

SECOND REGULAR SESSION

SENATE BILL NO. 810

89TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCOTT.

Read 1st time January 22, 1998, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

S2978.03I

AN ACT

To repeal sections 273.325, 273.327, 273.329, 273.331, 273.333, 273.335, 273.338, 273.340, 273.342, 273.344, 273.346, 273.348, 273.350, 273.354 and 273.357, RSMo 1994, and section 273.352, RSMo Supp. 1997, relating to animal and avian welfare, and to enact in lieu thereof eighteen new sections relating to the same subject, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 273.325, 273.327, 273.329, 273.331, 273.333, 273.335, 273.338, 273.340, 273.342, 273.344, 273.346, 273.348, 273.350, 273.354 and 273.357, RSMo 1994, and section 273.352, RSMo Supp. 1997, are repealed and eighteen new sections enacted in lieu thereof, to be known as sections 273.326, 273.330, 273.332, 273.336, 273.339, 273.341, 273.345, 273.347, 273.349, 273.351, 273.353, 273.355, 273.359, 273.361, 273.363, 273.365, 273.367 and 273.370, to read as follows:

273.326. 1. Sections 273.326 to 273.370 shall be known and may be cited as the "Animal Care Facilities Act".

2. As used in this act, unless the context otherwise requires, the following terms shall mean:

(1) "Adequate feeding", supplying at suitable intervals not to exceed twenty-four hours for adult animals and eight hours for puppies and kittens, of a quantity of a wholesome foodstuff, suitable for the species and age, and sufficient to maintain a reasonable level of nutrition in each animal, unless otherwise stated in writing by a licensed veterinarian;

(2) "Adequate housing", the continuous provision of a sanitary facility, protection from extremes of weather conditions, free from continuous water or dampness, proper ventilation, at least eight hours of light and appropriate space depending on species;

(3) "Adequate veterinary medical care", a documented program of disease control and prevention, routine veterinary care and euthanasia shall be established and

maintained under the supervision of a licensed veterinarian, on a form provided by the director of the department of agriculture, and shall include a documented on-site visit to the premises by the veterinarian at least once each year, and that diseased, ill, injured, lame or blind animals shall be provided with veterinary care as is needed for the health and well-being of such animals;

(4) "Adequate watering", a supply of clean, fresh, potable water supplied in a sanitary manner and either continuously accessible to each animal or supplied at intervals suitable for the animal species, not to exceed intervals of eight hours. Continuous potable water must be supplied if the ambient temperature is more than eighty-five degrees, unless otherwise stated in writing by a licensed veterinarian;

(5) "Adopter", a person who is legally competent to enter into a contract and who is adopting, acquiring or buying an animal from a releasing agency;

(6) "Adult animal", any dog or cat that has reached the age of one hundred eighty days or six months or more;

(7) "Ambient temperature", the temperature surrounding the animal;

(8) "Animal", any live dog, cat or bird;

(9) "Animal breeder", any person who operates an animal breeder premises;

(10) "Animal breeder premises", any premises or facility at which four or more intact female animals are maintained and where thirty or more dogs, cats or birds, or any combination, are sold, maintained for sale or offered for sale during each license year;

(11) "Animal control facility", a facility which is used for the purpose of harboring any seized stray, homeless, relinquished or abandoned animal and which is operated by the state or any political subdivision thereof or under contract with the state or any political subdivision thereof;

(12) "Animal control officer", any person employed by, under contract with or appointed by the state or any political subdivision thereof, for the purpose of aiding in the enforcement of this law, or any other law or ordinance relating to the licensing of animals, control of animals or seizure and impoundment of animals, and includes any law enforcement officer, animal warden, animal control officer, constable or other employee of the state or any political subdivision thereof, whose duties include assignments which involve the seizure or taking into custody of any animal;

(13) "Animal dealer", any person who operates an animal dealer premises. This term shall also include persons who buy and sell animals at wholesale, including auctions, whether or not an animal dealer premises is maintained;

(14) "Animal dealer premises", any premises where dogs, cats or birds, or any combination, are bought and sold, or offered or maintained for sale, at wholesale for resale to another;

(15) "Animal shelter", a facility which is used or designed for use to house or contain, impound or harbor any seized stray, homeless, relinquished or abandoned animal and which is owned, operated or maintained by a duly incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, animal rescue organization or other not for profit organization devoted to the welfare, protection and humane treatment of such animals. Animal shelter also includes a facility operated by an individual or organization for profit or not for profit maintaining twenty or more dogs or cats, or both, for the purpose of collecting, accumulating, amassing or maintaining or offering for sale or adoption such animals;

(16) "Auction", any person selling any consignment of dogs, cats or birds to the highest bidder. This shall include any means, procedure or practice in which the ownership of a dog, cat or bird is conveyed from one person to another by any type or method of bidding process. Any person who operates an auction shall be considered an animal dealer and must be licensed as such under this act;

(17) "Bird", aves of the order psittaciformes and passeriformes bred for pet sales;

(18) "Boarding kennel", a place or establishment, other than an animal shelter or an animal control facility, where animals not owned by the proprietor are sheltered, fed and watered or trained in return for a consideration; however, boarding kennel shall not include breeders who board intact females for a period of time for the sole purpose of breeding such intact females, and shall not include individuals who temporarily, and not in the normal course of business, board or care for animals owned by other individuals;

(19) "Business hours", 9:00 a.m. through 5:00 p.m., Monday through Friday, excluding legal holidays, or such other time as designated by written mutual agreement between the licensee and inspecting officials;

(20) "Cat", any animal which is in whole or in part of the species felis domesticus;

(21) "Certificate of veterinary inspection" or "health certificate", a certificate signed by a licensed veterinarian stating that any animal described thereon is free of any visible symptoms of communicable disease;

(22) "Director", the director of the Missouri department of agriculture, the principal state animal official that is responsible for administering this act;

(23) "Dog", any animal which in whole or in part of the species canis familiaris;

(24) "Euthanasia", the humane destruction of an animal, which may be accomplished by any method currently designated as acceptable or conditionally acceptable by the American Veterinary Medical Association, Panel on Euthanasia;

(25) "Exhibitor", any person who shall exhibit any animal to the public for compensation, as determined by the director of the Missouri department of agriculture. This term includes carnivals, circuses, animal acts, zoos and educational

exhibits that exhibit animals whether operated for profit or not for profit. This term excludes retail pet stores, dog races, organizations sponsoring, and all persons participating in, state and county fairs, field trials, coursing events, purebred dog and cat shows and any other fairs or exhibitions intended to advance agricultural arts and sciences as may be determined by the director;

(26) "Exhibition facility", any facility at which animals are exhibited to the public for compensation by an exhibitor;

(27) "Housing facility", any room, building or area used to contain a primary enclosure or enclosures;

(28) "Intact female", with respect to a dog, a female dog between the ages of six months and twelve years of age which has not been surgically sterilized by a licensed veterinarian; and with respect to a cat, a female cat between the ages of six months and ten years which has not been surgically sterilized by a licensed veterinarian. Proof of sterilization must be made available upon request to the state veterinarian or the director or the director's authorized state representative;

(29) "License year", the twelve month period ending December 31;

(30) "Person", any individual, association, partnership, corporation or other entity;

(31) "Pet shop", any premises where dogs, cats or birds, or any combination, are bought, sold, exchanged or offered for adoption or retail sale. Pet shop does not include any animal control facility, animal shelter, animal breeder premises or animal dealer premises;

(32) "Primary enclosure", any structure used or designed for use to restrict any animal to a limited amount of space, including but not limited to, a room, pen, cage, compartment or hutch;

(33) "Releasing agency", an animal control facility, animal shelter, humane organization, animal control officer or other animal control agency, whether public or private, but does not include an individual who occasionally renders humane assistance or shelter in his or her home to a dog or cat;

(34) "Retail", any transaction where the animal is sold to the final consumer;

(35) "Sale, sell, sold", includes transfers by sale or exchange. Maintaining animals for sale is presumed whenever twenty or more dogs or cats, or both, over the age of six months, are maintained on one premises;

(36) "Sanitize", to make physically clean and, to the maximum degree that is practical, to remove and destroy agents injurious to health;

(37) "State veterinarian", the state veterinarian as provided by chapter 267, RSMo;

(38) "Sterilize", the surgical removal of the reproductive organs of a dog or cat

in order to render the animal unable to reproduce, or the use of an approved drug which will permanently render the animal unable to reproduce;

(39) "Wholesale", any transition where the animal is sold for the purpose of resale to another.

273.330. No person shall act as an animal breeder, animal dealer, operate an animal shelter, animal control facility, boarding kennel, pet shop or exhibition facility, unless such person has obtained a license for such operations from the director. An applicant shall obtain a separate license for each separate facility subject to this act which is operated by the applicant. Any person exempt from the licensing requirements of this act may voluntarily apply for a license. As provided by rules promulgated by the director, the license fee shall range from one hundred to five hundred dollars per year. Animal control facilities and duly incorporated animal shelters shall be exempt from payment of such fee. Application for such license shall be made in the manner provided by the director. The license shall expire annually on December 31 unless revoked.

273.332. 1. The director may refuse to issue or renew or may suspend or revoke any license required under this act for any one or more of the following reasons:

(1) Material misstatement in the application for any license required under this act;

(2) Disregard of any provision of this act or any regulation or rule adopted hereunder, or any aiding or abetting of another in the violation of any provision of this act or any regulation or rule adopted hereunder;

(3) Permitting any license issued hereunder to be used by an unlicensed person or transferred to an unlicensed premises;

(4) The conviction of any crime involving the theft of animals or cruelty to animals;

(5) Misrepresentation or false promise, made through advertising, salespersons, agents or otherwise, in connection with the operation of the business of the licensee;

(6) A fraudulent bill of sale;

(7) The housing facility or the primary enclosure is in violation of applicable regulations or rules; or

(8) The feeding, watering, sanitizing and housing practices at the licensee's premises violate this act or the regulations or rules adopted hereunder.

2. Continued operation after any refusal to issue or renew a license and any suspension revocation of a license under this section shall constitute a class A misdemeanor.

3. Whenever the director has a reasonable basis to deny, suspend or revoke a license under this section, the director or the director's authorized state

representatives shall seize and impound any animals in the possession, custody or care of the person whose license may be denied, suspended or revoked if there are reasonable grounds to believe that the animals' health, safety or welfare is endangered. Such animals may be returned to the person owning them if there is satisfactory evidence that the animals will receive adequate care by that person or such animals may be sold, placed or euthanized, at the discretion of the director. Costs of care and services for such animals while seized and impounded shall be handled in accordance with the provisions of section 578.018, RSMo, where a person is given a disposition hearing and may prevent disposition of animals by posting bond or security in an amount sufficient to provide for the animal's care and keeping for thirty days.

4. Whenever a license is revoked, denied or not renewed, the licensing authority shall inspect the facility within ninety days after the revocation, denial or nonrenewal to verify the closing of the facility. Records shall be provided to the licensing authority which document the disposition of the animals remaining on or removed from the premises.

273.336. 1. In addition to or in lieu of any other civil or criminal penalty provided by law, the director, upon finding that a person has violated or failed to comply with any provision of this act or any regulation or rule adopted hereunder, may impose on such person a civil fine not exceeding one thousand dollars for each violation.

2. Any imposition of a civil fine pursuant to this section shall be only upon notice and a hearing conducted in accordance with section 578.018, RSMo, and shall be subject to review in accordance with chapter 536, RSMo.

3. Whenever the director has a reasonable basis to believe that a person or premises required to be licensed under this act does not comply with or violates any provision of this act or any regulation or rule adopted hereunder and that the health, safety or welfare of animals in such person's possession, custody or care is endangered thereby, the director shall seize and impound such animals in accordance with the provisions of section 578.018, RSMo, where a person is given a disposition hearing and may prevent disposition of animals by posting bond or security in an amount sufficient to provide for the animal's care and keeping for thirty days. Such animals may be returned to the person owning them if there is satisfactory evidence that the animals will receive adequate care by that person or such animals may be sold, placed or euthanized, at the discretion of the director.

273.339. Any action of the director pursuant to sections 273.326 to 273.361 is subject to review in accordance with the act for judicial review and enforcement of agency actions.

273.341. 1. The state veterinarian or the state veterinarian's authorized

representatives shall make an inspection of the premises for which an application for an original license is made under this act before issuance of such license. Application for a license shall be deemed to constitute the consent of the applicant to the right of entry and inspection of the premises by the state veterinarian or the state veterinarian's authorized representatives during business hours with the owner or owner's representative present. Refusal of entry and inspection shall be grounds for denial of the license. Notice shall not be given to any person prior to inspection.

2. The state veterinarian or the state veterinarian's authorized representatives shall make an inspection of each premises for which a license has been issued under this act. Such premises shall be inspected at least once a year or upon complaint to the department about a particular facility. The acceptance of a license shall conclusively be deemed to constitute the consent of the licensee to the right of entry and inspection of the licensed premises by the state veterinarian or the authorized representative of the state veterinarian during business hours with the owner or owner's representative present. Refusal of entry and inspection shall be grounds for suspension or revocation of the license. Notice shall not be given to any person prior to inspection.

3. The state veterinarian or authorized state representative shall make inspections of the premises or vehicles used to transport or house animals of a person required to be licensed under this act upon a determination by the state veterinarian that there is a reasonable basis to believe that the person is violating the provisions of this act or regulations or rules adopted thereunder or that there is a reasonable basis to suspend or revoke such person's license.

4. The director shall promulgate rules pursuant to the provisions of chapter 536, RSMo, required to implement the provisions of this act. Such rules shall include establishing health and safety standards for motor vehicles regularly used in the transportation of live animals. It shall be unlawful for any person licensed to knowingly ship a diseased or unhealthy animal, and any such person who violates this provision shall be subject to a fine of one hundred dollars for each diseased or unhealthy animal shipped.

5. Any complaint filed with the state veterinarian shall be confidential and shall not be released to any person other than employees of the state veterinarian as necessary to carry out the duties of their employment.

6. Any person making inspections under this section shall be adequately trained by a recognized animal control or cruelty investigations school within the state as provided by the director by rule.

7. The state veterinarian may request a licensed veterinarian to assist in any inspection or investigation made by the state veterinarian or the authorized state representative of the state veterinarian under this section.

8. Any person acting as the state veterinarian's authorized representative for purposes of making inspections and conducting investigations under this section who knowingly falsifies the results or findings of any inspection or investigation or who intentionally fails or refuses to make an inspection or conduct an investigation pursuant to this section shall be guilty of a class A misdemeanor.

9. No person shall act as the state veterinarian's authorized representative for the purpose of making inspections and conducting investigations under this section if such person is related to or has a beneficial interest in a person required to be licensed pursuant to this act.

10. Records of inspections pursuant to this section shall be maintained in the office of the state veterinarian.

273.345. 1. The board of directors of any incorporated humane society operating an animal shelter as an animal control facility, under contract with a political subdivision shall determine the method of disposition of any animal released from its animal shelter. Unless otherwise contracted, any proceeds derived from such sale or disposition shall be paid directly to the treasurer of the humane society and no part of such proceeds shall accrue to any individual. The governing body of any political subdivision regulating the operation of an animal control facility shall determine the method of disposition of any animal released from such animal control facility. Any proceeds derived from such sale or disposition shall be paid directly to the treasurer of the political subdivision, and no part of such proceeds shall accrue to any individual.

2. An animal shall not be disposed of by an operator of an animal shelter as an animal control facility or an operator of an animal control facility until after expiration of a minimum of six full days of custody during which the public has clear access to inspect and recover the animal during business hours. Such an animal may at any time be released to the legal owner, moved to a veterinary hospital for treatment or observation, released in any manner, if such animal was relinquished by its owner to an animal shelter, or euthanatized by an officer of a duly incorporated humane society or by a licensed veterinarian if it appears to such officer or to such veterinarian that the animal is diseased or disabled beyond recovery. Any animal relinquished by its owner to an animal shelter or an animal control facility shall be held for a period of not less than twenty-four hours and written notice shall be provided to the owner relinquishing the animal that euthanatization may occur. Before an animal shelter or animal control facility may dispose of an animal, the animal shelter or animal control facility must make a reasonable, documented effort to notify the animal's owner if the owner is known or may reasonably be ascertained through tags, tattoos, electronic identification or other means of identification.

273.347. An animal control officer shall not be granted an animal breeder's,

animal distributor's or pet shop operator's license. Each application for an animal breeder's, animal distributor's or pet shop operator's license shall include a statement that neither the applicant nor any of the applicants' employees are an animal control officer. An animal control officer, upon taking custody of an animal in the course of official duties, shall immediately make a record which shall include the color, breed (or type), sex, approximate weight and other description of the animal, the reason for seizure, the location of seizure, the owner's name and address, if known, the animal license number and any other identification number. Complete information relating to the disposition of the animal shall be shown on the record; this shall be added to the record immediately following the disposition of the animal.

273.349. 1. The director is hereby authorized to adopt only those regulations or rules as are necessary to assure the health, safety and welfare of animals under the care, custody or control of licensees. Such regulations or rules shall include provisions relating to:

(1) Reasonable and humane treatment of animals in the possession, custody or care of a licensee or being transported to or from licensed premises;

(2) A requirement that each licensee file with the state veterinarian a certificate of veterinary inspection (health certificate) stating that animals entering or leaving the state are free from any visible symptoms of communicable disease;

(3) Identification of animals handled;

(4) Primary enclosures;

(5) Housing facilities;

(6) Sanitation;

(7) Euthanasia;

(8) Ambient temperatures;

(9) Feeding;

(10) Watering;

(11) Adequate veterinary medical care;

(12) Inspections of licensed premises, investigations of complaints and training of persons conducting such inspections and investigations; and

(13) A requirement that each licensee keep and maintain, for inspection by the state veterinarian, such records as necessary to administer and enforce the provisions of this act.

2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated under the authority delegated in sections 273.326 to 273.370 shall become effective only if it has been promulgated pursuant to the provisions of chapter 536, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to

delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this section shall be invalid and void.

273.351. 1. Any violation of or failure to comply with any provision of this act or any regulation or rule adopted hereunder, shall constitute a class A misdemeanor. Continued operation, after a conviction, shall constitute a separate offense for each day of operation.

2. Whenever a person is charged with any violation of this act, or any regulation or rule promulgated hereunder, the court may order the director to seize and impound any animal in such person's possession, custody or care if there are reasonable grounds to believe that the animal's health, safety or welfare is endangered. The director shall seize and impound such animal in accordance with the provisions of section 578.018, RSMo, where a person is given a disposition hearing and may prevent disposition of animals by posting bond or security in an amount sufficient to provide for the animal's care and keeping for thirty days. Such animals may be returned to the person owning them if there is satisfactory evidence that the animals will receive adequate care by that person or such animals may be sold, placed or euthanatized, at the discretion of the director.

273.353. If any provision of this act, or the application of any such provision to any person or circumstance, shall be held invalid, the remainder of the act, and the application of any such provision to any person or circumstance other than those as to which it is held invalid, shall not be affected thereby.

273.355. It shall be unlawful for any person to knowingly purchase a dog, cat or bird for the purpose of resale to another from a person not licensed pursuant to the provisions of this act. Licensees shall not sell to animal dealers or pet shops operating within the state who are not licensed in accordance with this act.

273.359. 1. There is hereby established a "Animal Care Facilities Advisory Board" to assist the director in the administration of this act. The board shall consist of thirteen members, appointed by the governor with the advice and consent of the senate.

2. The board shall consist of thirteen members as follows:

- (1)** One person who operates or supervises an animal shelter;
- (2)** One person who operates or is employed by an animal control facility;
- (3)** One person who operates a commercial kennel or a boarding kennel;
- (4)** One person who operates a pet shop and who sells dogs, cats and birds;
- (5)** One person who is a dealer in animals;
- (6)** One person who operates or is employed by an animal humane society or other humane organization;
- (7)** One small animal veterinarian licensed pursuant to chapter 340, RSMo;

- (8) One person who is a commercial animal breeder of dogs, cats and birds;**
- (9) One person representing the Missouri animal control association;**
- (10) One person representing professional cat breeders;**
- (11) The state veterinarian of the department of agriculture;**
- (12) The state public health veterinarian of the department of health; and**
- (13) One person representing the American Kennel Club and the United Kennel Club dog breeders.**

3. Three members of the first board shall be appointed for three years, three members for four years, three members for five years and two members for six years. Following completion of the initial members, board members shall serve terms of six years except for the state veterinarian and the state public health veterinarian who shall serve for the terms of their appointments.

4. A vacancy on the board shall be filled for the remainder of the term by appointment of the governor.

5. The members of the board shall receive no compensation or reimbursement for their expenses incurred in the performance of their duties.

6. The board shall meet at least once every calendar quarter regularly or at such other times as the chairperson or a majority of the board members determine. A majority of the members shall constitute a quorum for conducting board business.

7. The members of the board shall annually elect a chairperson.

8. The board shall have the following duties, authorities and powers:

- (1) To review the status of this act;**
- (2) To make recommendations on changes to this act; and**
- (3) To make recommendations concerning regulations or rules promulgated under this act.**

273.361. Notwithstanding the existence of or pursuant to any other remedy, when it appears to the director, as head of the licensing agency, that any person is violating any provision of this act, the director, may in that capacity bring an action in a court of competent jurisdiction or other process against such person to enjoin, restrain or prevent such person from continuing operation in violation of this act without regard to whether administration proceedings have been or may be instituted or whether criminal proceedings may be or have been instituted.

273.363. All fees collected by the director from licenses issued under this act shall be used to administer the provisions of section 273.326 to 273.370, and shall be deposited in the state treasury to the credit of the "Animal Care Reserve Fund", which is hereby created. All moneys deposited in the animal care reserve fund shall be subject to provisions of sections 273.326 to 273.370. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the animal care reserve fund shall not be

transferred to the general revenue fund at the end of the biennium.

273.365. 1. Provisions shall be made for the sterilization of all dogs and cats sold or released for adoption or purchased from any animal shelter or animal control facility. Such provisions may be made by:

(1) Providing for sterilization by a licensed veterinarian before relinquishing custody of the animal; or

(2) Entering into a written agreement with the adopter or purchaser of legal age guaranteeing that sterilization will be performed by a licensed veterinarian, in compliance with a sterilization agreement. In addition to signing a written agreement guaranteeing sterilization, the adopting party shall deposit with the animal shelter or animal control facility funds sufficient to ensure that the dog or cat will be sterilized. Any funds deposited pursuant to such an agreement shall be refunded to the adopting party upon presentation of a written statement signed by a licensed veterinarian that the adopted dog or cat has been sterilized. All written agreements shall contain the following information:

- (a) The date of the agreement;**
- (b) The name, address, and signature of the releasing agency and the adopter;**
- (c) A description of the animal to be adopted;**
- (d) A completion date for sterilization which shall be either:**
 - a. The thirtieth day after the date of adoption in the case of an adult animal; or**
 - b. The thirtieth day after a specified date estimated to be the date an adopted infant female or male puppy or kitten becomes six months of age; or**
 - c. If the releasing agency has a written policy recommending sterilization of certain infant animals at an earlier date, the thirtieth day after the date contained in the written policy;**
- (e) A statement that this is a state law under section 273.365, RSMo; and**
- (f) Failure to comply may result in confiscation of the dog or cat, forfeiture of the deposit and a fine of one hundred dollars payable to the shelter from which adopted.**

2. An adopter that signs an agreement for agreement for sterilization shall have the adopted animal sterilized on or before the date stated in the agreement. If the sterilization completion date stated in the agreement falls on a Saturday, Sunday or legal holiday, the deadline may be extended to the first day that is not a Saturday, Sunday or legal holiday. The releasing agency may extend the deadline for thirty days upon presentation of a letter or telephone report from a licensed veterinarian stating that the life or health of the adopted animal may be jeopardized by sterilization. There shall be no limit to the number of extensions that may be granted for this reason.

3. No person shall sterilize any dog or cat for or on behalf of an animal shelter

or an animal control facility unless such person is a licensed veterinarian. No animal shelter or animal control facility shall designate the veterinarian which a person must use, or a list from which a person must select a veterinarian, to sterilize a dog or cat adopted by such person from such animal shelter or animal control facility, nor shall such animal shelter or animal control facility in any way penalize a person for such person's selection of a veterinarian to sterilize a dog or cat adopted from such animal shelter or animal control facility.

273.367. 1. Each releasing agency shall agree to give title, possession, and control of the animal so long as the adopter complies with the terms and conditions of the adoption agreement.

2. The releasing agency shall consider the animal sterilized upon receipt of written confirmation signed by the licensed veterinarian who performed the sterilization.

3. The sterilization requirements of this act shall not apply to a dog or cat that is claimed from a releasing agency within the six-day holding period by a person who owns the animal. The sterilization requirement may be waived after the six-day holding period at the discretion of the director of the releasing agency in cases where animals are returned to their previous owner, provided that any such waiver is documented and maintained as part of that animals' permanent record. This section shall not apply to a releasing agency located in a political subdivision that has in effect an ordinance providing standards for dog and cat sterilization that exceed the requirements of this act.

4. All costs of sterilization pursuant to his act shall be paid by the prospective adopter or purchaser.

273.370. No animal shall be euthanatized by an animal control officer, officer of an animal shelter or officer of a animal control facility by any means, method, agent or device, or in any way, except through a method currently designated as acceptable or conditionally acceptable by the American Veterinary Medical Association, Panel on Euthanasia.

[273.325. 1. Sections 273.325 to 273.357 shall be known as the "Animal Care Facilities Act".

2. As used in sections 273.325 to 273.357, the following terms mean:

(1) "Adequate food", the provision, at suitable intervals of not more than twelve hours, unless the dietary requirements of the species require a longer interval, of a quantity of wholesome foodstuff, suitable for the species and age, sufficient to maintain a reasonable level of nutrition in each animal, all of which foodstuff is served in a safe receptacle, dish, or container;

(2) "Adequate housing", the continuous provision of a sanitary facility, protection

from the extremes of weather conditions, proper ventilation, and appropriate space depending on the species of animal, as defined by regulations of the USDA, as revised;

(3) "Adequate water", the provision, either continuously or at intervals suitable to the species, which intervals shall not exceed eight hours, of a supply of potable water in a safe receptacle, dish, or container;

(4) "Animal", any dog or cat, which is being used, or is intended for use, for research, teaching, testing, breeding, or exhibition purposes, or as a pet;

(5) "Animal shelter", a facility which is used to house or contain animals, which is owned, operated, or maintained by an incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other not for profit organization devoted to the welfare, protection, and humane treatment of such animals, or a person whose primary purpose is to act as an animal rescue, to collect and care for unwanted animals or to offer them for adoption;

(6) "Animal welfare official", any licensed veterinarian, designated by and under the supervision of the state veterinarian, who administers or assists in the administration of the provisions of sections 273.325 to 273.357, or any appointee of the director, and shall include all deputy state veterinarians;

(7) "Boarding kennel", a place or establishment, other than a pound or animal shelter, where animals, not owned by the proprietor, are sheltered, fed, and watered in return for a consideration; however, "boarding kennel" shall not include hobby or show breeders who board intact females for a period of time for the sole purpose of breeding such intact females, and shall not include individuals who temporarily, and not in the normal course of business, board or care for animals owned by other individuals;

(8) "Commercial breeder", a person, other than a hobby or show breeder, engaged in the business of breeding animals for sale or for exchange in return for a consideration, and who harbors more than three intact females for the primary purpose of breeding animals for sale;

(9) "Commercial kennel", a kennel which performs grooming or training services for animals, and may or may not render boarding services in return for a consideration;

(10) "Contract kennel", any facility operated by any person or entity other than the state or any political subdivision of the state, for the purpose of impounding or harboring seized, stray, homeless, abandoned or unwanted animals, on behalf of and pursuant to a contract with the state or any political subdivision;

(11) "Dealer", any person who is engaged in the business of buying for resale, selling or exchanging animals, as a principal or agent, or who holds himself out to be so engaged or is otherwise classified as a dealer by the USDA as defined by regulations of the USDA;

(12) "Director", the director of the department of agriculture of the state of Missouri;

(13) "Hobby or show breeder", a noncommercial breeder who breeds dogs or cats with the primary purpose of exhibiting or showing dogs or cats, improving the breed or selling the dogs or cats, and having no more than ten intact females. Such breeder shall be classified as a hobby or show breeder if such person only sells animals to other breeders or to individuals;

(14) "Humane euthanasia", the act or practice of putting an animal to death in a humane or instantaneous manner under guidelines and procedures established by rules promulgated by the director;

(15) "Intact female", with respect to a dog, refers to a female dog between the ages of six months and ten years of age which is capable of being bred; and with respect to a cat, refers to a female cat between the ages of six months and eight years which is capable of being bred;

(16) "Pet shop", any facility where animals are bought, sold, exchanged, or offered for retail sale to the general public;

(17) "Pound" or "dog pound", a facility operated by the state or any political subdivision of the state for the purpose of impounding or harboring seized, stray, homeless, abandoned, or unwanted animals;

(18) "State veterinarian", the state veterinarian as provided by chapter 267, RSMo;

(19) "USDA", the United States Department of Agriculture.

[273.327. No person shall operate an animal shelter, pound or dog pound, boarding kennel, commercial kennel, contract kennel, pet shop, or exhibition facility, other than a limited show or exhibit, or act as a dealer or commercial breeder, unless he has obtained a license for such operations from the director. An applicant shall obtain a separate license for each separate physical facility subject to sections 273.325 to 273.357 which is operated by the applicant. Any person exempt from the licensing requirements of sections 273.325 to 273.357 may voluntarily apply for a license. Application for such license shall be made in the manner provided by the director. The license shall expire annually unless revoked. As provided by rules to be promulgated by the director, the license fee shall range from one hundred to five hundred dollars per year. Pounds, dog pounds and animal shelters shall be exempt from payment of such fee. License fees shall be levied for each license issued or renewed on or after January 1, 1993.]

[273.329. 1. The director may refuse to issue or renew or may revoke a license on any one or more of the following grounds:

(1) Material and deliberate misstatement in the application for any original license or for any renewal license under sections 273.325 to 273.357;

(2) Disregard or violation of sections 273.325 to 273.357 or of any rules promulgated pursuant thereto;

(3) Conviction of any violation of any state or federal law relating to the disposition or treatment of animals;

(4) Failure to provide adequate food, water, housing or sanitary facilities for animals under the control of an animal shelter, boarding kennel, commercial breeder, commercial kennel, contract kennel, dealer, pet shop, pound, or exhibitor as defined by regulations of the USDA.

2. Operation of an animal shelter, pound or dog pound, boarding kennel, commercial kennel, contract kennel, pet shop, or exhibition facility, or activity as a commercial breeder or dealer without a valid license shall constitute a class A misdemeanor.]

[273.331. A license shall be issued only upon inspection by the state veterinarian, his designee, or an animal welfare official. A facility subject to the provisions of sections 273.325 to 273.357, at the time it applies for licensure, shall be granted a provisional license which shall allow operation of the facility until the facility is inspected or until December 31, 1994, whichever earlier occurs. The state veterinarian shall have the duty and authority to inspect all facilities licensed under sections 273.325 to 273.357. Inspections shall be conducted a minimum of once a year, or upon a complaint to the department regarding a particular facility. The validity of the complaint will be ascertained by the state veterinarian or his designated representative.]

[273.333. The state veterinarian or an animal welfare official, upon his own information or upon the complaint of any person, may institute an investigation including the inspection during normal business hours of any premises or vehicle upon which any animal is or may be found, and may determine if any violation of sections 273.325 to 273.357 or of any rule promulgated pursuant to sections 273.325 to 273.357 is deemed to exist. The director, or his designee, may issue an order to the person responsible for the violation to appear at an administrative hearing. The director, or his designee, upon a finding that such a violation occurred after a hearing thereon, shall issue remedial orders enforceable in the circuit courts of this state to correct such violations, and in addition may assess an administrative penalty in an amount not to exceed one thousand dollars for each violation. In assessing the amount of penalty under sections 273.327 to 273.342, the director shall take into account the seriousness of the violation and the extent of damage to third parties and the state. All penalties collected shall be deposited to the state general revenue fund. In addition, the director may assess the reasonable costs of remedying a violation in the event that the person responsible is unwilling or unable to correct the violation within a reasonable period of time. Any person aggrieved by the decision of the

director may appeal as provided in sections 536.100 to 536.140, RSMo.]

[273.335. When, in the judgment of the state veterinarian or an animal welfare official, any person has been in violation of sections 273.325 to 273.357 so as to pose a substantial ongoing risk to the health and welfare of animals in his custody or so as to pose a substantial ongoing risk that consumers will purchase diseased animals from such person, the director may apply to the circuit court of the county in which such person resides, and such court may grant an order enjoining temporarily or permanently that person from engaging in activities described in section 273.327. If the animals being held in any of the facilities licensed under sections 273.325 to 273.357 are found to be suffering unrelieved pain or distress or disease, the animals may be taken into custody for humane euthanasia at the expense of the licensee. Reasonable effort shall be made to notify the facility operator of such intent and only upon his refusal or inability to immediately correct the causative violation and provide adequate veterinary care shall such action be taken. Nothing in sections 273.325 to 273.357 shall be construed to interfere with scientific research as enunciated in subsection 2 of section 273.354.]

[273.338. Persons and facilities which subsequently fail two consecutive reinspections for an original violation shall be charged a fee of one hundred dollars, which shall be paid before subsequent inspection and renewal of such person's or facility's license.]

[273.340. A dealer shall only purchase animals from persons in this state who are licensed under sections 273.325 to 273.357, or who are exempt from licensure. Any dealer who knowingly purchases animals in violation of this section shall be guilty of a class A misdemeanor and each purchase made shall constitute a separate offense. In addition to such penalties, the director may revoke such dealer's license.]

[273.342. 1. Persons engaged in breeding dogs and cats who harbor three or less intact females shall be exempt from the provisions of sections 273.325 to 273.357.

2. A hobby or show breeder shall be exempt from the licensure and inspection requirements of sections 273.325 to 273.357. The director shall develop a form for registration of persons who meet the definition of hobby or show breeder, and any such hobby or show breeder shall register annually with the director for the purpose of establishing that such person is a hobby or show breeder, at no cost to said hobby or show breeder.]

[273.344. 1. Persons and facilities subject to USDA licensure shall comply with the standards and regulations as prescribed by the USDA, as revised from time to time.

2. Persons and facilities who are subject to sections 273.325 to 273.357, but who are not subject to USDA licensure, shall comply with rules promulgated by the director which establish standards relating to the following:

- (1) Adequate shelter, including proper conditions of sanitation and ventilation;
- (2) Adequate food and water; and
- (3) Maintenance of records of acquisition and disposition of animals in the custody of the licensee.]

[273.346. 1. The director shall promulgate rules for an adequate program of health and veterinary care which shall be maintained for all animals in the custody of persons and facilities subject to licensure pursuant to sections 273.325 to 273.357, except pounds or dog pounds. Records of veterinary services provided to such animals shall be maintained and made available to the state veterinarian or an animal welfare official upon request.

2. Any such rules promulgated to cover pounds or dog pounds shall not require or be applied so as to require the construction of any new buildings or major reconstruction of any physical plant beyond the scope of normal upkeep and repair.

[273.348. 1. The premises of each licensee shall be open for inspection.

2. If, upon investigation, the state veterinarian or an animal welfare official finds that an animal or group of animals is suffering from any highly contagious, communicable or infectious disease or exposure thereto, against which he may think best to quarantine, he shall immediately quarantine the animal or group of animals to the premises and separate from other susceptible animals not so diseased or infected until such diseased animals are:

- (1) Recovered and no longer capable of transmitting the diseases;
- (2) Isolated;
- (3) Humanely euthanized and disposed of as provided for in the rules of the director;
- (4) Tested, vaccinated or otherwise treated; or
- (5) Otherwise released by the state veterinarian. Animals under quarantine and treatment or testing may not be removed from the premises until the licensee is notified that such animals are recovered and incapable of spreading the disease and otherwise released by the state veterinarian or an animal welfare official. The method of eliminating the disease problem shall be at the discretion and in accordance with such procedures as may be outlined by the state veterinarian.

3. Violation of the provisions of sections 273.344 to 273.348 shall be a class A misdemeanor.]

[273.350. The director shall promulgate rules pursuant to the provisions of chapter 536, RSMo, required to implement the provisions of sections 273.325 to 273.357. Such rules shall include establishing health and safety standards for motor vehicles regularly used in the commercial transportation of live animals. The director shall also by rule

define the term "exotic animals", which shall generally refer to canines and felines not ordinarily kept for domestic purposes, and shall promulgate rules establishing standards for food, water, housing and health care for exotic animals and standards for determining whether a particular operation is a farming practice or is a breeder of pets; provided that the authority of the department of conservation to regulate wildlife within the state of Missouri as provided by section 252.030, RSMo, shall not be deprived or diminished. Any animal welfare official shall have the authority of an animal control officer as defined by chapter 578, RSMo. It shall be unlawful for any person licensed or registered pursuant to sections 273.325 to 273.357 to knowingly ship a diseased animal, and any such person who violates this provision shall be subject to a fine of not more than one hundred dollars for each diseased animal shipped. Sections 273.325 to 273.357 and the rules promulgated thereunder shall apply to all businesses, individuals and agents which transport animals in or through this state, except that such businesses, individuals and agents licensed by the USDA shall be subject to USDA standards relating to transportation of animals.]

[273.352. 1. There is hereby established an advisory committee to assist the director in establishing rules under sections 273.350 and 273.352 and to provide ongoing review of the administration of sections 273.325 to 273.357. The members of the advisory committee shall receive no compensation or reimbursement for their expenses incurred in the performance of their duties. The advisory committee shall consist of thirteen persons appointed by the director as follows:

- (1) One person who operates or supervises an animal shelter;
- (2) One person who operates or is employed by a pound or dog pound;
- (3) One person who operates a commercial kennel or a boarding kennel;
- (4) One person who operates a pet shop and who sells both dogs and cats;
- (5) One dealer;
- (6) One person who operates or is employed by an animal humane society or other humane organization;
- (7) One veterinarian licensed pursuant to chapter 340, RSMo;
- (8) One person who is a commercial animal breeder, who breeds both dogs and cats;
- (9) One person representing the Missouri Animal Control Association;
- (10) One person representing professional cat breeders;
- (11) The state veterinarian of the department of agriculture;
- (12) The state public health veterinarian of the department of health;
- (13) One hobby or show breeder.

2. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.]

[273.354. 1. Sections 273.325 to 273.357 shall not apply to a place or establishment which operates under the immediate supervision and control of a duly licensed veterinarian as a facility where animals are hospitalized or boarded.

2. Nothing in sections 273.325 to 273.357 shall be construed as requiring licensing of research facilities or authorizing promulgation of rules affecting the design, outlines, guidelines, or performance of actual research or experimentation by a research facility as determined by that research facility's institution animal care and use committee.]

[273.357. All fees collected by the director from licenses issued under sections 273.325 to 273.357 shall be used to administer the provisions of sections 273.325 to 273.357, and shall be deposited in the state treasury to the credit of the "Animal Care Reserve Fund", which is hereby created. All moneys deposited in the animal care reserve fund shall be subject to appropriation for the use and benefit of the department of agriculture to administer the provisions of sections 273.325 to 273.357. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the animal care reserve fund shall not be transferred to the general revenue fund at the end of the biennium.]

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