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Bill Analysis

Legislative Service Commission

H.B. 223

127th General Assembly
(As Introduced)

Reps. Hughes and R. Hagan, D. Stewart, Flowers, Skindell, Combs, B. Williams, Seitz, Okey, Fende, Setzer, Bacon, Beatty, Brady, Otterman, Peterson, Brown, Yuko, J. Stewart, Luckie, Wolpert, J. McGregor, Webster, Evans, Ujvagi, Blessing, J. Hagan, Distel, Heard, Dyer, Celeste, Foley, Chandler, Hottinger, Strahorn, Schneider, Bolon, Miller

BILL SUMMARY

Dog Breeding Kennel Control Authority

- Establishes in the Department of Agriculture the Dog Breeding Kennel Control Authority for the purpose of administering the bill's licensure and enforcement provisions, and requires the Director of Agriculture to designate a director as the head of the Authority (sec. 956.02(A)).

Annual registration of kennels in counties

- Revises the requirement in current law that persons annually register kennels in each county and pay to the county auditor a registration fee by specifying that only dog kennels that keep, house, or maintain eight or fewer adult dogs for purposes of breeding need to register with the county (sec. 955.02).

Exempted facilities

- Defines "medical kennel for dogs," "research kennel for dogs," and "veterinarian," and declares that they are exempt from the bill (secs. 956.01(I), (L), and (M) and 956.02(B)).

Regulated dog breeding kennels

- Requires a person operating a regulated dog breeding kennel to obtain an annual regulated dog breeding kennel license issued by the Director of

Agriculture in accordance with the bill and the rules adopted under it (sec. 956.04(A)).

- Defines "regulated dog breeding kennel" to mean an establishment that, in any given year, keeps, houses, and maintains nine or more adult dogs for the purpose of breeding the dogs in return for a fee or other consideration received through a sale, auction, exchange, or lease (sec. 956.01(E)).
- Requires the Director of Agriculture in determining whether an establishment is a regulated dog breeding kennel for purposes of licensure under the bill to determine if, in any given year, the establishment keeps, houses, and maintains nine or more adult dogs for the purpose of breeding the dogs for a fee or other consideration through a sale, auction, exchange, or lease (sec. 956.04(B)).
- Specifies that any dogs that are kept, housed, or maintained for the purpose of the companionship of the owner of an establishment, to be shown by the owner, or for the purpose of hunting or sledding and not for breeding for a fee or other consideration are not to be counted for the purpose of determining if an establishment is a regulated dog breeding kennel (sec. 956.04(B)).
- Requires a person applying for a regulated dog breeding kennel license to include with the license application specified information, including an affidavit of the number of adult dogs kept by the person, an estimate of the number of puppies to be kept by the person during the annual term of the license, photographic evidence of the person's facilities, a signed release allowing the performance of a background investigation regarding the person, a copy of the applicant's fingerprint, and the names and addresses and other identifying information required by rules of all persons who will have custody of or control over dogs kept by the applicant (sec. 956.04(C)).
- Requires the Director of Agriculture to adopt rules establishing requirements and procedures governing regulated dog breeding kennels, including the licensing and inspection of and record keeping by the kennels, and specifies that the rules must require that a regulated dog breeding kennel be assigned a license number and that a regulated dog breeding kennel must provide the license number and the applicable

vendor number assigned by the Department of Taxation whenever it solicits business or it is solicited for business (sec. 956.03(A)).

- Requires the Director to adopt rules establishing requirements and procedures for conducting a background investigation of each applicant for a regulated dog breeding kennel license and requiring the Attorney General to conduct the investigation, and specifies that the rules must establish procedures for annually updating background investigation information (sec. 956.03(B)).
- Requires the Director to adopt rules establishing a requirement for the submission to the Director of evidence of insurance or of a surety bond with an application for a regulated dog breeding kennel license payable to the Department of Agriculture to ensure that the kennel complies with the bill and the rules adopted under it, applies the requirement only to such kennels that keep, house, and maintain more than 15 adult dogs, and requires that the insurance be payable to the state or the surety bond be subject to redemption by the state upon the suspension or revocation of the kennel's license for the purpose of paying for the maintenance and care of dogs that are seized or otherwise impounded under the bill (sec. 956.03(E)).
- Establishes different required amounts for the face value of the insurance or surety bonds based on the number of adult dogs that a regulated dog breeding kennel keeps, houses, and maintains (sec. 956.03(E)).
- Authorizes the transfer of a regulated dog breeding kennel license (sec. 956.04(F)).
- Requires a licensee to comply with the bill's standards of care for dogs (sec. 956.04(G)).
- Provides that a dog constantly confined to a regulated dog breeding kennel need not wear a dog tag at all times (sec. 955.10).
- Prohibits a regulated dog breeding kennel from selling or otherwise transferring a puppy that is less than 90 days old without registering the litter in which the puppy was born with the Dog Breeding Kennel Control Authority in accordance with rules (secs. 956.03(I) and 956.19).

Regulated dog intermediaries

- Requires persons acting or performing the functions of a regulated dog intermediary to obtain an annual license from the Director of Agriculture in accordance with the bill and the rules adopted under it (sec. 956.05(A)).
- Defines "regulated dog intermediary" as a person who sells, offers to sell, exchanges, auctions, or offers for adoption more than 25 dogs annually in Ohio, clarifies that for purposes of that definition and in calculating the 25 dog threshold, any puppies sold, offered for sale, exchanged, auctioned, or offered for adoption by the person that are born as a result of a breeding dog that is kept, housed, or maintained by the person for breeding purposes are excluded if the person keeps, houses, or maintains eight or fewer dogs for such breeding purposes, and specifies that the term does not include an animal rescue for dogs, an animal shelter for dogs, a humane society, a medical kennel for dogs, a research kennel for dogs, or a veterinarian (sec. 956.01(F)).
- Requires the Director of Agriculture to adopt rules establishing requirements and procedures governing regulated dog intermediaries, including the licensing of and record keeping by the intermediaries, and specifies that the rules must require that a regulated dog intermediary be assigned a license number and provide the license number and the applicable vendor number assigned by the Department of Taxation whenever it solicits business or it is solicited for business (sec. 956.03(C)).

Prohibitions and license denials, suspensions, or revocations

- Prohibits any person who has been convicted of or pleaded guilty to certain animal cruelty or domestic violence crimes from operating a regulated dog breeding kennel or functioning as a regulated dog intermediary (secs. 956.04(H) and 956.05(D)).
- Specifies that the Director of Agriculture must deny an application for a license under the bill if the applicant has violated any of the bill's provisions or the rules adopted under it, if the applicant has been convicted of or pleaded guilty to certain animal cruelty or domestic violence crimes, or if the Director determines that the applicant does not

have the expertise or capacity to comply with the bill and the rules adopted under it (sec. 956.14(A)).

- Specifies that licenses only may be denied, suspended, or revoked via a specified written order of the Director of Agriculture, and requires that persons subject to a license denial, suspension, or revocation be afforded an opportunity for an adjudication hearing (sec. 956.14(C)).

Fees

- Establishes fees for persons applying for an annual license to operate a regulated dog breeding kennel or to act as or perform the functions of a regulated dog intermediary, and requires the fees to be deposited into the Regulated Dog Breeding Kennel Control License Fund that is created by the bill and required to be used by the Department of Agriculture to administer the bill (secs. 956.06(A) and (B) and 956.16).
- Specifies that, for a regulated dog breeding kennel, the annual license application fee is \$150 if the kennel has the capacity to keep, house, and maintain at least 9, but not more than 15 adult dogs, \$350 if the kennel has the capacity to keep, house, and maintain at least 16, but not more than 25 adult dogs, \$500 if the kennel has the capacity to keep, house, and maintain at least 26, but not more than 30 adult dogs, and \$750 if the kennel has the capacity to keep, house, and maintain more than 30 adult dogs (sec. 956.06(A)(2)).
- Specifies that the annual license application fee for a regulated dog intermediary is \$500 (sec. 956.06(A)(2)).
- Specifies that \$50 of each regulated dog breeding kennel license application fee must be transferred to the county in which the kennel is or will be located and deposited in the county's dog and kennel fund or an amount equal to the fee charged on January 1, 2006, by the county for the registration of a kennel, whichever is greater (sec. 956.06(B)).
- Specifies that money received by a county under the bill is subject to audit by the Auditor of State (sec. 955.20).

Standards of care and inspections

- Establishes specified standards applicable to regulated dog breeding kennels and regulated dog intermediaries related to the feeding, care, and living conditions of dogs (sec. 956.07).
- Requires the Director of Agriculture to appoint kennel control enforcement inspectors for the purpose of enforcing the requirements and standards established by the bill, and requires the Director to provide each inspector with an identifying badge and an official uniform (sec. 956.08).
- Requires the Director of Agriculture or the Director's authorized representative to conduct inspections of regulated dog breeding kennels that are subject to licensure under the bill to ensure compliance with the bill and the rules adopted under it, including, but not limited to, the standards of care established under the bill (sec. 956.09(A) and (B)).
- Requires inspections of regulated dog breeding kennels to be conducted without prior notification and in accordance with the rules adopted under the bill (secs. 956.03(F) and 956.09(A)).
- Authorizes inspections of a facility at which a person is acting as or performing the functions of a regulated dog intermediary to be conducted upon the request of a member of the public, a public official, an animal rescue for dogs, or an animal shelter for dogs (sec. 956.09(A)).
- Prohibits owners or operators of any facility subject to inspection under the bill from interfering with an inspection or refusing to allow an inspector full access to all areas where dogs are kept or cared for, and authorizes the Director of Agriculture to suspend or revoke a license issued under the bill if an inspection is refused, hindered, or thwarted (sec. 956.09(C)).
- Establishes procedures for obtaining a search warrant if an inspection or investigation is refused, hindered, or thwarted (sec. 956.09(B) and (D)).
- Requires the Director of Agriculture to adopt rules establishing procedures for inspections conducted under the bill and procedures for making records of inspections (sec. 956.03(F)).

Impounding of dogs

- Authorizes the Director of Agriculture or the Director's authorized representative to impound a dog if there is probable cause to believe that the dog is being kept by a regulated dog breeding kennel or regulated dog intermediary in a manner that materially violates the bill or the rules adopted under it or if the dog's health or safety appears to be in imminent danger (sec. 956.10(A), (B), and (C)).
- Authorizes the Director to enter into contracts or agreements with an animal rescue for dogs, an animal shelter for dogs, a veterinarian, a dog warden, or a humane society for the purpose of keeping, housing, and maintaining dogs that have been impounded (sec. 956.10(D)).

Citations and civil penalties as enforcement mechanisms

- Establishes procedures for the issuance of citations of violation to persons determined by the Director of Agriculture or the Director's authorized representative to have violated or to have threatened to violate the bill or the rules adopted under it (sec. 956.11).
- Requires a citation issued under the bill to be accompanied by an order: (1) requiring the person to cease the acts or practices that appear to constitute a violation or requiring the person to take corrective actions to eliminate the conditions that appear to constitute the violation, and (2) including a time period within which the violations must be corrected (sec. 956.11).
- Authorizes the Director to assess civil penalties against a person violating the bill or the rules adopted under it if the person has received an order and been notified of a violation, the time period for correcting the violation has elapsed, the Director or the Director's authorized representative has inspected the premises at issue and determined that the violations have not been corrected, and the Director has afforded the person an opportunity for an adjudication hearing (sec. 956.12(A)).
- Establishes specific amounts for civil penalties depending on which provision of the bill has been violated (sec. 956.12(C)).

Injunctive relief as enforcement mechanism

- Authorizes the Attorney General, upon the request of the Director of Agriculture, to bring an injunction action against a person who has violated, is violating, or is threatening to violate the bill, the rules adopted under it, or an order issued under it (sec. 956.13).
- Specifies that all civil actions for injunction and all appeals related to a civil penalty or license denial, suspension, or revocation must be brought in the Environmental Division of the Franklin County Municipal Court, and grants that Division jurisdiction over such cases (secs. 1901.183(J), 956.01(H), 956.12(B), 956.13, and 956.14(C)).

Regulated Dog Breeding Kennel Oversight Commission

- Creates the Regulated Dog Breeding Kennel Oversight Commission, consisting of two members of the General Assembly and eight members representing various entities with an interest in dog kennels, for the purpose of providing oversight and evaluation of the administration of the bill and the operation of the Dog Breeding Kennel Control Authority (sec. 956.17(A), (B), and (C)).
- Requires the Oversight Commission to submit a report of its findings annually to the Director of Agriculture, the President of the Senate, and the Speaker of the House of Representatives (sec. 956.17(C)).

Pet stores

- Requires the owners of pet stores to provide to the buyer of a dog either: (1) a certificate of medical health that has been completed and attested to by a veterinarian and that states that the veterinarian has examined the dog and not found evidence of disease, illness, or injury at the time of the examination, or (2) a money-back guarantee that is valid for not less than 21 days after the date of purchase of the dog and that authorizes the purchaser to receive the purchase price of the dog if the purchaser presents a statement from a veterinarian who has examined the dog within 14 days of its purchase that the dog has a significant disease, illness, or injury that was in existence at the time of purchase (secs. 956.01(J) and 956.18(A)).
- Requires a pet store to post in a specified manner a written notice of its responsibility under the bill (sec. 956.18(B)).

- Requires pet stores, before the sale of a dog, to provide the name, complete address, and telephone number of the breeder that bred the dog, the regulated dog breeding kennel where the dog was kept, housed, and maintained, and the regulated dog intermediary from whom the pet store acquired the dog, as applicable (sec. 956.18(C)).
- Requires the Director of Agriculture to adopt rules establishing requirements and procedures that are necessary to implement and enforce the requirements established by the bill pertaining to pet stores (sec. 956.03(G)).
- Requires the Director to adopt rules establishing a requirement that a retailer or direct seller of a puppy or adult dog provide a purchaser with: (1) the complete name, address, and telephone number of all regulated dog breeding kennels, regulated dog intermediaries, and private owners that kept, housed, or maintained the puppy or adult dog before its coming into the possession of the retailer or direct seller, or (2) proof that the puppy or adult dog was acquired through an animal rescue for dogs, animal shelter for dogs, or humane society, or an interstate health certificate pertaining to the puppy or adult dog (sec. 956.03(H) and (J)).

Criminal penalty

- Specifies that any person that violates a provision of the bill is guilty of a misdemeanor of the first degree (secs. 956.98 and 956.99).

HISTORY

ACTION	DATE
Introduced	05-17-07

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