

E AND R AMENDMENTS TO LB 241

Introduced by Enrollment and Review Committee: Nordquist, 7,  
Chairperson

1           1. Strike the original sections and all amendments  
2 thereto and insert the following new sections:

3           Section 1. Section 54-625, Revised Statutes Cumulative  
4 Supplement, 2008, is amended to read:

5           54-625 Sections 54-625 to 54-643 and sections 4, 6, and 9  
6 of this act shall be known and may be cited as the Commercial Dog  
7 and Cat Operator Inspection Act.

8           Sec. 2. Section 54-626, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10          54-626 For purposes of the Commercial Dog and Cat  
11 Operator Inspection Act:

12           (1) Animal control facility means a facility operated by  
13 or under contract with the state or any political subdivision of  
14 the state for the purpose of impounding or harboring seized, stray,  
15 homeless, abandoned, or unwanted animals;

16           (2) Animal shelter means a facility used to house  
17 or contain dogs or cats and owned, operated, or maintained by  
18 an incorporated humane society, animal welfare society, society  
19 for the prevention of cruelty to animals, or other nonprofit  
20 organization devoted to the welfare, protection, and humane  
21 treatment of such animals;

22           (3) Boarding kennel means a facility which is primarily  
23 used to house or contain dogs or cats owned by persons other than

1 the operator of such facility. The primary function of a boarding  
2 kennel is to temporarily harbor dogs or cats when the owner of  
3 the dogs or cats is unable to do so or to provide training,  
4 grooming, or other nonveterinary service for consideration before  
5 returning the dogs or cats to the owner. A facility which houses  
6 ~~or contains thirty or less dogs or cats in a twelve-month period~~  
7 is not a boarding kennel. A facility which provides such training,  
8 grooming, or other nonveterinary service is not a boarding kennel  
9 for the purposes of the act unless dogs or cats owned by persons  
10 other than the operator of such facility are housed at such  
11 facility overnight. Veterinary clinics, animal control facilities,  
12 and nonprofit animal shelters are not boarding kennels for the  
13 purposes of the act;

14 (4) Cat means any animal which is wholly or in part of  
15 the species *Felis domesticus*;

16 (5) Commercial breeder means any ~~person~~ one of the  
17 following:

18 (a) A person who sells, exchanges, leases, or in any  
19 way transfers or offers to sell, exchange, lease, or transfer  
20 thirty-one or more dogs or cats in a twelve-month period beginning  
21 on April 1 of each year;

22 (b) A person engaged in the business of breeding dogs or  
23 cats who owns or harbors four or more dogs or cats, intended for  
24 breeding, in a twelve-month period beginning on April 1 of each  
25 year;

26 (c) A person whose dogs or cats produce a total of four  
27 or more litters within a twelve-month period beginning on April 1

1 of each year; or

2 (d) A person who knowingly sells, exchanges, or leases  
3 dogs or cats for later retail sale or brokered trading; engaged in  
4 the business of breeding dogs or cats and (b) who sells, exchanges,  
5 or leases dogs or cats in return for consideration or who offers to  
6 do so, whether or not the dogs or cats are bred, raised, trained,  
7 groomed, or boarded by such person. A person who owns or harbors  
8 three or less unaltered dogs or cats for breeding purposes which  
9 are at least six months of age shall not be a commercial breeder.

10 A person who sells, exchanges, or leases thirty or less  
11 dogs or cats in a twelve-month period shall not be a commercial  
12 breeder if all such dogs or cats are sold, exchanged, or leased  
13 to a final owner rather than for later retail sale or brokered  
14 trading. A person knowingly selling, exchanging, or leasing any  
15 dogs or cats for later retail sale or for brokered trading shall be  
16 classified as a commercial breeder;

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

23 (7) Department means the Bureau of Animal Industry of the  
24 Department of Agriculture with the State Veterinarian in charge,  
25 subordinate only to the director;

26 (8) Director means the Director of Agriculture or his or  
27 her designated employee;

1           (9) Dog means any animal which is wholly or in part of  
2 the species *Canis familiaris*;

3           (10) Housing facility means any room, building, or areas  
4 used to contain a primary enclosure;

5           (11) Inspector means any person who is employed by the  
6 department and who is authorized to perform inspections pursuant to  
7 the act;

8           (12) Licensee means a person who has qualified for and  
9 received a license from the department pursuant to the act;

10          (13) Pet animal means an animal kept as a household  
11 pet for the purpose of companionship, which includes, but is not  
12 limited to, dogs, cats, birds, fish, rabbits, rodents, amphibians,  
13 and reptiles;

14          (14) Pet shop means a retail establishment which sells  
15 pet animals and related supplies;

16          (15) Premises means all public or private buildings,  
17 kennels, pens, and cages used by a facility and the public or  
18 private ground upon which a facility is located if such buildings,  
19 kennels, pens, cages, or ground are used by the owner or operator  
20 of such facility in the usual course of business;

21          ~~(15)~~ (16) Primary enclosure means any structure used to  
22 immediately restrict a dog or cat to a limited amount of space,  
23 such as a room, pen, cage, or compartment;

24          ~~(16)~~ (17) Secretary of Agriculture means the Secretary of  
25 Agriculture of the United States Department of Agriculture; ~~and~~

26          (18) Stop-movement order means a directive preventing the  
27 movement or removal of any dog or cat from the premises; and

1           ~~(17)~~ (19) Unaltered means any male or female dog or  
2 cat which has not been neutered or spayed or otherwise rendered  
3 incapable of reproduction.

4           Sec. 3. Section 54-627, Revised Statutes Cumulative  
5 Supplement, 2008, is amended to read:

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

19           (2) An applicant for a license shall submit an  
20 application for the appropriate license to the department, on a  
21 form prescribed by the department, together with the annual license  
22 fee. Such fee is nonreturnable. Upon receipt of the application and  
23 annual license fee and upon completion of a qualifying inspection  
24 if required pursuant to section 54-630 for an initial license  
25 applicant or if a qualifying inspection is deemed appropriate by  
26 the department before a license is issued for any other applicant,  
27 the appropriate license may be issued by the department. Such

1 license shall not be transferable to another person or location.

2 (3) (a) Except as otherwise provided in this subsection,  
3 the annual license fee shall be determined according to the  
4 following fee schedule based upon the daily average number of dogs  
5 or cats housed by the licensee over the previous annual licensure  
6 period:

7 (i) Ten or fewer dogs or cats, one hundred fifty dollars;

8 (ii) Eleven to fifty dogs or cats, two hundred dollars;

9 and

10 (iii) More than fifty dogs or cats, two hundred fifty  
11 dollars.

12 (b) The initial license fee for any person required to  
13 be licensed pursuant to the act shall be one hundred twenty-five  
14 dollars.

15 (c) The annual license fee for a licensee that does not  
16 house dogs or cats shall be one hundred fifty dollars.

17 (d) The fees charged under this subsection may be  
18 increased or decreased by the director after a public hearing  
19 is held outlining the reason for any proposed change in the fee.  
20 The maximum fee shall not exceed three hundred fifty dollars.

21 (4) A license to operate as a commercial breeder, a  
22 license to operate as a dealer, a license to operate as a boarding  
23 kennel, or a license to operate as a pet shop shall be renewed by  
24 filing with the department at least thirty days prior to April 1  
25 of each year a renewal application and the annual license fee. A  
26 license to operate as an animal control facility or animal shelter  
27 shall be renewed by filing with the department at least thirty

1 days prior to October 1 of each year a renewal application and  
2 the annual license fee. Failure to renew a license prior to the  
3 expiration of the license shall result in an additional fee of  
4 twenty dollars required upon application to renew such license.

5 (5) A licensee under this section shall make its premises  
6 available for inspection pursuant to section 54-628 during normal  
7 business hours.

8 (6) The state or any political subdivision of the state  
9 which contracts out its animal control duties to a facility not  
10 operated by the state or any political subdivision of the state  
11 may be exempted from the licensing requirements of this section if  
12 such facility is licensed as an animal control facility or animal  
13 shelter for the full term of the contract with the state or its  
14 political subdivision.

15 Sec. 4. A dealer or pet shop licensed under section  
16 54-627 shall maintain a written veterinary care plan developed in  
17 conjunction with the attending veterinarian for the dealer or pet  
18 shop. An animal control facility, an animal shelter, or a boarding  
19 kennel licensed under section 54-627 shall maintain a written  
20 emergency veterinary care plan.

21 Sec. 5. Section 54-628, Revised Statutes Cumulative  
22 Supplement, 2008, is amended to read:

23 54-628 (1) The department shall inspect all licensees at  
24 least once in a twenty-four-month period to determine whether the  
25 licensee is in compliance with the Commercial Dog and Cat Operator  
26 Inspection Act. Any additional inspector or other field personnel  
27 employed by the department to carry out inspections pursuant to

1 the act that are funded through General Fund appropriations to  
2 the Bureau of Animal Industry shall be assigned to the Bureau of  
3 Animal Industry and shall be available for temporary reassignment  
4 as needed to other activities and functions of the Bureau of Animal  
5 Industry in the event of a livestock disease emergency or any other  
6 threat to livestock or public health. When an inspection produces  
7 evidence of a violation of the act or the rules and regulations  
8 of the department, a copy of a written report of the inspection  
9 and violations shown thereon, prepared by the inspector, shall be  
10 given to the applicant or licensee, together with written notice to  
11 comply within the time limit established by the department and set  
12 out in such notice. ~~The premises of the applicant or licensee shall~~  
13 ~~be open for inspection. The department and any officer, agent,~~  
14 ~~employee, or appointee of the department shall have the right to~~  
15 ~~enter upon the premises of any person who has, or is suspected of~~  
16 ~~having, any dog or cat thereon or any sanitation, housing, or other~~  
17 ~~condition or practice that is in violation of the act.~~

18 (2) If deemed necessary under the act or any rule  
19 or regulation adopted and promulgated pursuant to the act, the  
20 department may, for purposes of inspection, enter the premises of  
21 any applicant or licensee during normal business hours and in a  
22 reasonable manner, including all premises in or upon which dogs  
23 or cats are housed, sold, exchanged, or leased or are suspected  
24 of being housed, sold, exchanged, or leased. For purposes of this  
25 subsection, premises includes all buildings, vehicles, equipment,  
26 cages, kennels, containers, and pens and all records on such  
27 premises. The department shall not be subject to any action for



1 trespass or damages resulting from compliance with this subsection.

2 Pursuant to an inspection under this subsection, the department

3 may:

4 (a) Enter the premises of any applicant for a license  
5 under the act to determine if the applicant meets the requirements  
6 for licensure under the act;

7 (b) Access all premises and examine and copy all records  
8 pertaining to compliance with the act and the rules or regulations  
9 adopted and promulgated under the act. The department shall have  
10 authority to gather evidence, including, but not limited to,  
11 photographs;

12 (c) Inspect or reinspect any vehicle or carrier  
13 transporting or holding dogs or cats that is in the state to  
14 determine compliance with the act or any rules or regulations  
15 adopted and promulgated under the act;

16 (d) Obtain an inspection warrant in the manner prescribed  
17 in sections 29-830 to 29-835 if any person refuses to allow the  
18 department to conduct an inspection pursuant to this section; or

19 (e) Issue and enforce a written stop-movement order  
20 pursuant to section 6 of this act.

21 (3) For purposes of this section, the private residence  
22 of any applicant or licensee shall be available for purposes of  
23 inspection only if dogs or cats are housed in a primary enclosure  
24 as defined in 9 C.F.R. 1.1 within the residence, including a room  
25 in such residence, and only such portion of the residence that is  
26 used as a primary enclosure shall be open to an inspection pursuant  
27 to this section.

1           Sec. 6. (1) The department may issue a stop-movement  
2 order if the department has reasonable cause to believe that there  
3 exists noncompliance with the Commercial Dog and Cat Operator  
4 Inspection Act or any rule or regulation adopted and promulgated  
5 pursuant to the act, including, but not limited to, reasonable  
6 cause to believe unreasonable sanitation or housing conditions  
7 exist.

8           (2) Such stop-movement order may require the violator to  
9 maintain the dogs or cats subject to the order at the existing  
10 location or other department-approved premises until such time as  
11 the department has issued a written release from the stop-movement  
12 order. The stop-movement order shall clearly advise the violator  
13 that he or she may request in writing an immediate hearing before  
14 the director within two business days after receiving the order.  
15 The order issued pursuant to this section shall be final unless  
16 modified or rescinded by the director pursuant to section 54-632 at  
17 a hearing requested under this subsection.

18           (3) Pursuant to the stop-movement order, the department  
19 shall have the authority to enter the premises to inspect and  
20 determine if the dogs or cats subject to the order or the  
21 facilities used to house or transport such dogs or cats are kept  
22 and maintained in compliance with the requirements of the act and  
23 the rules and regulations adopted and promulgated pursuant to the  
24 act. The department shall not be liable for any costs incurred  
25 by the violator or any personnel of the violator due to such  
26 departmental action or in enforcing the stop-movement order. The  
27 department shall be reimbursed by the violator for the actual

1 costs incurred by the department in issuing and enforcing any  
2 stop-movement order.

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

4 (a) A description of the nature of the violation;

5 (b) The action necessary to bring the violator into  
6 compliance with the act and the rules and regulations adopted and  
7 promulgated pursuant to the act; and

8 (c) The name, address, and telephone number of the  
9 violator who owns or houses the dogs or cats subject to the order.

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

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

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

17 (c) Notify the department within forty-eight hours of  
18 the death or euthanasia of any dog or cat subject to the order.

19 Such notification shall include the dog's or cat's individual  
20 identification tag number, tattoo number, microchip number, or  
21 other approved identification;

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

25 (e) Maintain on the premises any dog or cat subject  
26 to the order, except that a dog or cat under one year of  
27 age under contract to an individual prior to the issuance

1 of the order may be delivered to the individual pursuant to  
2 the contractual obligation. The violator shall provide to the  
3 department information identifying the dog or cat and the name,  
4 address, and telephone number of the individual purchasing the dog  
5 or cat. The department may contact the purchaser to ascertain the  
6 date of the purchase agreement to ensure that the dog or cat was  
7 sold prior to the stop-movement order and to determine that he or  
8 she did purchase such dog or cat. No additional dogs or cats shall  
9 be transferred onto the premises without written approval of the  
10 department.

11 (6) The department shall reinspect the premises to  
12 determine compliance within ten business days after the initial  
13 inspection that resulted in the stop-movement order. At the  
14 time of reinspection pursuant to this subsection, if noncompliant  
15 conditions continue to exist, further reinspections shall be at the  
16 discretion of the department. The violator may request an immediate  
17 hearing with the director pursuant to any findings under this  
18 subsection.

19 Sec. 7. Section 54-629, Revised Statutes Cumulative  
20 Supplement, 2008, is amended to read:

21 54-629 The department shall adopt and promulgate rules  
22 and regulations to carry out the Commercial Dog and Cat Operator  
23 Inspection Act. The rules and regulations may include, but are not  
24 limited to, factors to be considered when the department imposes  
25 an administrative fine, provisions governing record-keeping,  
26 veterinary care plans, emergency veterinary care plans, and other  
27 requirements for persons required to have a license, and any other

1 matter deemed necessary by the department to carry out the act. The  
2 department shall use as a guideline for the humane handling, care,  
3 treatment, and transportation of dogs and cats the standards of the  
4 Animal and Plant Health Inspection Service of the United States  
5 Department of Agriculture as set out in 9 C.F.R. 3.1 to 3.19.

6           Sec. 8. Section 54-632, Revised Statutes Cumulative  
7 Supplement, 2008, is amended to read:

8           54-632 (1) Any notice or order provided for in the  
9 Commercial Dog and Cat Operator Inspection Act shall be properly  
10 served when it is personally served on the licensee or violator  
11 or on the person authorized by the licensee to receive notices  
12 and orders of the department or when it is sent by certified  
13 or registered mail, return receipt requested, to the last-known  
14 address of the licensee or violator or the person authorized by the  
15 licensee to receive such notices and orders. A copy of the notice  
16 and the order shall be filed in the records of the department.

17           (2) A notice to comply with the conditions set out in the  
18 order of the director provided in section 54-631 shall set forth  
19 the acts or omissions with which the licensee is charged.

20           (3) A notice of the licensee's right to a hearing  
21 provided for in sections 54-630 and 54-631 shall set forth the time  
22 and place of the hearing except as otherwise provided in section  
23 54-631. A notice of the licensee's right to such hearing shall  
24 include notice that such right to a hearing may be waived pursuant  
25 to subsection ~~(5)~~ (6) of this section. A notice of the licensee's  
26 right to a hearing shall include notice to the licensee that the  
27 license may be subject to sanctions as provided in section 54-631.

1           (4) A request for a hearing under subsection (2) of  
2 section 6 of this act shall request that the director set forth  
3 the time and place of the hearing. The director shall consider the  
4 interests of the violator in establishing the time and place of the  
5 hearing. Within three business days after receipt by the director  
6 of the hearing request, the director shall set forth the time and  
7 place of the hearing on the stop-movement order. A notice of the  
8 violator's right to such hearing shall include notice that such  
9 right to a hearing may be waived pursuant to subsection (6) of this  
10 section.

11           ~~(4)~~ (5) The hearings provided for in the act shall  
12 be conducted by the director at the time and place he or she  
13 designates. The director shall make a final finding based on the  
14 complete hearing record and issue an order. If the director has  
15 suspended a license pursuant to subsection (4) of section 54-631,  
16 the director shall sustain, modify, or rescind the order after the  
17 hearing. If the department has issued a stop-movement order under  
18 section 6 of this act, the director may sustain, modify, or rescind  
19 the order after the hearing. All hearings shall be in accordance  
20 with the Administrative Procedure Act.

21           ~~(5)~~ (6) A licensee or violator waives the right to a  
22 hearing if such licensee or violator does not attend the hearing at  
23 the time and place set forth in the notice described in subsection  
24 (3) or (4) of this section, without requesting that the director,  
25 at least two days before the designated time, ~~to~~ change the time  
26 and place for the hearing, except that before an order of the  
27 director becomes final, the director may designate a different time

1 and place for the hearing if the licensee or violator shows the  
2 director that the licensee or violator had a justifiable reason for  
3 not attending the hearing and not timely requesting a change of  
4 the time and place for such hearing. If the licensee or violator  
5 waives the right to a hearing, the director shall make a final  
6 finding based upon the available information and issue an order.  
7 If the director has suspended a license pursuant to subsection (4)  
8 of section 54-631, the director may sustain, modify, or rescind  
9 the order after the hearing. If the department has issued a  
10 stop-movement order under section 6 of this act, the director may  
11 sustain, modify, or rescind the order after the hearing.

12 ~~(6)~~ (7) Any person aggrieved by the finding of the  
13 director has ten days after the entry of the director's order to  
14 request a new hearing if such person can show that a mistake of  
15 fact has been made which affected the director's determination. Any  
16 order of the director becomes final upon the expiration of ten days  
17 after its entry if no request for a new hearing is made.

18 Sec. 9. It shall be a violation of the Commercial Dog  
19 and Cat Operator Inspection Act for any person to (1) deny access  
20 to any officer, agent, employee, or appointee of the department  
21 or offer any resistance to, thwart, or hinder such persons by  
22 misrepresentation or concealment, (2) violate a stop-movement order  
23 issued under section 6 of this act, (3) fail to disclose all  
24 locations housing dogs or cats owned or controlled by such person,  
25 or (4) fail to pay any administrative fine levied pursuant to  
26 section 54-633.

27 Sec. 10. Section 54-640, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 54-640 A commercial breeder shall:

3 (1) Maintain housing facilities and primary enclosures in  
4 a sanitary condition;

5 (2) Enable all dogs and cats to remain dry and clean;

6 (3) Provide shelter and protection from extreme  
7 temperatures and weather conditions that may be uncomfortable or  
8 hazardous to the dogs and cats;

9 (4) Provide sufficient shade to shelter all the dogs and  
10 cats housed in the primary enclosure at one time;

11 (5) Provide dogs and cats with easy and convenient access  
12 to adequate amounts of clean food and water;

13 (6) Provide adequate space appropriate to the age, size,  
14 weight, and breed of dog or cat. For purposes of this subdivision,  
15 adequate space means sufficient space to allow each dog and cat to  
16 turn about freely, to stand, sit, and lie in a comfortable, normal  
17 position, and to walk in a normal manner without the head of such  
18 animal touching the top of the cage which shall be at least six  
19 inches above the head of the tallest animal when the animal is  
20 standing;

21 (7) Provide dogs with adequate socialization and  
22 exercise. For the purpose of this subdivision, adequate  
23 socialization means physical contact with other dogs and with human  
24 beings, other than being fed, and adequate exercise means providing  
25 the opportunity for exercise at least two times per day outside of  
26 a cage or similar small enclosure except during inclement weather  
27 that may be hazardous to dogs;



1           (8) Assure that a handler's hands are washed before and  
2 after handling each infectious or contagious dog or cat; ~~and~~

3           (9) Maintain a written veterinary care plan developed in  
4 conjunction with an attending veterinarian; and

5           ~~(9)~~ (10) Provide veterinary care without delay when  
6 necessary.

7           Sec. 11. Sections 11 to 17 of this act shall be known and  
8 may be cited as the Dog and Cat Purchase Protection Act.

9           Sec. 12. For purposes of the Dog and Cat Purchase  
10 Protection Act:

11           (1) Casual breeder means any person, other than a  
12 commercial breeder as defined in section 54-626, who offers for  
13 sale, sells, trades, or receives compensation for one or more pet  
14 animals from a litter produced by a female dog or cat owned by such  
15 casual breeder;

16           (2) Clinical symptom means indication of an illness  
17 or dysfunction that is apparent to a veterinarian based on the  
18 veterinarian's observation, examination, or testing of an animal or  
19 on a review of the animal's medical records;

20           (3) Health certificate means the official small animal  
21 certificate of veterinary inspection of the Bureau of Animal  
22 Industry of the Department of Agriculture;

23           (4) Pet animal means a dog, wholly or in part of the  
24 species Canis familiaris, or a cat, wholly or in part of the  
25 species Felis domesticus, that is under fifteen months of age;

26           (5) Purchaser means the final owner of a pet animal  
27 purchased from a seller. Purchaser does not include a person who

1 purchases a pet animal for resale;

2 (6) Seller means a casual breeder or any commercial  
3 establishment, including a commercial breeder, dealer, or pet shop  
4 as such terms are defined in section 54-626, that engages in a  
5 business of selling pet animals to a purchaser. A seller does not  
6 include an animal control facility or animal shelter as defined  
7 in section 54-626 or any animal adoption activity that an animal  
8 control facility or animal shelter conducts offsite at any pet  
9 store or other commercial establishment; and

10 (7) (a) Serious health problem means a congenital or  
11 hereditary defect or contagious disease that causes severe illness  
12 or death of the pet animal.

13 (b) Serious health problem does not include (i)  
14 parvovirus if the diagnosis of parvovirus is made after the  
15 seven-business-day requirement in subsection (1) of section 14 of  
16 this act or (ii) any other contagious disease that causes severe  
17 illness or death after ten calendar days after delivery of the pet  
18 animal to the purchaser.

19 Sec. 13. (1) A seller shall deliver to the purchaser at  
20 the time of sale of a pet animal a written disclosure statement  
21 containing the following information regarding the pet animal:

22 (a) The name, address, and license number of any  
23 commercial breeder or dealer as such terms are defined in  
24 section 54-626 or, if applicable, the United States Department  
25 of Agriculture license number of the breeder or any broker who has  
26 had possession of the animal prior to the seller's possession;

27 (b) The date of the pet animal's birth, if known, the

1 state in which the pet animal was born, if known, and the date the  
2 seller received the pet animal;

3 (c) The sex and color of the pet animal, any other  
4 identifying marks apparent upon the pet animal, and the breed of  
5 the pet animal, if known, or a statement that the breed of the pet  
6 animal is unknown or the pet animal is of mixed breed;

7 (d) The pet animal's individual identifying tag, tattoo,  
8 microchip number, or collar number;

9 (e) The names and registration numbers of the sire and  
10 dam and the litter number, if applicable and if known;

11 (f) A record of any vaccination, worming treatment, or  
12 medication administered to the pet animal while in the possession  
13 of the seller and, if known, any such vaccination, treatment, or  
14 medication administered to the pet animal prior to the date the  
15 seller received the pet animal; and

16 (g) The date or dates of any examination of the pet  
17 animal by a licensed veterinarian while in the possession of the  
18 seller.

19 (2) The seller may include any of the following with the  
20 written disclosure statement required by subsection (1) of this  
21 section:

22 (a) A statement that a veterinarian examined the pet  
23 animal and, at the time of the examination, the pet animal had  
24 no apparent or clinical symptoms of a serious health problem that  
25 would adversely affect the health of the pet animal at the time of  
26 sale or that is likely to adversely affect the health of the pet  
27 animal in the future; and

1           (b) A record of any serious health problem that adversely  
2 affects the pet animal at the time of sale or that is likely to  
3 adversely affect the health of the pet animal in the future.

4           (3) The written disclosure statement made pursuant to  
5 this section shall be signed by the seller certifying the  
6 accuracy of the written disclosure statement and by the purchaser  
7 acknowledging receipt of the written disclosure statement. In  
8 addition to information required to be given to a purchaser  
9 under this section, at the time of sale the seller shall  
10 provide the purchaser with written notice of the existence of  
11 the purchaser's rights and responsibilities under the Dog and Cat  
12 Purchase Protection Act or a legible copy of the act.

13           (4) If the pet animal is sold to a purchaser who resides  
14 outside of the state or intends that the pet animal will be  
15 relocated or permanently domiciled outside of the state, the seller  
16 shall provide the purchaser with a health certificate signed by  
17 a licensed veterinarian who has examined the pet animal and is  
18 authorized to certify such certificate.

19           (5) The seller shall maintain a copy of any written  
20 disclosure statements made and any other records on the health,  
21 status, or disposition of each pet animal for at least one year  
22 after the date of sale to a purchaser.

23           Sec. 14. (1) In order to have recourse to the remedies  
24 available to purchasers under this section, a purchaser shall have  
25 the pet animal examined by a licensed veterinarian within seven  
26 business days after delivery of the pet animal to the purchaser.  
27 The pet animal shall be declared unfit for sale and the purchaser

1 may obtain one of the remedies listed in subsection (2) or (3)  
2 of this section if (a) during such examination, the veterinarian  
3 diagnoses the pet animal with a serious health problem that the  
4 veterinarian believes existed at the time of delivery of the pet  
5 animal to the purchaser or (b) within fifteen months after the date  
6 of birth of the pet animal, a veterinarian diagnoses the pet animal  
7 with a serious health problem or states in writing that the pet  
8 animal has died from a serious health problem that the veterinarian  
9 believes existed at the time of delivery of the pet animal to the  
10 purchaser.

11 (2) If a pet animal is diagnosed with a serious health  
12 problem under subsection (1) of this section, the purchaser shall  
13 notify the seller within two business days after the diagnosis  
14 and provide the seller with the name and telephone number of  
15 the veterinarian or a copy of the veterinarian's report. After  
16 such notification, the purchaser may obtain one of the following  
17 remedies from the seller:

18 (a) A refund of the full purchase price of the pet animal  
19 upon return of such pet animal to the seller;

20 (b) An exchange for a pet animal of the purchaser's  
21 choice of equivalent value, if such pet animal is available, upon  
22 return of the pet animal, if alive, to the seller; or

23 (c) Reimbursement for reasonable veterinary fees, not to  
24 exceed the full purchase price of the pet animal.

25 (3) If a pet animal dies from a serious health problem  
26 as determined under subsection (1) of this section, the purchaser  
27 shall notify the seller within two business days after receipt

1 of the written statement of the veterinarian by the purchaser and  
2 shall provide the seller with a copy of such written statement.

3 After receipt of the written statement by the seller, the purchaser  
4 may obtain one of the following remedies from the seller:

5 (a) A refund of the full purchase price of the pet  
6 animal; or

7 (b) A pet animal of the purchaser's choice of equivalent  
8 value, if such pet animal is available, and reimbursement for  
9 reasonable veterinary fees not to exceed one-half of the full  
10 purchase price of the pet animal.

11 (4) For purposes of this section, veterinary fees shall  
12 be deemed reasonable if the service is appropriate for the  
13 diagnosis and treatment of the serious health problem and the  
14 cost of the service is comparable to similar services provided  
15 by licensed veterinarians in close proximity to the treating  
16 veterinarian.

17 Sec. 15. No refund or reimbursement of fees or  
18 replacement of a pet animal under section 14 of this act shall be  
19 required if one or more of the following conditions exist:

20 (1) The serious health problem or death of the pet animal  
21 resulted from maltreatment, neglect, or injury occurring after  
22 delivery of the pet animal to the purchaser;

23 (2) Any written disclosure statements provided by a  
24 seller pursuant to subsection (2) of section 13 of this act  
25 disclosed the serious health problem for which the purchaser is  
26 seeking a remedy; or

27 (3) The purchaser failed to follow through with

1 preventative care, including, but not limited to, vaccinations,  
2 deworming treatment, or medication, recommended by a licensed  
3 veterinarian examining the pet animal.

4       Sec. 16. (1) If a seller does not comply with a demand  
5 for remedy by a purchaser under section 14 of this act, the  
6 purchaser may file an action in a court of competent jurisdiction.

7       (2) If a seller contests a demand for remedy by a  
8 purchaser under section 14 of this act, the seller may require the  
9 purchaser to produce the pet animal for examination or autopsy by  
10 a licensed veterinarian designated by the seller. The seller shall  
11 pay for all costs associated with such examination or autopsy. The  
12 seller shall have a right of recovery against the purchaser if the  
13 seller is not obligated to provide the remedy sought.

14       (3) The prevailing party in a proceeding under this  
15 section shall be limited to a recovery of actual costs and no more  
16 than five hundred dollars in reasonable attorney's fees.

17       Sec. 17. Nothing in the Dog and Cat Purchase Protection  
18 Act shall limit any rights and remedies otherwise available under  
19 the laws of this state. Any agreement or contract entered into  
20 by a seller and a purchaser waiving any rights under the act is  
21 void. Nothing in the Dog and Cat Purchase Protection Act shall  
22 be construed to limit a seller to offering only those warranties,  
23 express or implied, required by the act.

24       Sec. 18. Sections 11 to 17 of this act become operative  
25 on January 1, 2010. The other sections of this act become operative  
26 on their effective date.

27       Sec. 19. Original sections 54-626 and 54-640, Reissue

1 Revised Statutes of Nebraska, and sections 54-625, 54-627, 54-628,  
2 54-629, and 54-632, Revised Statutes Cumulative Supplement, 2008,  
3 are repealed.

4           2. On page 1, strike beginning with "the" in line 1  
5 through line 11 and insert "animals; to amend sections 54-626  
6 and 54-640, Reissue Revised Statutes of Nebraska, and sections  
7 54-625, 54-627, 54-628, 54-629, and 54-632, Revised Statutes  
8 Cumulative Supplement, 2008; to change provisions relating to  
9 licensing requirements, inspections, rules and regulations, and  
10 duties of commercial breeders under the Commercial Dog and Cat  
11 Operator Inspection Act; to define and redefine terms; to provide  
12 for stop-movement orders as prescribed; to prohibit certain acts;  
13 to adopt the Dog and Cat Purchase Protection Act; to harmonize  
14 provisions; to provide operative dates; and to repeal the original  
15 sections."