE DISBURSED, TO PROHIBIT A PERSON WHOSE LICENSE HAS BEEN REVOKED FROM PERFORMING CERTAIN ACTIONS, TO SET RECORD KEEPING STANDARDS FOR A PROFESSIONAL DOG BREEDER, TO ESTABLISH A PROCEDURE FOR THE INSPECTION OR REINSPECTION OF THE PREMISES, DOGS, AND RECORDS OF A PROFESSIONAL DOG BREEDER, TO PRESCRIBE HOUSING FACILITY AND DAILY CARE REQUIREMENTS, TO SET COMMERCIAL STANDARDS FOR A LICENSEE, TO PROHIBIT THE DIRECTOR OF THE DEPARTMENT FROM CONFISCATING DOGS UNDER THE PROVISIONS OF THIS ACT, TO GRANT THE DIRECTOR AUTHORITY TO PROMULGATE REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS ACT, AND TO ESTABLISH PENALTIES FOR A VIOLATION OF THE PROVISIONS OF THIS ACT; AND TO AMEND SECTION 47-1-40, RELATING TO ILL TREATMENT OF ANIMALS, SO AS TO UPDATE PENALTIES, TO PRESCRIBE STANDARDS FOR SUSTENANCE AND SHELTER, AND TO ESTABLISH A PROCEDURE FOR THE SEIZURE OF ILL-TREATED ANIMALS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 3, Title 47 of the 1976 Code is amended by adding:

"Article 17

Professional Dog Breeder Assurance Act

Section 47-3-1100. This article must be known and may be cited as the 'Professional Dog Breeder Assurance Act'.

Section 47-3-1110. As used in this chapter:

- (1) 'Adult dog' means a *Canis familiaris* or *Canis familiaris* hybrid six months or older.
- (2) 'Business hours' means between seven o'clock a.m. and seven o'clock p.m., Monday through Friday, except for legal federal holidays.
- (3) 'Chief law enforcement officer' means the duly elected sheriff of a county or the appointed police chief of a municipality.
- (4) 'Consumer' means a natural person who purchases a dog from a professional dog breeder that is not a business or corporation engaged in sales or services.
- (5) 'Department' means the South Carolina Department of Health and Environmental Control.

(6) 'Director' means the director of the South Carolina Department of Health and Environmental control, the director's designee, or in the absence of the director's designee or a vacancy in the office of the director, a deputy director.

(7) 'Euthanasia' means a method of humanely terminating the life of a dog that may be performed only by a licensed veterinarian or certified euthanasia technician.

(8) 'Housing facility' means any land, premises, shed, barn, building, trailer, or other structure or area that houses or is intended to house dogs.

(9) 'Inspection designee' means a person whose reputation in the community is that of a person with expertise, knowledge, and experience in the proper housing and care of dogs and who is appointed by a county administrator or mayor, if appropriate, in conjunction with the chief law enforcement officer of the county.

(10) 'Intact' means a dog that has not been altered by surgical, chemical, or physical means and still is capable of breeding.

(11) 'Licensee' means a person licensed according to this article and any regulations promulgated under this chapter.

(12) 'Owner' means a person who has a property right in a dog.

(13) 'Professional dog breeder' means a person who possesses or maintains, under the person's immediate control, ten or more intact female adult dogs in this State at one time for the primary purpose of breeding and selling. Dogs that are kept for the primary purpose of herding livestock, hunting, or competing in field trials, hunting tests, or a similar recognized dog sport, are not considered for purpose of determining the number of adult intact female dogs possessed by a person.

(14) 'Releasing agency' means a public or private animal shelter, humane society, animal welfare organization, society for the prevention of cruelty to dogs, or other similar entity or home-based rescue operation that releases companion dogs for adoption.

(15) 'Veterinarian' means a person who is licensed and in good standing to practice veterinary medicine pursuant to Chapter 69, Title 40.

Section 47-3-1120. A person or organization operating or intending to operate as a professional dog breeder shall have a valid license issued in accordance with this chapter. A person must be at least eighteen years of age to obtain a license.

Section 47-3-1130. (A) A person or organization seeking a license shall apply on a form furnished by the department. The application form, the implementing regulations, and other necessary forms must be maintained on the department's website. The application must include the signed on-site inspection report by the chief law enforcement officer of the county or the inspection designee.

(B) The applicant shall:

(1) provide all information requested on the application form, including a mailing address through which the licensee or applicant can be reached at all times and a valid address where the dogs, dog facilities, equipment, and records may be inspected for compliance;

(2) file the completed application form with the department;

(3) indicate each location where the person operates or keeps dogs on the application form or on a separate sheet attached to the form;

(4) indicate whether the anticipated revenue from sales annually will exceed nine thousand two hundred twenty-five dollars; and

(5) provide a valid sales tax registration number if he does anticipate sales revenue exceeding the amount in item (4).

(C) The completed application form, along with the application fee, the annual license fee, a State Law Enforcement Division criminal history background check or similar office if the applicant resides in another state, and any report of the on-site inspection in subsection (F) must be filed with the department.

(D) No professional dog breeder may breed or sell dogs without a valid license issued by the director under the provisions to this chapter. Each license is valid for two years unless otherwise revoked or suspended.

(E) A license issued under the provisions of this section is nontransferable and is not valid at a location other than the one for which it is issued.

(F) Before the department may issue an initial professional dog breeder license to an applicant:

(1) The chief law enforcement officer or inspection designee of each county where the applicant has a location shall determine, through an on-site inspection, that the premises conforms to the provisions of this chapter and the regulations promulgated by the department. If the inspection reveals that the applicant is not in compliance, the chief law enforcement officer or inspection designee shall give that applicant a detailed list of noncompliant items. An applicant may reapply at any time by submitting a reinspection request in writing to the chief law enforcement officer or inspection designee. Each inspection or reinspection request must be accompanied by payment of the inspection or reinspection fee.

(2) The department shall determine that the applicant:

(a) has not, for at least two years prior to the date of the application, been convicted or pled nolo contendere to ill-treatment of animals or neglect or offenses with the same or similar elements in another state;

(b) provides a program of veterinary care, as evidenced by an affidavit signed by a veterinarian that includes:

(i) documentation that the adult dogs are in good health for breeding;

(ii) records that indicate at least one hands-on examination of each adult dog annually, prompt veterinary treatment of any illness or injury as considered reasonably necessary, and proof that vaccinations against rabies and other contagious and infectious diseases, including canine distemper, adenovirus, type II parainfluenza, bordetella, and parvovirus, are administered as required by law and as recommended by the veterinarian;

(iii) a written program to address each dog's exercise and additional care needs, to be updated annually or as appropriate;

(iv) a record of all surgical procedures including, but not limited to, cesarean sections, spays or neuters, or other major surgeries performed only by a veterinarian; and

(v) proof that procedures of tail docking and dewclaw removal for animals under one week of age are performed under the direct or indirect supervision of a veterinarian, with signed documentation from the veterinarian stating the proper methods and instruments that will be used, the proper sanitizing methods for the instruments, and an emergency veterinary treatment plan.

(G) Each license application must contain a provision clearly stating that providing false information on any portion of the application subjects the applicant to prosecution for the offense of perjury under Section 16-9-10. The applicant shall declare, under penalty of perjury, that all information contained in the application is true and that the applicant is in compliance with the provisions of this chapter and regulations promulgated by the department.

Section 47-3-1140. (A) The director may refuse to issue or renew a license of a professional breeder, may revoke or suspend a license of any professional breeder, and may impose any other lawful discipline against a licensee for any of the following reasons:

(1) a violation by the licensee of the South Carolina Consumer Protection Code that relates to the operation of dog kennels, commercial dog breeding, or dog sales;

(2) knowingly falsifying material information contained in the application;

(3) the conviction or plea of nolo contendere of the licensee or any responsible officer or employee of the licensee for any criminal offense involving animal cruelty or neglect, or offenses with the same or similar elements in another state within the previous ten years;

(4) allowing a license under this chapter to be used by an unlicensed person; or

(5) wilful disregard or violation of this Article or any regulations promulgated under this chapter.

(B) In addition to, or in lieu of, any other disciplinary actions, the director may impose a civil penalty not to exceed one thousand dollars for each violation. Each day of continued violation constitutes a separate violation.

(C) A professional dog breeder aggrieved by a final order of the director issued under this section may appeal the order in accordance with the South Carolina Administrative Procedures Act.

(D) The director is authorized to apply to a court with appropriate jurisdiction for writs of injunction for the enforcement of this chapter. If the director imposes discipline on a licensee or unlicensed person, the licensee or unlicensed person may be required to pay the actual and reasonable costs of the investigation and prosecution of the case.

Section 47-3-1150. (A) A license must be renewed every other year upon application and payment of the license fee by the licensee if the licensee has complied with this article as confirmed by annual inspections conducted by the chief law enforcement officer or inspection designee.

(B) Failure to file an application for renewal or to pay the required license fee on or before the expiration date of the license results in an automatic revocation of the license.

Section 47-3-1160. (A) The annual fees for the license are:

(1) one hundred dollars for a Class 1 Professional Breeder with a total of fifty dogs or less of any age during a calendar year;

(2) two hundred dollars for a Class 2 Professional Breeder with a total of fifty-one dogs to one hundred dogs of any age during a calendar year;

(3) three hundred dollars for a Class 3 Professional Breeder with a total of one hundred one dogs to one hundred fifty dogs of any age during a calendar year;

(4) four hundred dollars for a Class 4 Professional Breeder with a total of one hundred fifty to two hundred fifty dogs of any age during a calendar year;

(5) five hundred dollars for a Class 5 Professional Breeder with a total of two hundred fifty-one dogs to five hundred dogs of any age during a calendar year; and

(6) seven hundred fifty dollars for a Class 6 Professional Breeder with a total of five hundred one dogs or more of any age during a calendar year.

(B) If an applicant falsifies the total number of intact female adult dogs maintained under his immediate control for the purpose of selling their offspring in order to be classified in a lower fee schedule bracket, the applicant may be subject to a civil penalty, to be enforced by the department, of one thousand dollars for each dog above the falsified number. The civil penalty is in addition to, and independent of, any applicable criminal charges that may be brought based upon the same conduct.

(C) The amount of the inspection or reinspection fee must be determined by the applicable mayor or county administrator and approved by the department, but may not exceed two hundred fifty dollars.

(D) The license application fee, license fee, returned check fee, investigation and hearing costs, and any civil penalties assessed by the department must be retained the department to cover the costs of this article. All other fees and fines collected pursuant to this article must be transmitted to the chief law enforcement officer or inspection designee of the county in which the fee or fined is collected for the purpose of administering and enforcing this chapter.

Section 47-3-1170. (A) A person whose license has been revoked may not:

(1) buy, sell, offer for sale, or deliver for transportation a dog during the period of revocation;

(2) be eligible to apply for another license for a period of five years after the date of revocation; and

(3) be licensed under the provisions of this article in the licensee's own name, in a partnership, firm, corporation, or other legal entity in which the licensee has a substantial interest.

(B) A person who has been an officer, agent, or employee of a licensee has been revoked and is responsible for, or participated in, a violation that led to the revocation of the license, may not be eligible to apply for a license for a period of five years from the date of final revocation.

(C) If the license was revoked as a result of the licensee being convicted of, or pleading nolo contendere to, animal cruelty charges, the licensee may not be eligible to apply for another license for a period of ten years after the date of revocation.

(D) If a person's license has been suspended for a reason authorized by this chapter or regulations promulgated pursuant to this chapter, the person may apply to the director, in writing, for reinstatement of the person's license. A license must be renewed during the period that the license is suspended. If the suspension is overturned, the licensee is eligible to have his license reinstated with possible restrictions or limitations by the department, which must conduct an administrative hearing on the matter.

Section 47-3-1180. (A) A professional breeder shall maintain records on all dogs in his custody, and for a period of five years from the date a dog is sold, euthanized, or disposed of, showing:

- (1) the origin of all dogs, including names and addresses of consignors, and the date each dog was received;
- (2) a description of each dog, including species, age, sex, breed, and color markings;
- (3) the location of each dog not kept at the registered facility;
- (4) the disposition of each dog, including the name and address of the person to whom each dog is sold, traded, or adopted and the date of the transaction. In the event of the death of a dog, the record must show the date, signs of illness, or cause of death if identified. If a dog is euthanized, the record must show date and type of euthanasia; and
- (5) a record of veterinary care including treatments, immunizations, and the date, time, and description of all medication, including its name and dosage, and the initials of the person administering any product or procedure.

(B) A professional breeder shall make all required records available to the department during business hours. The operator must be able to match each animal to its record upon request.

(C) A license must be posted in a conspicuous place on the licensed premises. Current license numbers must be included on all of the licensee's invoices, advertisements, or promotions that pertain to a dog.

(D) The department shall maintain a list of licenses issued and post the list on its website. A licensee shall notify the department in a form to be prescribed by the director of any change in the name, address, management, or substantial control or ownership of the licensee's business or operation or of any additional sites, within ten days of the change. If control or ownership of a business changes in such a substantial manner that the new owner or person in control is required to obtain a license, the licensee shall surrender the license to the department.

Section 47-3-1190. (A) The premises, dogs, and records of a professional dog breeder must be made available for inspection during business hours or at other times mutually agreeable to the professional dog breeder and the inspecting official to ascertain compliance with this chapter and applicable regulations.

(B) If an inspection reveals a violation of this chapter or regulations promulgated pursuant to this chapter, the chief law enforcement officer of the county or the inspection designee on the day of the inspection shall give the professional dog breeder a detailed list of the violations found during the inspection.

(C) The professional dog breeder has ninety days from the date of the inspection to correct the violations.

(D) During or at the end of the ninety day period, the professional dog breeder shall notify the chief law enforcement officer or the inspection designee in writing of the actions taken to correct the violations. The premises of the professional dog breeder must be reinspected to determine compliance with this article and the applicable regulations. If all violations contained on the list have been corrected and no other violations are found, no further action may be taken with regard to those violations.

(E) If the chief law enforcement officer or inspection designee finds uncorrected violations during reinspection he shall report the violations and subsequent failure to correct to the director. The director may initiate proceedings in the magistrate court of the county where the violation is occurring for injunctive relief to prevent the continuance of the violations or to correct the conditions resulting in, or about to result in, the violations, and also must prohibit the sale of dogs by the person until he is in compliance with this chapter and the regulations promulgated under this article.

(F) If the inspection reveals or there is credible evidence to believe a violation of applicable animal cruelty or neglect laws exists on the premises, the inspection designee immediately shall notify applicable local law enforcement and the director in writing. If the chief law enforcement officer is the person who conducts inspections, he shall notify any other law enforcement agencies and the director of the evidence found.

(G) The director has the authority to investigate through compliance audit or any other means necessary to determine compliance.

Section 47-3-1200. (A)(1) Housing facilities for dogs must be structurally sound and maintained in good repair to protect the dogs from injury, contain the animals, and restrict the entrance of other animals and people.

(2) All light fixtures and electrical outlets in animal areas must be in compliance with the state building code.

(3) Facilities must have reliable and safe electric power necessary to comply with this article.

(4) Supplies of food and bedding must be stored in facilities that adequately protect those supplies against infestation or contamination by vermin and insects. All open bags of food must be stored in airtight containers with lids. Refrigeration must be provided for supplies of perishable food.

(5) Animal and food waste and debris must be removed daily from the housing facility in accordance with local ordinances to ensure that the facility is maintained in a clean and sanitary manner.

(6) Hot and cold running, potable water must be available. Facilities such as a washroom, basin, or sink must be provided to maintain cleanliness among animal caretakers and animals, and in animal food and water receptacles.

(7) A facility must have the capability to confirm the temperature in which the animals are housed. Indoor housing facilities for dogs must be adequately heated and cooled when necessary to protect the dogs from cold and excessive heat and provide for their health and comfort. The ambient temperature may not be allowed to fall below fifty degrees Fahrenheit or exceed eighty-five degrees Fahrenheit when dogs are present.

(8) A separate perimeter fence is required, including unsupervised exercise areas.

(9) All areas of a facility are subject to review or inspection by the department and local animal control agents during business hours.

(10) All animals in a facility are subject to the requirements of this article regardless of ownership.

(11) A licensee shall comply with all applicable federal, State, and local laws, rules, and ordinances relating to or affecting the welfare of dogs in its facility.

(12) Indoor housing facilities for dogs must be adequately ventilated to provide for the health and comfort of the animals at all times. The facilities must be provided with fresh air either by means of windows, doors, vents, or air conditioning and must be ventilated. Air flow must be adequate to minimize odors and moisture condensation.

(13) Indoor housing facilities for dogs must have adequate illumination to permit routine inspections, maintenance, cleaning, and housekeeping of the facility and observation of the animals. Illumination must provide regular diurnal lighting cycles of either natural or artificial light.

(14) Interior building surfaces of indoor facilities with which animals come in contact must be constructed and maintained to be impervious to moisture and can be readily sanitized.

(15) A suitable method of drainage must be provided to rapidly eliminate excess water from an indoor housing facility. If closed drain systems are used, they must be equipped with traps and installed to prevent odors and backup of sewage. The drainage system must be constructed to prevent cross-contamination among animals. Drains must be constructed to comply with applicable federal, State, and local laws.

(16) In outdoor facilities, primary enclosures and walkways with which an animal comes in contact must be constructed with sealed concrete surfaces or other surfaces impervious to moisture. Gravel may be used if maintained at a minimum depth of six inches and kept in a sanitary manner.

(17) Dogs kept outdoors must be provided with housing to allow them to remain dry and comfortable during inclement weather. Housing must be constructed of material that is impervious to moisture and which can be disinfected. One house must be available for each animal within each enclosure except for a mother and its unweaned offspring. The house must be of solid construction, including a roof, four walls, and a floor, must allow the dog to remain dry and comfortable, and must allow the dog to maintain its body heat in cold weather. Each house must include a wind/rain break on the entrance to protect the dog from weather extremes. A suitable method of drainage must be provided. In addition to housing, the enclosure must provide protection from excessive sun and inclement weather.

(18)(a) A primary enclosure must be constructed to provide space to allow each dog to walk, turn about freely, and to easily stand, sit, and lie in a natural position. Primary enclosures must provide each dog with:

(i) at least twelve square feet of indoor floor space for a dog that is twenty-five inches long or less;

(ii) at least twenty square feet of indoor floor space for a dog that is between twenty-five and thirty-five inches long;

(iii) at least thirty square feet of indoor floor space for a dog that is thirty-five inches or longer;

(iv) at least twelve inches of headroom above the head of the tallest dog in the enclosure; and

(v) a floor constructed of a solid material that is impermeable to moisture.

(b) Not more than four adult dogs may be housed in the same primary enclosure except during any supervised play group interactions.

(c) Animal and food waste, bedding, and debris must be removed at least twice daily from all primary enclosures and exercise areas to prevent contamination of the dogs contained in those enclosures and areas and to reduce disease hazards and odors. (d) An animal must be able to walk and lie down without coming into contact with any waste or debris.

(e) A primary enclosure must be sanitized at least once weekly.

(f) All dogs must be removed from primary enclosures during cleaning or sanitization with agents, pressurized water, steam, or agents toxic to animals.

(g) A primary enclosure may not be stacked or otherwise placed on top of or above another primary enclosure.

(19) All of the following sanitization procedures must be followed:

(a) Before the introduction of dogs into empty primary enclosures previously occupied, enclosures and accessories must be sanitized.

(b) In addition to primary enclosures being properly cleaned a minimum of two times daily, enclosures and accessories must be sanitized a minimum of once every seven days.

(c) Primary enclosures, rooms and hard-surfaced pens or runs must be sanitized by:

(i) washing them with hot water one hundred eighty degrees Fahrenheit and soap or detergent as in a mechanical cage washer;

(ii) washing all soiled surfaces with a detergent solution to remove all organic matter followed by application of a safe and effective disinfectant; or

(iii) cleaning all soiled surfaces with live steam.

(d) Food and water receptacles must be sanitized daily with hot water, detergent, and disinfectant.

(e) Soiled linens and cloth products must be mechanically washed with detergent and sanitized.

(f) An area accessible to multiple animals must be kept clean and sanitary.

(B)(1) An animal held in a commercial breeding operation must be provided:

(a) daily access to both human and same species social interaction;

(b) daily access to outdoor space at least three times the size of the primary enclosure, except for nursing, unweaned puppies and any other dog for which a licensed veterinarian has stated in writing that such activity would pose a health threat;

(c) a species and size-appropriate toy, unless it poses a health threat; and

(d) grooming sufficient to prevent excessive matting and claw or nail length.

(2) Dogs must be fed at least once each twenty four hour period except as otherwise might be required to provide adequate veterinary care. Food must be commercially prepared food that complies with laws applicable to animal feed or the food must be provided by the owner. The food must be free from contamination, wholesome, palatable, and of adequate quality and quantity appropriate for the given size, age, and condition of an animal to meet the daily requirements for nutritional value. Puppies less than six months of age must be fed at least twice in each twenty four hour period. An eight hour interval between feedings is required if only two feedings are offered in a twenty-four-hour period.

(3) Food receptacles must be accessible to all dogs and must be located so as to minimize contamination by waste. For every adult animal, there must be at least one food receptacle offered. Food receptacles must be durable and must be kept clean and sanitized. Damaged receptacles must be replaced. Disposable food receptacles may be used but must be discarded after each feeding.

(4) Food and water receptacles in outdoor facilities must be protected from the elements.

(5) A dog must have continuous access to clean, fresh water that is not frozen and is free of debris, feces, algae, and other contaminants, except as might otherwise be required to provide adequate veterinary care as instructed by a duly licensed veterinarian for medical reasons. Watering receptacles must be durable and kept clean and sanitized. Damaged receptacles must be replaced.

Section 47-3-1210. (A) A licensee shall use the caption 'Licensed South Carolina Professional Breeder' on all advertising, letterhead, bills of sale, receipts, certificates, and sales contracts.

(B) The original copy of all records required by section 47-3-1130(F)(2)(b) must be given to a purchaser of the dog at the time of purchase.

(C) A purchaser has three business days after the date of delivery of the dog to have the dog examined by a veterinarian to determine if the dog is healthy. If the dog is guaranteed by the seller in writing or through an advertisement, the purchaser shall notify the seller within five business days after delivery of a negative veterinary report.

(D) Any written materials pertaining to a dog, including, but not limited to, the license and the dog's bill of sale, must include, in bold print, the statement: 'This license does not certify that the dog being sold has been examined by or is under the care of a licensed veterinarian.'

Section 47-3-1220. (A) If the Department of Health and Environmental Control or its designated officer determines, based on the conditions found, there are reasonable grounds to believe the animal's health, safety or welfare is endangered because of neglect of a duty of care provided for in Section 47-3-1200, deprivation of necessary sustenance, water, shelter or veterinary care or access to clean and sanitary shelter that poses a health risk to the animal, the department may seize the animal immediately and must be followed by service of an order of seizure.

(B) An order of seizure must set forth the general factual and legal basis for the action taken and must advise the person that they may file with the department a written request for an administrative hearing subject to bonding requirements of this section within ten days of receipt of the order. The order must be served by personal service or by registered or certified mail. Unless a timely request for a hearing is filed with the department, the order must become final upon the expiration of the ten day period for requesting an administrative hearing.

(C) If the department's order becomes final or any administrative appeals are exhausted, in cases where the department's action is upheld, the animals seized under the order must be forfeited to the entity set forth in the department's order or to an entity approved by the department without compensation to the owner.

(D) If the animals are seized from a person and an administrative appeal is filed, the person shall post a surety bond within ten days of filing the appeal in the amount determined by the department applying criteria established by it, which must include:

- (1) the number of animals seized; and
- (2) the costs of transportation, providing food, water, shelter and care, including medical care, of the animals pursuant to the removal and impoundment.

Section 47-3-1230. (A) The director is authorized to promulgate regulations to effectuate the provisions of this article. The regulations shall be promulgated in accordance with the South Carolina Administrative Procedures Act.

(B) The regulations must establish:

- (1) operating standards and facility requirements for professional dog breeders;
- (2) requirements for facilities and housing, mobile or traveling housing facilities, and primary enclosures;
- (3) guidelines for the compatible grouping of dogs;
- (4) adequate veterinary care requirements;
- (5) exercising, feeding, and watering requirements for dogs;
- (6) cleaning, sanitization, housekeeping, and pest control requirements; and
- (7) professional dog breeder employees requirements.

(C) The director shall consider the following when establishing regulations, without limitation:

- (1) corresponding standards established by the American Veterinary Medical Association;
- (2) corresponding standards established by the American Kennel Club; and
- (3) corresponding regulations, policies, forms, and materials developed in other states.

Section 47-3-1240. (A) The knowing failure of any person to comply with this chapter or any regulation promulgated pursuant to this chapter shall constitute grounds for the denial, revocation, or suspension of a license as provided in this chapter.

(B) Except as otherwise prohibited, a violation of this chapter is a misdemeanor punishable by imprisonment for not more than one year. In addition to the criminal penalty provide for in Section 47-1-40, the director may assess a civil penalty of no more than five thousand dollars for each violation of this article and each day a violation continues constitutes a separate violation.

(C) Nothing in this article may preclude a person who is in violation of this article from being also prosecuted for an applicable criminal offense."

SECTION 2. Section 47-1-40 of the 1976 Code, as last amended by Act 251 of 2014, is further amended to read:

"Section 47-1-40. (A) A person who knowingly or intentionally overloads, overdrives, overworks, or ill-treats an animal, deprives an animal of necessary sustenance or shelter, inflicts unnecessary pain or suffering upon an animal, or by omission or commission knowingly or intentionally causes these acts to be done, is guilty of a misdemeanor and, upon conviction, must be punished by imprisonment not exceeding ninety days or by a fine of not less than one hundred dollars nor more than one thousand dollars, or both, for a first offense; or by imprisonment not exceeding two years or by a fine not exceeding two thousand dollars, or both, for a second or subsequent offense.

(B)(1) It is unlawful for a person to knowingly or intentionally deprive an animal of necessary sustenance, shelter or veterinary care, to confine the animal in unsanitary conditions in an enclosure or the immediate surroundings

where the animal is harbored, to neglect a duty of care set forth in Section 47-3-1200, or by omission or commission knowingly or intentionally cause these things to be done. Shelter for animals must be structurally sound and maintained in good repair to protect the animals from injury and the elements. All light fixtures and electrical outlets in animal areas must be in compliance with the state building code. Supplies of food and bedding must be stored in containers that adequately protect those supplies against infestation or contamination by vermin and insects.

(2) A person who violates the provisions of this subsection with respect to:

(a) less than ten animals, is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than ninety days, or both; and notwithstanding another provision of law, a first offense pursuant to this item must be tried in magistrates or municipal court;

(b) at least ten but less than twenty-five animals, is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand five hundred dollars or imprisoned for not more than one year, or both;

(c) at least twenty-five but less than fifty animals, is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than three years, or both; and

(d) more than fifty animals, is guilty of a felony and, upon conviction, must be fined not more than fifteen thousand dollars or imprisoned for not more than five years, or both.

(C) A person who tortures, torments, needlessly mutilates, cruelly kills, or inflicts excessive or repeated unnecessary pain or suffering upon an animal or by omission or commission causes these acts to be done, is guilty of a felony and, upon conviction, ~~must be punished by imprisonment of not less than one hundred eighty days and not to exceed five years and by a fine of five thousand dollars;~~

(1) for a first offense, must be fined not less than five thousand dollars or imprisoned for not less than one hundred eighty days nor more than five years, or both;

(2) for a second offense, must be fined not less than five thousand nor more than fifteen thousand dollars or imprisoned for not less than one hundred eighty days nor more than ten years, or both; and

(3) for a third or subsequent offense, must be fined not less than ten thousand nor more than fifty thousand dollars or imprisoned for not less than one year nor more than ten years, or both.

(D) If the Department of Health and Environmental Control or its designated officer determines, based on the conditions found, there are reasonable grounds to believe the animal's health, safety or welfare is endangered because of neglect of a duty of care provided for in Section 47-3-1200, deprivation of necessary sustenance, water, shelter or veterinary care or access to clean and sanitary shelter that poses a health risk to the animal, the department may seize the animal immediately and must be followed by service of an order of seizure.

(E) An order of seizure must set forth the general factual and legal basis for the action taken and must advise the person that they may file with the department a written request for an administrative hearing subject to bonding requirements of this section within ten days of receipt of the order. The order must be served by personal service or by registered or certified mail. Unless a timely request for a hearing is filed with the department, the order must become final upon the expiration of the ten day period for requesting an administrative hearing.

(F) If the department's order becomes final or any administrative appeals are exhausted, in cases where the department's action is upheld, the animals seized under the order must be forfeited to the entity set forth in the department's order or to an entity approved by the department without compensation to the owner.

(G) If the animals are seized from a person and an administrative appeal is filed, the person shall post a surety bond within ten days of filing the appeal in the amount determined by the department applying criteria established by it, which must include:

(1) the number of animals seized; and

(2) the costs of transportation, providing food, water, shelter and care, including medical care, of the animals pursuant to the removal and impoundment.

(H) This section does not apply to fowl, accepted animal husbandry practices of farm operations and the training of animals, the practice of veterinary medicine, agricultural practices, forestry and silvacultural practices,

wildlife management practices, or activity authorized by Title 50, including an activity authorized by the South Carolina Department of Natural Resources or an exercise designed for training dogs for hunting, if repeated contact with a dog or dogs and another animal does not occur during this training exercise."

SECTION 3. This act takes effect upon approval by the Governor.

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