

HOUSE BILL NO. 570

INTRODUCED BY W. CURDY

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A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE MONTANA COMMERCIAL PET PROTECTION ACT; REQUIRING COMMERCIAL BREEDERS TO BE LICENSED BY THE BOARD OF VETERINARY MEDICINE; REQUIRING BREEDING FACILITY INSPECTIONS; CREATING THE COMMERCIAL PET PROTECTION STATE SPECIAL REVENUE ACCOUNT; PROVIDING CIVIL AND CRIMINAL PENALTIES FOR VIOLATIONS; PROVIDING AN APPROPRIATION; REQUIRING THE BOARD TO ADOPT RULES TO IMPLEMENT THE PROGRAM; AND PROVIDING EFFECTIVE DATES."

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

NEW SECTION. **Section 1. Short title.** [Sections 2 through 9] may be cited as the "Montana Commercial Pet Protection Act".

NEW SECTION. **Section 2. Purpose.** The purpose of [sections 2 through 9] is to ensure that dogs and cats that are bred, sold, exchanged, or adopted in Montana are healthy and to ensure that an animal does not enter commerce with diseases or injuries that cause suffering to the animal and are unfairly and unexpectedly financially and emotionally expensive to purchasers and adopters.

NEW SECTION. **Section 3. Definitions.** As used in [sections 2 through 9], the following definitions apply:

- (1) "Animal" means a dog or cat.
- (2) "Breeding facility" or "facility" means the premises used by one or more licensed breeders for keeping, housing, or breeding dogs or cats. The term includes all buildings, property, and confinement areas in a single location used to conduct the breeding activities.
- (3) "Cat" means a mammal that is wholly or partly of the species *Felis catus*;
- (4) "Commercial breeder" means an individual, entity, association, trust, or corporation engaged in the business of breeding dogs or cats that:
 - (a) owns, keeps, or harbors eight or more intact female dogs or cats for the primary purpose of breeding

1 and selling their offspring; or

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

4 (5) "Department" means the department of labor and industry.

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

6 (7) "Inspection" means the examination of premises, equipment, records, and procedures or the
7 examination of a breeding facility by the board to determine whether the breeding operation is being conducted
8 in a manner consistent with the requirements of [sections 2 through 9] and the public health, safety, and welfare.

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

10 (9) "Licensed breeder" means a commercial breeder licensed under [section 4(1)] or a breeder that
11 voluntarily obtains a license under [section 4(2)].

12

13 **NEW SECTION. Section 4. Licensure -- fees.** (1) (a) A commercial breeder must be licensed annually
14 by the board. The applicant shall provide the name, address, and contact information for the commercial breeding
15 facility, and any other information required by the board on a license application form furnished by the board.

16 (b) A commercial breeder may not breed, sell, offer to sell, exchange, or adopt any animals without a
17 valid license.

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

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

23 (4) All fees must be deposited in the account provided for in [section 7].

24

25 **NEW SECTION. Section 5. Facility inspection -- reports.** (1) (a) All licensed breeders are subject to
26 inspection by the board. A licensed breeder must be inspected at the following times:

27 (i) upon applying for a license;

28 (ii) at least annually after receiving a license; and

29 (iii) whenever a complaint, as defined by the board in rule, is filed against the licensed breeder or the
30 breeding facility.

1 (b) The board is responsible for ensuring that all inspections required under [sections 2 through 9] are
2 performed. The board shall delegate its inspection duties to regional inspectors designated by the board under
3 rules adopted pursuant to [section 9].

4 (c) The inspector is authorized to inspect the part of the premises of all licensees and applicants for
5 licensure where it is reasonably believed that animals are housed. For purposes of inspection, the board,
6 inspectors, and other designees of the board are authorized to enforce the provisions of this act and any board
7 rules adopted pursuant to [section 9].

8 (2) The board, inspectors, and other designees of the board are authorized to inspect records required
9 under [sections 2 through 9] for all licensed breeders, breeding facilities, and breeders that are applying for a
10 license under [section 4].

11 (3) The board shall keep accurate records of all inspections performed on a form furnished by the board.
12 The inspection reports must be made available to the public upon request under 2-6-1006. The inspector shall
13 deliver the report to the board within 5 days of the inspection, except that when animals may be in imminent
14 danger, the inspector shall deliver the report to the board as soon as practicable.

15 (4) The board shall provide a report of the findings to the licensed breeder within 10 days of the
16 inspection. The report must contain a statement of whether the licensed breeder and the breeding facility passed
17 the inspection, and if the breeder or the facility did not pass the inspection, the actions that the licensee must take
18 to correct any violations.

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

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

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

28 (7) If, during an inspection, an inspector or other designee of the board observes conditions or treatment
29 of any animal that the inspector or designee suspects or knows violates any provision of 45-8-210, 45-8-211,
30 45-8-217, 45-8-218, or other law related to the inhumane treatment of animals, the inspector or designee shall

1 report the violation or suspected violation to the proper enforcement authorities in the jurisdiction immediately.

2

3 **NEW SECTION. Section 6. Denial of license -- revocation -- suspension.** (1) The board may not
4 grant a license to a person who has been convicted of a violation under 45-8-209 through 45-8-211, 45-8-217,
5 45-8-218, or any other law or regulation related to the inhumane treatment of animals, or of an animal cruelty law
6 or regulation in another state within the last 10 years.

7 (2) The board shall revoke a breeder's license if the breeder is convicted of a violation of 45-8-209
8 through 45-8-211, 45-8-217, 45-8-218, or other law related to the inhumane treatment of animals, or of
9 substantially similar conduct under an animal cruelty law in another state.

10 (3) The board may deny, suspend, or revoke the license of a person applying for or holding the license
11 if the person:

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

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

15 (c) fails to comply with [sections 2 through 9] or any rule adopted pursuant to [section 9];

16 (d) has been convicted of violating any law relating to cruelty to animals and the conviction is more than
17 10 years old, if there is evidence that the person has not been rehabilitated and approving the registration would
18 jeopardize the health, safety, or welfare of an animal;

19 (e) has been convicted of a felony;

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

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

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

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

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

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

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

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

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

10
11 **NEW SECTION. Section 7. Commercial pet protection state special revenue account.** (1) There
12 is a commercial pet protection account within the state special revenue fund established in 17-2-102. The purpose
13 of the account is to offset the costs incurred in establishing the board and incurred by the board for administering
14 the commercial pet breeder licensing program, facility inspections, and reporting. There must be paid into this
15 account:

- 16 (a) revenue obtained from gifts, grants, and donations;
17 (b) revenue obtained under [section 4] for registration fees;
18 (c) revenue from penalties collected under [section 8]; and
19 (d) interest or other income earned on the money in the account.

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

22 (3) The board may accept gifts, grants, and donations for the program.

23
24 **NEW SECTION. Section 8. Civil penalties -- criminal penalties -- equitable relief.** (1) (a) A person
25 who violates any of the provisions of [sections 2 through 9] or rules adopted by the board pursuant to [section
26 9] is subject to a civil penalty. The board may assess a civil penalty of not less than \$100 and not more than
27 \$1,000 per day against a licensed breeder for each violation.

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

- 30 (i) the gravity of the violation;

1 (ii) the potential harm to the public;
2 (iii) the potential effect on the animal;
3 (iv) the willfulness of the violation;
4 (v) previous violations, if any;
5 (vi) the economic benefit to the person for failing to comply with [sections 2 through 9] or with rules
6 adopted pursuant to [section 9].

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

12 (d) If the board is unable to collect a civil penalty or if a person fails to pay all or a portion of a penalty
13 assessed under this section, the board may refer the matter to the office of the attorney general to institute an
14 action in the appropriate court to recover the penalty.

15 (2) (a) A person who violates [sections 2 through 9] or rules adopted by the board pursuant to [section
16 9] in a manner that results in cruelty to an animal in violation of 45-8-210, 45-8-211, 45-8-217, or 45-8-218 is
17 subject to the criminal penalties established in those sections.

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

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

24 (3) In cases in which the circumstances require it, the board may seek a preliminary injunction or
25 temporary restraining order, provided that notice has been given to the respondent. The court shall issue the
26 injunction or restraining order if it finds the respondent is engaging in unlawful conduct in violation of [sections
27 2 through 9] or rules adopted by the board pursuant to [section 9] or engaging in conduct that causes or may
28 cause immediate and irreparable harm to the public. In addition to an injunction or restraining order, the court may
29 assess civil penalties under this section.

30 (4) Seizure of a dog or a cat from a licensed breeder related to a violation of [sections 2 through 9] or

1 rules adopted by the board pursuant to [section 9] must be governed by the procedures established in 27-1-434.

2 (5) All civil penalties collected under [sections 2 through 9] must be deposited in the commercial pet
3 protection state special revenue account established in [section 7].

4 (6) Each day of violation constitutes a separate violation under this section.

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6 **NEW SECTION. Section 9. Rulemaking.** The board shall adopt rules governing inspection, record
7 keeping, and standards of care for commercial breeding facilities within 1 year of [the effective date of this
8 section]. The rules must include:

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

10 (a) enclosure size;

11 (b) construction material;

12 (c) proper drainage;

13 (d) sanitation;

14 (e) requirements for indoor and outdoor access;

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

16 (g) protection from weather;

17 (h) ventilation;

18 (i) temperature control;

19 (j) lighting; and

20 (k) any other housing standards necessary for ensuring the proper care of animals;

21 (2) standards for feeding, watering, and bedding;

22 (3) standards for animal health;

23 (4) adequate proof of regular and necessary veterinary care, including an annual hands-on veterinary
24 exam for each breeding animal, provided as part of a veterinarian-client-patient relationship;

25 (5) adequate proof that veterinary care was provided if an animal exhibits signs of poor health;

26 (6) standards for breeding of dogs and cats;

27 (7) a requirement that each facility has a written plan for disaster response and recovery;

28 (8) procedures for implementation of facility registration and inspection required under [sections 2
29 through 9]; and

30 (9) establishment of no fewer than four statewide inspection regions and the criteria that must be met

1 to be designated as an inspector to conduct inspections as provided in [section 5].

2

3 **NEW SECTION. Section 10. Appropriation.** There is appropriated \$62,000 for fiscal year 2018 and
4 \$62,000 for fiscal year 2019 from the state special revenue account created in [section 7] to the board of
5 veterinary medicine for the purposes described in [sections 2 through 9].

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7 **NEW SECTION. Section 11. Codification instruction.** [Sections 2 through 9] are intended to be
8 codified as an integral part of Title 37, chapter 18, and the provisions of Title 37, chapter 18, apply to [sections
9 2 through 9].

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11 **NEW SECTION. Section 12. Severability.** If a part of [this act] is invalid, all valid parts that are
12 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
13 the part remains in effect in all valid applications that are severable from the invalid applications.

14

15 **NEW SECTION. Section 13. Effective dates.** (1) Except as provided in subsection (2), [this act] is
16 effective October 1, 2017.

17 (2) [Section 4(1)] is effective July 1, 2018.

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