

# HB0359S01 compared with HB0359

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inserted text shows text that was not in HB0359 but was inserted into HB0359S01.

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Representative Norman K Thurston proposes the following substitute bill:

## ANIMAL CARE AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Norman K Thurston**

Senate Sponsor: \_\_\_\_\_

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### LONG TITLE

#### General Description:

This bill requires the Department of Agriculture and Food to regulate commercial dog breeders and animal care facilities.

#### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ directs the Department of Agriculture and Food to establish a permit system for commercial dog breeders;
- ▶ requires the permit system to include minimum standards for dog breeding facilities and the humane care of dogs;
- ▶ authorizes the department to adopt a fee schedule for the permit system to cover administrative costs;

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- ▶ allows the department to enter and inspect a permittee's facilities;
- ▶ requires the department to promote the spaying and neutering of dogs;
- ▶ requires a person who breeds dogs for profit to possess a valid dog breeder permit issued by the department;
- ▶ directs the department to establish a licensing program for animal care facilities;
- ▶ requires the license program to include minimum standards for animal care facilities;
- ▶ authorizes the department to adopt a fee schedule for the license program;
- ▶ allows the department to enter and inspect a licensee's facilities; and
- ▶ authorizes the department to impose civil penalties on a person who violates requirements of the dog breeding permit system or animal care facilities licensing program.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

This bill provides a special effective date.

### Utah Code Sections Affected:

ENACTS:

**4-2-901**, Utah Code Annotated 1953

**4-2-902**, Utah Code Annotated 1953

**4-2-903**, Utah Code Annotated 1953

**4-2-904**, Utah Code Annotated 1953

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **4-2-901** is enacted to read:

### **Part 9. Pet Animal Care**

#### **4-2-901. Definitions.**

As used in this part:

(1) "Animal care facility" means an animal rescue, animal sanctuary, or animal shelter.

(2) "Animal rescue" means a person licensed under this part that:

(a) accepts a companion animal for the purpose of finding a permanent home for that

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animal:

- (b) does not maintain a central facility for keeping the companion animal; and
- (c) uses a system of fostering the companion animal in a private home or boarding

facility.

(3) "Animal sanctuary" means a nonprofit entity, other than a government entity, that:

- (a) harbors companion animals; and
- (b) is used exclusively for the purpose of caring for, rehabilitating, or housing

companion animals indefinitely.

(4) (a) "Animal shelter" means a public or private facility for the impoundment or care of companion animals that is operated by a:

- (i) person;
- (ii) humane society;
- (iii) society for the prevention of cruelty to animals; or
- (iv) nonprofit organization.

(b) "Animal shelter" does not include an animal rescue.

(5) "Applicant" means a person that submits to the department an application:

- (a) for a new permit or a new license; or
- (b) to renew an existing permit or license.

(6) "Boarding facility" means a facility where a companion animal is kept for the purpose of caring for the companion animal.

(7) "Companion animal" means a domestic dog or domestic cat.

(8) (a) "Companion animal holding facility" means an enclosure that:

(i) is used to accept companion animals for the purpose of finding adoptive homes for the companion animals;

(ii) harbors companion animals; or

(iii) is used for the purpose of caring for, rehabilitating, or housing companion animals

indefinitely.

(b) "Companion animal holding facility" does not include a dog breeding facility.

(9) "Dog breeder" means a person who breeds dogs for the purpose of selling, trading, bartering, or otherwise transferring dogs to another person for profit.

(10) "Dog breeding facility" means a facility where a dog breeder keeps dogs to be bred

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for the purpose of selling, trading, bartering, or otherwise transferring dogs to another person for profit.

(11) "Facility" means a location other than a private residence.

(12) "License" means a valid license issued to an animal care facility by the department under Section 4-2-903.

(13) "Licensee" means a person or facility that has an active and valid license issued by the department under this part.

(14) "Local government" means a county, city, town, or metro township.

(15) "Permit" means a valid permit issued to a dog breeder by the department under Section 4-2-902.

(16) "Permittee" means a dog breeder that has an active and valid permit issued by the department under this part.

Section 2. Section **4-2-902** is enacted to read:

### **4-2-902. Dog breeder permit system.**

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this part, the department shall make rules establishing a dog breeder permit system, that include:

(a) minimum standards for:

(i) dog breeding facilities, including sanitation, ventilation, heating, cooling, humidity, spatial, and enclosure requirements; and

(ii) the humane care of dogs, including nutrition and medical treatment requirements;  
and

(b) processes to apply for, receive, and renew a permit.

(2) (a) Beginning July 1, 2024, a person may not function as a dog breeder unless the person has a valid permit issued by the department under this section.

(b) As provided in Subsection 4-2-103(2), and in accordance with Section 63J-1-504, the department shall adopt a schedule of permit fees to cover the department's costs of administering the permit system described in this section.

(c) The department shall retain fees collected in connection with the permit system as dedicated credits and shall use the fees to administer the permit system.

(3) The permit system shall provide for the issuance of a permit to an applicant who:

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- (a) submits a completed application in the manner required by the department;
- (b) satisfies the requirements established by the department under Subsection (1); and
- (c) pays the fee described in Subsection (2).

(4) During normal business hours, the department may enter and inspect the facilities specified on a permit application to ensure an applicant's or permittee's compliance with the requirements of this section and rules made under this section.

(5) In carrying out the duties described in this section, the department shall promote the spaying of female dogs and neutering of male dogs.

- (6) A permit issued under this section:
  - (a) shall specify the permit issuance date and expiration date;
  - (b) is valid for a term of one year after the date of issuance;
  - (c) must be renewed annually; and
  - (d) is not transferable.

Section 3. Section **4-2-903** is enacted to read:

### **4-2-903. Animal care facility licensing program.**

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this part, the department shall make rules establishing a licensing and inspection program for animal care facilities that include:

- (a) minimum standards for:
  - (i) animal rescues, animal sanctuaries, and animal shelters, including sanitation, ventilation, heating, cooling, humidity, spatial, and enclosure requirements; and
  - (ii) the humane care of companion animals, including nutrition and medication treatment requirements; and
- (b) processes to apply for, receive, and renew a license.

(2) (a) Beginning July 1, 2024, a person may not operate an animal care facility unless the person has a valid license issued by the department under this section.

(b) As provided in Subsection 4-2-103(2), and in accordance with Section 63J-1-504, the department shall adopt a schedule of license fees to cover the department's costs of administering the licensing program described in this section.

(c) The department shall retain fees collected in connection with the licensing program as dedicated credits and shall use the fees to administer the licensing program.

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(3) The licensing program shall provide for the issuance of a license to an applicant who:

- (a) submits a completed application in the manner required by the department;
- (b) satisfies the criteria established by the department under Subsection (1); and
- (c) pays the fee described in Subsection (2).

(4) During normal business hours, the department may enter and inspect the facilities specified on a license application to ensure an applicant's or licensee's compliance with the requirements of this section and rules made under this section.

(5) In carrying out the duties described in this section, the department shall promote the spaying of female dogs and neutering of male dogs.

(6) A license issued under this section:

- (a) shall specify the license issuance date and expiration date;
- (b) is valid for a term of up to one year after the date of issuance;
- (c) must be renewed annually; and
- (d) is not transferable.

Section 4. Section **4-2-904** is enacted to read:

### **4-2-904. Enforcement -- Penalties -- Local regulation.**

(1) (a) If the department determines that a person subject to this part violates a provision of this part or a rule made under this part, the department shall provide the person with written notice that:

- (i) describes each violation identified by the department;
- (ii) states a reasonable deadline by which the person is required to cure the violation;

and

(iii) explains the penalties that may be imposed if the person fails to cure the violation by the stated deadline.

(b) If a person who receives a notice issued under Subsection (1)(a) does not cure a violation identified in the notice before the deadline stated in the notice, the department may, in addition to any applicable criminal penalty, after giving the person notice and an opportunity to be heard regarding the alleged violations:

(i) impose a civil fine of up to \$1,000 per ~~written notice, regardless of the number of~~ violations identified in the notice ~~violation~~;

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(ii) revoke the person's permit or license; or

(iii) decline to renew the person's permit or license.

(c) If a violation is not cured after the department provides a person with written notice of the violation and a reasonable opportunity to cure, to prevent further violation the department may:

(i) revoke the person's permit or license;

(ii) seek a temporary restraining order; or

(iii) seek an injunction.

(d) The notice under Subsection (1)(a) is not required for repeated occurrences of the same violation.

(~~f~~e) The department shall deposit a civil fine imposed under this section into the General Fund.

(2) If the department determines that a person subject to this part violates a provision of this part or a rule adopted under this part and that the violation constitutes cruelty to an animal or aggravated cruelty to an animal as described in Section 76-9-301, the department may, in addition to the remedy described in Subsection (1):

(a) upon proper grounds, immediately seek a temporary restraining order to prevent further violation;

(b) seek an order of seizure or condemnation for an animal that is the subject of the violation; or

(c) report the circumstances to law enforcement or a prosecutor.

(3) A local government:

(a) may require a dog breeder to obtain and maintain a business license authorized under Section 10-1-203 or 17-53-216 as applicable; and

(b) may not impose or implement an ordinance or regulation that is more restrictive than this section or rules made under this part.

(4) This section does not:

(a) impair a local government's ability to provide, by ordinance, a regulation that is no more restrictive than this section or rules made under this part, including creating a permitting system for dog breeders and licensing requirements for animal care facilities; and

(b) affect a local government's ability to impose requirements or conditions of the local

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government's land use, zoning, subdivision, or building code regulations, [including setting limits on pet ownership.](#)

Section 5. **Effective date.**

This bill takes effect on July 1, 2023.