

No. 2008-119

AN ACT

HB 2525

Amending the act of December 7, 1982 (P.L.784, No.225), entitled, as amended, "An act relating to dogs, regulating the keeping of dogs; providing for the licensing of dogs and kennels; providing for the protection of dogs and the detention and destruction of dogs in certain cases; regulating the sale and transportation of dogs; declaring dogs to be personal property and the subject of theft; providing for the abandonment of animals; providing for the assessment of damages done to animals; providing for payment of damages by the Commonwealth in certain cases and the liability of the owner or keeper of dogs for such damages; imposing powers and duties on certain State and local officers and employees; providing penalties; and creating a Dog Law Restricted Account," further providing for definitions, for issuance of dog licenses, for applications for dog licenses, for license certificates, for kennels, for requirements for kennels, for out-of-state dealer license, for bills of sale, for revocation, suspension or refusal of kennel licenses, for transportation of dogs, for health certificates for importation, for inspections of premises and dogs and for additional duties of department; providing for refusal of entry and for the Canine Health Board; further providing for seizure and detention of dogs, for confinement of dogs, for dog bites, for registration, for certain requirements, for control of dangerous dogs, for public safety, for selling, bartering or trading dogs, for damages caused by coyotes, for burdens of proof, for enforcement and for violations; providing for exemption; further defining "releasing agency"; and making editorial changes.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 102 of the act of December 7, 1982 (P.L.784, No.225), known as the Dog Law, amended December 11, 1996 (P.L.943, No.151), is amended to read:

Section 102. Definitions.

The following words and phrases when used in this act shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Abandon." To forsake entirely or to neglect or refuse to provide or perform the legal obligations for the care and support of an animal by its owner or his agent.

"Abandonment." Relinquishment of all rights and claims to an animal by its owner.

["Accelerant detection dog." Any dog which is used exclusively for accelerant detection, commonly referred to as arson canines.]

"Agent." A person defined in section 200 who is authorized by this act to process applications for dog license certificates and issue dog license certificates and tags.

"Animal control officer." Any person appointed to carry out the duties of dog control.

“Attack.” The deliberate action of a dog, whether or not in response to a command by its owner, to bite, to seize with its teeth or to pursue any human [or], domestic animal, *dog or cat*.

“Boarding kennel.” Any [kennel] *establishment* available to the general public where *a dog or* dogs are housed [or trained] for compensation by the day, week or a specified or unspecified time. The term shall not include a kennel where the practice of veterinary medicine is performed if the kennel is covered by the provisions of the act of December 27, 1974 (P.L.995, No.326), known as the “Veterinary Medicine Practice Act.” The term shall include any boarding facility operated by a licensed doctor of veterinary medicine whether or not this facility is on the same premises as a building or structure subject to the provisions of the “Veterinary Medicine Practice Act.” *The term shall include any establishment available to the general public that, for consideration, takes control of a dog from the owner for a portion of a day for the purposes of exercise, day care or entertainment of the dog. For the purpose of this term, each time a dog enters the kennel it shall be counted as one dog. This term does not include an establishment engaged only in dog grooming or dog training.*

[“Breeding kennel.” Any kennel operated for the purpose of breeding, buying and selling or in any way transferring dogs for nonresearch purposes.]

“Cat.” The genus and species known as *Felis catus*.

“Commercial kennel.” *A kennel that breeds or whelps dogs and:*

- (1) *sells or transfers any dog to a dealer or pet shop kennel; or*
- (2) *sells or transfers more than 60 dogs per calendar year.*

“Confiscate.” *To appropriate property to the use of the government or to adjudge property to be forfeited to the public, without compensation to the owner of the property.*

“County animal warden.” Any person employed or appointed under section 1002(a.1).

“County treasurer.” The elected officer for any county or any county employee assigned to the office of the county treasurer charged with the receipt, custody and disbursements of its moneys or funds. The term county treasurer shall include those officials in home rule charter counties responsible for county treasurer’s duties.

“Coyote.” The genus and species known as *Canis latrans*.

“Dangerous dog.” A dog determined to be a dangerous dog under section 502-A.

“Dealer.” [Any person who owns or operates a dealer kennel in this Commonwealth or who buys, receives, sells, exchanges, negotiates, barter or solicits the sale, resale, exchange or transfer of a dog in this Commonwealth for the purpose of transferring ownership or possession to a third party.] *A person who:*

(1) publicly or privately sells or offers for sale any dog belonging to another person for consideration, a fee or a commission or percentage of the sale price;

(2) transfers dogs at wholesale for resale to another; or

(3) offers or maintains dogs at wholesale for resale to another.

“Dealer kennel.” A kennel *operating* within the Commonwealth which:

(1) publicly or privately sells or offers for sale any dog [belonging to another person] as an owner, agent or assignee for a fee, commission or percentage of the sale price;

(2) [acquires, sells,] transfers[, exchanges or barter] dogs at wholesale for resale to another; or

(3) offers or maintains dogs [for sale, transfer, exchange or barter] at wholesale for resale to another. The term does not include a pound, shelter or common carrier or a kennel defined elsewhere in this section.

“Department.” The Pennsylvania Department of Agriculture.

“*Detection dog.*” *A dog which is trained and used for accelerant detection, bomb or explosives detection, narcotics detection or other scent detection.*

“Dog.” The genus and species known as *Canis familiaris*.

“Dog control.” The apprehending, holding and disposing of stray or unwanted dogs. Dog control may be performed by humane society police officers, police officers, State dog wardens or animal control officers.

“Domestic animal.” Any equine animal or bovine animal, sheep, goat, pig, poultry, bird, fowl, confined hares, rabbits and mink, or any wild or semiwild animal maintained in captivity.

“*Establishment.*”

(1) The premises on, in or through which a dog is kept, bred, harbored, boarded, sheltered, maintained, sold, given away, exchanged or in any way transferred.

(2) The term shall encompass all of the following on, in or through which any of the activities under paragraph (1) take place:

(i) The home, homestead, place of business or operation of a person, including a dealer, which includes all of the land, property, housing facilities or any combination of land, property or housing facilities of the individual or person.

(ii) All of the persons residing in or on the establishment.

(iii) A person, organization, business or operation which utilizes offsite or rescue network kennel homes to keep, maintain, breed, train, harbor, board, shelter, sell, give away, adopt, exchange or in any way transfer dogs.

(3) The term shall not include a gathering of dog owners where dogs remain in the custody and care of their owners, such as a hotel or campground, a place for grooming or training or an event such as a field trial, performance event, hunting event or dog show.

“Housing facility.” A structure that provides animals with shelter, protection from the elements and protection from temperature extremes.

“Humanely killed.” A method of destruction in accordance with the act of December 22, 1983 (P.L.303, No.83), referred to as the Animal Destruction Method Authorization Law.

“Humane society or association for the prevention of cruelty to animals.” A nonprofit society or association duly incorporated pursuant to 15 Pa.C.S. Ch. 53 Subch. A (relating to incorporation generally) for the purpose of the prevention of cruelty to animals.

“Humane society police officer.” Any person duly appointed pursuant to 22 Pa.C.S. § 501 (relating to appointment by nonprofit corporations) to act as a police officer for a humane society or association for the prevention of cruelty to animals. The term shall include any person who is an agent of a humane society or association for the prevention of cruelty to animals as agent is used in 18 Pa.C.S. § 5511 (relating to cruelty to animals).

“Kennel.” Any establishment [wherein] in or through which at least 26 dogs are kept [for the purpose of breeding, hunting, training, renting, research or vivisection, buying, boarding, sale, show or any other similar purpose and is so constructed that dogs cannot stray therefrom.] or transferred in a calendar year, or a boarding kennel as defined in this act.

“Licensed doctor of veterinary [medicine.]” medicine” or “veterinarian.” A person who is currently licensed pursuant to the act of December 27, 1974 (P.L.995, No.326), known as the “Veterinary Medicine Practice Act.”

“Muzzle.” A device, in any arrangement of straps or wires, placed over an animal’s mouth to prevent the animal from biting or eating.

“Nonprofit kennel.” [Any kennel operated by an animal rescue league, a humane society or association for the prevention of cruelty to animals] A kennel registered under the laws of this Commonwealth as a nonprofit entity or a nonprofit animal control kennel under sections 901 and 1002. The term shall include kennels operated by approved medical and veterinary schools and nonprofit institutions conducting medical and scientific research, which shall be required to register, but shall not be required to pay any of the [following] license fees set by this act, and which may use their own identification tags for dogs within their kennels without being required to attach tags hereinafter prescribed while dogs are within such kennels, if approved by the secretary.

“Out-of-state dealer.” A person who does not reside in the Commonwealth of Pennsylvania and [who buys, receives, sells, exchanges, negotiates, barter or solicits the sale, resale, exchange or transfer of a dog in this Commonwealth for the purpose of transferring ownership or possession to a third party.] who:

(1) sells or offers for sale a dog in this Commonwealth belonging to another person, for any type of consideration, fee, commission or percentage of the sales price; or

(2) transfers a dog in this Commonwealth for resale to another for any type of consideration, fee, commission or percentage of the sales price.

“Owner.” When applied to the proprietorship of a dog, includes every person having a right of property in such dog, and every person who keeps or harbors such dog or has it in his care, and every person who permits such dog to remain on or about any premises occupied by him.

“Permanent identification” or “permanently identified.” Any long-lasting identification designed to be nonremovable, such as a tattoo or microchip, determined by the Department of Agriculture through regulation. Any dog permanently identified shall be required to bear a license tag in accordance with the provisions of this act.

“Person with a disability.” A person who receives disability insurance or supplemental security income for the aged, blind or disabled under the Social Security Act (49 Stat. 620, 42 U.S.C. § 301 et seq.) [or]; who receives a rent or property tax rebate under the act of March 11, 1971 (P.L.104, No.3), known as the “Senior Citizens Rebate and Assistance Act,” on account of disability; *who has a disability certificate issued by the United States Veterans’ Administration*; or who has a [handicapped license] *special registration* plate under 75 Pa.C.S. § 1338 (relating to [handicapped] *person with disability* plate and placard).

“Persons.” Includes State and local officers, or employees, individuals, corporations, copartnerships and associations. Singular words shall include the plural. Masculine words shall include the feminine and neuter.

“Pet shop-kennel.” Any kennel or person that acquires and sells dogs for the purpose of resale, whether as owner, agent or consignee, and sells or offers to sell such dogs on a retail basis.

“Police officer.” Any person employed or elected by this Commonwealth, or by any municipality and whose duty it is to preserve peace or to make arrests or to enforce the law. The term includes constables and dog, game, fish and forest wardens.

“Primary enclosure.” The primary structure that restricts a dog’s ability to move in a limited amount of space, such as a room, cage or compartment. The term does not include any run described in section 207(i)(6).

“Private kennel.” A kennel [at, in, or adjoining a residence] *not meeting the definition of “commercial kennel”* where dogs are kept or bred by their owner, for the purpose of hunting, tracking and exhibiting in dog shows, *performance events* or field and obedience trials.

“Proper enclosure of a dangerous dog.” The secure confinement of a dangerous dog either indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children *and domestic animals* and designed to prevent the [animal] *dangerous dog* from escaping. [Such] *The* pen or structure shall have secure sides and a secure top and shall also provide protection from the elements for the dog. If the pen or structure

has no bottom secured to the sides, the sides must be embedded at least two feet into the ground.

“Public place.” A place in this Commonwealth to which the general public has a right to resort. A public place need not be a place devoted solely to use by the public, but may be a place which is visited by many persons on a regular basis and is usually accessible to the neighboring public. A public place shall also include television and radio media.

“Rescue network kennel.” *A kennel that utilizes rescue network kennel homes with the goal of ultimately transferring the dog to a permanent owner or keeper through any means of transfer.*

“Rescue network kennel home.” *An establishment to which a rescue network kennel assigns a dog until the dog is ultimately transferred to a permanent home.*

“Research.” Investigation or experimentation aimed at the discovery and interpretation of facts or procedures, revision of accepted theories or laws in the light of new facts or practical application of such new or revised theories or laws as related to the advancement of medical science and technological treatment of disease or surgical operations, medical procedures, transplants, functions and any form of medical or pharmacological actions on dogs when applied and personally supervised by a qualified scientist with degrees approved by the secretary.

“Research kennel.” [Any kennel within the Commonwealth wherein research is conducted with dogs, or where vivisection is practiced with dogs, or any establishment which breeds, buys, sells, or in any way transfers dogs to laboratories, hospitals, establishments for research or any other similar purpose, or which sells, gives away or in any way transfers dogs to another research or dealer kennel.] *Any Federal research kennel or other research kennel duly registered with and inspected by the Federal Government under the provisions of the Animal Welfare Act (Public Law 89-544, 7 U.S.C. § 2131 et seq.) and its attendant regulations.*

“Search and rescue dog.” *A dog which is trained to locate lost or missing persons, victims of natural or manmade disasters and human bodies.*

“Secretary.” The Secretary of Agriculture or any person to whom authority has been delegated by the Secretary of Agriculture.

“Seizure.” *The act of taking possession of property for a violation of law or the taking or removal from the possession of another. The term shall not include the taking of ownership of property.*

“Service dog.” Any dog which has been *or is in the process of being* trained as a guide dog, signal dog or has been trained to do work or perform tasks for the benefit of an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, pulling a wheelchair or fetching dropped items.

“Severe injury.” Any physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery.

“State dog warden.” An employee of the department whose primary duty is to enforce this act and the regulations pursuant thereto.

“*Veterinarian-client-patient relationship.*” *As defined in section 3(15) of the act of December 27, 1974 (P.L.995, No.326), known as the “Veterinary Medicine Practice Act.”*

“Visisection.” The cutting of or operation on a living animal for physical or pathological investigation or animal experimentation.

“Wild” or “semiwild animal.” A domestic animal which is now or historically has been found in the wild, including, but not limited to, bison, deer, elk, llamas or any species of foreign or domestic cattle, such as ankole, gayal and yak.

Section 2. Section 200(a), (b), (e) and (f) of the act, added December 11, 1996 (P.L.943, No.151), are amended and the section is amended by adding subsections to read:

Section 200. Issuance of dog licenses; compensation; proof required; deposit of funds; records; license sales; rules and regulations; failure to comply; unlawful acts; penalty.

(a) Issuance of dog licenses.—

(1) The county treasurer shall be an agent and shall process applications for dog license certificates and issue dog license certificates and tags.

(1.1) The county treasurer shall be permitted and may permit agents to issue vanity or collector tags that are approved by the department, in addition to the license.

(2) The county treasurer may authorize [district justices] *magisterial district judges* to be agents and to process applications for dog license certificates and to issue dog license certificates and tags.

(3) The county treasurer may authorize other agents within the county to process dog license certificates and to issue dog license certificates and tags. At least half of the agents appointed in each county shall have hours of operation after 5 p.m. at least one weekday and shall be open at least one day of each weekend. Agents who have been appointed by their respective county treasurers under this paragraph shall meet bonding requirements as their respective county treasurers may require.

(4) The secretary shall have the authority, after a review of the agents appointed by a county treasurer, to appoint agents within each county to process dog license certificates and to issue dog license certificates and tags. Priority shall be given to licensed doctors of veterinary medicine and kennels licensed under this act. At least half of the agents appointed in each county shall have hours of operation after 5 p.m. at least one weekday and shall be open at least one day of each weekend. Agents appointed by the secretary under this paragraph shall be required to post a bond or other security instrument in a form satisfactory to the secretary in

an amount he determines. The secretary may recall the appointment of any agent at any time.

(5) Agents who have been appointed by their respective county treasurers prior to the effective date of this section may continue to act as agents for the county treasurers under such bonding requirements as the county treasurer may require.

(b) Compensation.—For services rendered in collecting and paying over dog license fees, agents, for as long as they continue to act in that capacity, may collect and retain a sum [of] *equal to the cost of a postage stamp plus \$1* for each dog license sold, which amount shall be full compensation for services rendered by them under this act. The compensation shall be retained by the respective agents and shall cover, among other things, the cost of processing and issuing dog licenses, postage, mailing, returns and bonding of the agents. A [district justice] *magisterial district judge* authorized by the county treasurer to process applications for dog license certificates and issue dog license certificates [and tags] is not authorized to collect compensation under this subsection. Agents under subsection (a)(3) and (5) shall collect an additional 50¢ which shall be remitted to the county treasurer, for the use of the county, in the same manner as records are forwarded under subsection (e).

(b.1) Mailings.—Advertisements, promotions, requests for donations, solicitations and other materials may not add to the cost of postage to be paid by the department and may not be directly attached to a dog license application, dog license renewal notice or other dog law document. Dog license mailings, renewals and other notices related to State dog licenses shall not contain any extraneous advertising, promotions, requests for donations, solicitations or other materials unless the advertisement, promotion, request for donation, solicitations or other materials have met one of the following conditions:

(1) They have been previously approved in writing by the department.

(2) They each contain a disclaimer stating that, "The solicitation or request for a donation herein is not for a program sponsored by, funded by or endorsed by the Pennsylvania Department of Agriculture (the Department). The Department takes no responsibility for this program. Participation in this program is voluntary, is not a condition of receiving a dog license and does not change the cost of obtaining a dog license. Any donation will be deposited into an account separate from the account for dog license revenues."

(e) Records.—Each agent shall keep on a printed form supplied by the department a correct and complete record of all dog licenses issued, *funds that are received and uncollected funds that have been subtracted from the money forwarded to the secretary*. The records shall be available at reasonable hours for inspection by any employee of the department charged

with the enforcement of this act or any representative of the Department of Auditor General or Office of Attorney General. Within five days following the first day of each month, each agent shall forward to the secretary and to the county treasurer of the county in which the agent is situated, on forms supplied by the department, a complete report of dog licenses issued, in correct numerical sequence. All money collected from the sale of dog licenses, less compensation if collected, and any other information required by the secretary shall be forwarded to the secretary with the report.

(e.1) Electronic records.—Within the later of 180 days of the effective date of this section or 60 days after the county treasurer has the capability to submit an electronic file of license holders, the county treasurer shall submit to the secretary an electronic data file of license holders. The county treasurer shall monthly update the data file and submit the updated file monthly to reflect all new applicants.

(f) License sales.—Each agent shall process applications and issue dog license certificates on a year-round basis. Nothing in this act shall permit an agent while acting in that capacity to suspend license sales during any time. *If checks are returned for delinquent funds or the proper dog license fee is not collected for any reason and if these funds have been subtracted from the money forwarded to the secretary, the agent shall report the delinquency to the department on a form supplied by the department.*

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Section 3. Sections 201, 202 and 206 of the act, amended December 11, 1996 (P.L.943, No.151), are amended to read:

Section 201. Applications for dog licenses; fees; penalties.

(a) General rule.—Except as provided in subsection (b), on or before January 1 of each year, **[unless and until the department promulgates regulations establishing a system of dog license renewal on an annual basis throughout the calendar year,]** the owner of any dog, three months of age or older, except as hereinafter provided, shall apply to the county treasurer of his respective county or an agent under section 200(a), on a form prescribed by the department, for **[a] the appropriate** license for **[such] the** dog. The application and license certificate shall state the breed, sex, age, color and markings of **[such] the** dog, the name, address and telephone number of the owner and the year of licensure. The application shall be accompanied by the appropriate license fee as follows:

(1) For each neutered male dog and for each spayed female dog for which the certificate of a licensed doctor of veterinary medicine or the affidavit of the owner is produced, the license fee shall be \$5.

(2) For all other male and female dogs, the license fee shall be \$7.

(3) For Pennsylvania residents 65 years of age or older and persons with disabilities:

(i) For each neutered male dog and for each spayed female dog for which the certificate of a licensed doctor of veterinary medicine or the affidavit of the owner is produced, the license fee shall be \$3.

(ii) For all other male and female dogs, the license fee shall be \$5.

(4) Compensation, if collected under section 200(b), shall also be paid by all applicants, regardless of age or disability.

(5) All additional costs of a vanity or collector tag issued under this subsection shall be in addition to the required license fee under this section. The additional cost shall be distributed equally between the county treasurer that issued the license and the Dog Law Restricted Account. A vanity or collector tag shall not be issued without approval of the department.

(b) Lifetime license.—The owner of any dog three months of age or older which has been permanently identified may apply to the county treasurer of his respective county or an agent under section 200(a), on a form prescribed by the department for a lifetime license for such a dog. Except as otherwise provided in this act, a dog which has been issued a lifetime license shall be required to wear a license tag. The application and license certificate shall state the breed, sex, age, color and markings of such dog, the type and number of permanent identification and the name, address and telephone number of the owner. The application shall be accompanied by the appropriate license fee as follows:

(1) For each neutered male dog and for each spayed female dog for which the certificate of a licensed doctor of veterinary medicine or the affidavit of the owner is produced, the lifetime license fee shall be \$30.

(2) For all other male and female dogs, the license fee shall be \$50.

(3) For Pennsylvania residents 65 years of age or older and persons with disabilities:

(i) For each neutered male dog and for each spayed female dog for which the certificate of a licensed doctor of veterinary medicine or the affidavit of the owner is produced, the license fee shall be \$20.

(ii) For all other male and female dogs, the license fee shall be \$30.

(4) Compensation, if collected under section 200(b), shall also be paid by all applicants, regardless of age or disability. A dog which has been issued a lifetime license prior to the effective date of this act shall not be subject to fees under this subsection.

(5) All additional costs of a vanity or collector tag issued under this subsection shall be charged in addition to the fees under this section. The additional cost shall be distributed equally between the county treasurer that issued the tag and the Dog Law Restricted Account. A vanity or collector tag shall not be issued without approval of the department.

(c) Penalty.—A person who violates this section commits a summary offense and, upon conviction, shall be sentenced to pay a fine of not less than [S25] \$50 nor more than \$300 for each unlicensed dog. *Fraudulent statements, including those related to the breed of the dog, failure to pay the appropriate fee or failure to update records, including address and*

contact information, within 120 days of moving constitute a violation. The burden of proof shall be the same as under section 802.

Section 202. License certificates; tag removal; exclusion for some dogs.

(a) **General rule.**—Each dog license certificate shall be dated and numbered, and shall bear the name of the county where such license is issued and any other information required pursuant to regulations promulgated by the department. All dog licenses except lifetime licenses as provided in section 201(b) shall expire upon December 31 of the year for which the license was issued **[unless and until the department promulgates regulations establishing a system of dog license renewal on an annual basis throughout the calendar year]**. A tag bearing the same number issued with the license certificate shall be affixed to a substantial collar or harness. The collar or harness shall be furnished by the owner, and, with the tag attached, shall at all times be kept on the dog for which the license is issued, except as otherwise provided in this act. **[Dogs which are confined or are actively engaged in shows, obedience or field trials are excluded from wearing a current license tag on a collar or harness, as long as a current tag is in the possession of the owner or handler for each dog.]** It shall be unlawful for any person, except the owner or his authorized agent, or a State dog warden, to remove any license tag from a dog's collar or harness or to remove any collar or harness with a license tag attached thereto from any dog, except as provided in **[the act of June 3, 1937 (P.L.1225, No.316), known as "The Game Law,"] 34 Pa.C.S. (relating to game)**, and except as herein or otherwise provided.

(b) **Exception.**—*The following need not wear a license tag on a collar or a harness:*

(1) *Dogs when confined.*

(1.1) *Dogs when restricted to the property of a kennel licensed under this act.*

(2) *Dogs when being transported for law enforcement.*

(3) *Dogs when being transported to or from a veterinary office pursuant to an order of the secretary for humane purposes.*

(4) *Dogs which are confined to the property of the owner or when training for or engaging in dog shows, performance events or hunting activities, and dogs while being transported by or on behalf of their owner or keeper to or from the location at which they train or engage in dog shows, performance events or hunting activities, as long as a copy of the kennel license or individual dog license or tag is in possession of the owner or keeper accompanying each dog.*

Section 206. Kennels.

(a) Applications, kennel license classifications and fees.—Any person who keeps or operates a **[Class I, Class II, Class III, Class IV or Class V Kennel, Boarding Kennel Class I, Boarding Kennel Class II, Boarding Kennel Class III or nonprofit]** kennel shall, on or before January 1 of each year, apply to the department for a kennel license. ***Kennels shall be classified***

by type, and the fee for the license shall be determined by the kennel type, the number of dogs housed, kept, harbored, boarded, sheltered, sold, given away or transferred in or by the kennel. The application forms and kennel licenses shall be as designated by the secretary. A separate license shall be required for each type of kennel and every location at which a kennel is kept or operated. A kennel license is required to keep or operate any **[establishment that keeps, harbors, boards, shelters, sells, gives away or in any way transfers a cumulative total of 26 or more dogs of any age in any one calendar year]** kennel. All kennel licenses shall expire on December 31. When two or more licensed kennels are operated by the same person at the same location, each kennel shall be inspected and licensed **[for each use.] as required by law.**

Kennel Class I.

To keep or operate a private kennel, pet shop-kennel, research kennel, *rescue network kennel*, dealer kennel or **[breeding]** kennel for a **[cumulative]** total of 50 dogs or less of any age during a calendar year - \$75 per year.

Kennel Class II.

To keep or operate a private kennel, pet-shop kennel, research kennel, *rescue network kennel*, dealer kennel or **[breeding]** kennel for a **[cumulative]** total of 51 to 100 dogs of any age during a calendar year - \$200 per year.

Kennel Class III

To keep or operate a private kennel, pet shop-kennel, research kennel, *rescue network kennel*, dealer kennel or **[breeding]** kennel for a **[cumulative]** total of 101 to 150 dogs of any age during a calendar year - \$300 per year.

Kennel Class IV

To keep or operate a private kennel, pet shop-kennel, research kennel, *rescue network kennel*, dealer kennel or **[breeding]** kennel for a **[cumulative]** total of 151 to 250 dogs of any age during a calendar year - \$400 per year.

Kennel Class V

To keep or operate a private kennel, pet shop-kennel, research kennel, *rescue network kennel*, dealer kennel or **[breeding]** kennel for a **[cumulative]** total of 251 **[or more]** to 500 dogs of any age during a calendar year - \$500 per year.

Kennel Class VI

To keep or operate a private kennel, pet shop kennel, research kennel, rescue network kennel, kennel or dealer kennel for a total of more than 500 dogs of any age during a calendar year - \$750 per year.

Boarding Kennel Class I

To keep or operate a boarding kennel having the capacity to accommodate a total of 1 to 10 dogs at any time during a calendar year - \$100 per year.

Boarding Kennel Class II

To keep or operate a boarding kennel having the capacity to accommodate a total of 11 to 25 dogs at any time during a calendar year - \$150 per year.

Boarding Kennel Class III

To keep or operate a boarding kennel having the capacity to accommodate 26 or more dogs at any time during a calendar year - \$250 per year.

Nonprofit Kennel [- \$25 per year.]

To keep or operate a nonprofit kennel - \$25 per year.

Kennel Class C-I

To keep or operate a commercial kennel for a total of 50 dogs or less of any age during a calendar year - \$75 per year.

Kennel Class C-II

To keep or operate a commercial kennel for a total of 51 to 100 dogs of any age during a calendar year - \$200 per year.

Kennel Class C-III

To keep or operate a commercial kennel for a total of 101 to 150 dogs of any age during a calendar year - \$300 per year.

Kennel Class C-IV

To keep or operate a commercial kennel for a total of 151 to 250 dogs of any age during a calendar year - \$400 per year.

Kennel Class C-V

To keep or operate a commercial kennel for a total of 251 to 500 dogs of any age during a calendar year - \$500 per year.

Kennel Class C-VI

To keep or operate a commercial kennel for a total of more than 500 dogs of any age during a calendar year - \$750 per year.

(b) Nonprofit kennels.—A nonprofit kennel shall apply for a nonprofit kennel license. Such kennel may use its own identification tags for dogs confined therein. The secretary may approve, upon application, the removal of tags from licensed dogs confined therein. *A rescue network kennel may be a nonprofit kennel if it meets the definition of nonprofit kennel.*

(d) Issuance of tags.—The department shall issue the number of tags equal to the number of dogs three months of age or older, or a lesser number as determined by the kennel owner's needs, approved by the secretary to be kept in a kennel described under this section. All tags shall bear the name of the county where they are issued, the kennel license number and any other information required by the secretary through regulations. *The tags shall be utilized and displayed as set forth in section 207(d).*

(e) Kennel [removed to another county] closing, changing name or moving to another location.—If a person that keeps or operates a kennel [permanently removes the kennel to another county] closes, changes its name or moves to another location, the person shall file an application with the secretary [to transfer the license to the county of removal] notifying

the secretary of the move, closure, transfer or change of name. Upon approval by the secretary, *which shall require an inspection and approval of the new facility,* the kennel license [shall] *may be allowed to remain in effect until [it has expired pursuant to this section.] the end of the calendar year at which time it shall be renewed in accordance with this act. If a kennel is closing, the secretary shall conduct a postclosure inspection.*

(f) Adequacy of fees.—On or before July 1[, 1998] *of each year,* the department shall submit a report to the chairperson and minority chairperson of the Agriculture and Rural Affairs Committee of the Senate and the chairperson and minority chairperson of the Agriculture and Rural Affairs Committee of the House of Representatives comparing the expenses incurred by the department for enforcing this act with regard to kennels and the revenues received by the department in accordance with this section.

Section 4. Section 207(a.1), (c) and (d) of the act, amended December 11, 1996 (P.L.943, No.151), are amended and the section is amended by adding subsections to read:

Section 207. Requirements for kennels.

(a.1) Prohibition to operate; injunction; fines.—

(1) It shall be unlawful for kennels described under section 206 to operate without first obtaining a kennel license from the department.

(2) The secretary shall not approve any kennel license application unless such kennel has been inspected and approved by a State dog warden or employee of the department.

(3) The secretary may file a suit in equity in the Commonwealth Court to enjoin the operation of any kennel that violates any of the provisions of this act. **[In addition, the secretary may seek in such suit the imposition of a fine for every day in violation of this act for an amount not less than \$100 nor more than \$500 per day.]**

(4) *It shall be no defense to any civil penalty or criminal prosecution under this act that a person operating a kennel failed to properly obtain the appropriate license.*

(5) *A kennel operator that is applying for a different license because of an increase in the total number of dogs or due to birth of additional dogs in the kennel during a calendar year shall not be in violation, provided the application is filed within seven days of the increase.*

(a.2) Civil penalties and remedies.—*The following shall apply to civil penalties and remedies for unlicensed kennels:*

(1) *In addition to proceeding under any other remedy available at law or in equity for a violation of a provision of this act or a rule or regulation adopted or order issued under this act, the secretary may assess a civil penalty, in addition to any penalty under section 903(c), against an unlicensed kennel of not less than \$500 nor more than \$1,000 for each day it operates in violation of this act. The penalty shall be premised on the gravity and willfulness of the violation, the potential harm to the health and safety of the animals and the public, previous*

violations and the economic benefit to the violator for failing to comply with this act.

(2) In cases of inability to collect the civil penalty or failure of a person to pay all or a portion of the penalty, the secretary may refer the matter to the Office of Attorney General, which shall institute an action in the appropriate court to recover the penalty.

(a.3) Cease and desist order.—

(1) The secretary may provide a written order to cease and desist operating to an owner who is operating a kennel without a license. The order shall set forth the general factual and legal basis for the action and shall advise the affected person that within ten days of receipt of the order, he may file with the secretary a written request for an administrative hearing.

(2) The written order to cease and desist operating shall be served by personal service or by registered or certified mail, return receipt requested, to the person operating the unlicensed kennel or a responsible employee of such a person. The order to cease and desist shall become a final order of the department upon expiration of the ten-day period for requesting an administrative hearing unless a timely request has been filed with the department.

(3) A person receiving a written cease and desist order shall, upon the order becoming final, comply with all of the following:

(i) Immediately cease and desist from operating a kennel, including boarding, buying, exchanging, selling, offering for sale, giving away or in any way transferring dogs.

(ii) Acquire no additional dogs nor increase the number of dogs in the kennel by any means, including breeding. This subparagraph does not apply to an acquisition or increase by birth of puppies from a mother which, at the time of the order, was:

(A) on the property;

(B) pregnant; and

(C) owned by the kennel or the kennel owner.

(iii) Notify the department prior to the euthanization of any dog. No dog may be euthanized unless it is determined by a veterinarian that the euthanasia will prevent the dog from suffering caused by a medical condition. If a veterinarian determines a dog should be euthanized, a copy of the veterinarian's findings, signed by the veterinarian, must be provided to the department. The provisions of this subparagraph do not apply to an emergency situation if it is deemed by the veterinarian that immediate euthanasia is necessary to relieve the suffering of the dog. Following euthanasia in an emergency situation, a copy of the veterinarian's findings must be signed by the veterinarian and provided to the department.

(iv) Permit State dog wardens to inspect the kennel without a warrant in order to determine compliance with the department's order, any relevant court order and any provision of this act.

(v) Divest of all dogs numbering over 25, unless directed otherwise by the department order, within a reasonable time period as determined by the department, but not to exceed ten days. The department's order shall set forth the manner by which the kennel owner may divest of the dogs. If there are more dogs on the premises than permitted in the department order after the expiration of the time period set forth in the order, the kennel may select the dogs to be kept, up to the number allowed under this subparagraph. The dogs not selected shall be forfeited to the entity set forth in the department order or to an entity approved by the department without compensation to the owner.

(4) The following applies to appeals:

(i) This paragraph applies to a person who has received a written cease and desist order and who:

(A) has timely filed a request for an administrative appeal; and

(B) would require a kennel license under this act, pending the exhaustion of all administrative appeals.

(ii) A person subject to subparagraph (i) shall, during the duration of all administrative appeals and thereafter if the department's action is upheld, be subject to the requirements set forth in paragraph (3)(i), (ii), (iii) and (iv).

(iii) Within ten days after the exhaustion of an administrative appeal under subparagraph (i)(A) in which the department's action is upheld, the kennel shall reduce the number of dogs under paragraph (3)(v).

(iv) Removal of dogs may occur under section 211(d), (e) and (f).

(5) Failure to take action or to meet the conditions imposed under this subsection, in addition to any other penalties allowed under this act, may result in imposition by the department of an administrative penalty of not less than \$100 nor more than \$500 per day for each violation. Each dog in excess of the number of dogs permitted under paragraph (3)(v) or (4)(iii) shall count as one violation.

(6) Any violation of this subsection shall constitute a misdemeanor of the third degree.

** * **

(c) Records to be maintained.—Every keeper of a kennel shall keep, for two years, a record of each dog at any time kept in the kennel. Such record shall show:

(1) The breed, color, markings, sex and age of each dog.

(2) The date on which each dog entered the kennel.

(3) [From where it came] The full name and physical address at the time the dogs were received of the previous owner or kennel from whom

the dog was received. This paragraph shall not apply to a boarding kennel.

(4) [To whom it belongs] *The full name and physical address of the person or kennel to whom the dog belongs.*

(5) For what purpose each dog is kept in the kennel.

(6) The date on which each dog leaves the kennel.

(7) How [and to whom it is dispensed.] *the dog is dispensed. If the dog was transferred to another person or kennel, the record must state the full name and physical address of the person or kennel to whom the dog was dispensed.*

(8) The name, address and telephone number of the licensed doctor of veterinary medicine used by the kennel.

Such record shall be legible and shall be open to inspection and may be copied by any employee of the department, State dog warden or police officer as defined by this act.

(c.1) Nonprofit kennels.—All nonprofit kennels shall be required to keep all records required to be kept under this section, except that, in the case of a dog running at large, it shall not be a violation of subsection (c)(3) or (4) for the nonprofit kennel to list only the location from which a dog was retrieved if the information required to be maintained under subsection (c)(3) and (4) is unknown and not available to the nonprofit kennel.

(d) [Additional requirements] *Tags.—Every holder of a kennel license shall attach one tag to a collar or harness of each dog three months old or older kept by that person, whenever the dog is not within the kennel except as provided for in [section 202.] sections 202 and 213. Dogs housed in rescue kennel network homes shall have and display the dealer's tag or rescue kennel network home's tag or individual dog license as provided in this section.*

(e) Display of kennel license.—The following shall apply:

(1) A person operating a kennel required to be licensed under this act shall display, in a place conspicuous to persons authorized to enter, a current and valid kennel license certificate issued by the department. The kennel license certificate shall show all of the following:

(i) The year for which it was issued.

(ii) The kennel class and type.

(iii) The number of dogs allowed to be housed in that class of kennel per calendar year.

(2) Rescue network kennel homes associated with a dealer or rescue kennel network shall display a copy of the dealer's or the rescue kennel network's kennel license.

(3) If the secretary revokes or denies a kennel license, the department shall issue a notice of revocation or denial. The notice shall be posted in a place conspicuous to persons authorized to enter and approved by the department for a period of time as provided in this

subsection. In the case of a revocation or denial of a kennel license, the kennel shall display the notice of revocation or denial until such time as the kennel has ceased to operate or as the department determines and sets forth in the order. In the case of an appeal of revocation or denial, the notice of revocation or denial shall remain posted until the final disposition of appeal or the department has reissued a valid kennel license.

(4) If the secretary finds a kennel operating without a license, the kennel, upon notice of violation or order, shall display a notice of violation issued by the department. The notice shall be posted in a place conspicuous to persons authorized to enter and approved by the department until the time as the kennel has ceased to operate or as the department determines and sets forth in the order or until such time as the kennel has come into compliance and the secretary has issued a valid kennel license.

(5) Failure to display a current and valid kennel license certificate or a notice of revocation, suspension or denial as provided in this subsection constitutes a violation of this act.

(f) (Reserved).

(g) Additional requirements for boarding kennels, nonprofit kennels and Kennel Class I through VI license holders.—The following shall apply to boarding kennels, nonprofit kennels and Kennel Class I through VI license holders:

(1) Kennels under this subsection must develop and follow an appropriate plan to provide dogs with the opportunity for exercise. The plan shall be approved by a veterinarian.

(2) All kennels for dogs shall be equipped with smoke alarms or fire extinguishers. Housing facilities shall be equipped with fire extinguishers on the premises. An indoor housing facility may have a sprinkler system.

(h) Additional requirements for Kennel Class C license holders only.—The following shall apply only to primary enclosures for all dogs in Kennel Class C kennels:

(1) Primary enclosures must be designed and constructed so that they are structurally sound and must be kept in good repair.

(2) Primary enclosures must meet the following requirements:

(i) Have no sharp points or edges that could injure the dogs.

(ii) Be maintained in a manner to protect the dogs from injury.

(iii) The height of a primary enclosure that is not fully enclosed on the top shall be sufficient to prevent the dog from climbing over the walls.

(iv) Keep animals other than dogs from entering the enclosure.

(v) Enable the dogs to remain dry and clean.

(vi) Provide shelter and protection from temperatures and weather conditions that may be uncomfortable or hazardous to any dog.

(vii) Provide sufficient space to shelter all the dogs housed in the primary enclosure at one time.

(viii) Provide potable water at all times, unless otherwise directed by a veterinarian in a writing that shall be kept in the kennel records.

(ix) Enable all surfaces in contact with the dogs to be readily cleaned and sanitized in accordance with paragraph (14) or be replaceable when worn or soiled.

(x) Have floors that are constructed in a manner that protects the dogs' feet and legs from injury. The floor shall not permit the feet of a dog housed in the primary enclosure to pass through any opening.

(xi) Provide space to allow each dog to turn about freely and to stand, sit and lie in a normal position. The dog must be able to lie down while fully extended without the dog's head, tail, legs, face or feet touching any side of the enclosure.

(xii) The interior height of a primary enclosure shall be at least six inches higher than the head of the tallest dog in the enclosure when it is in a normal standing position.

(3) Each bitch with nursing puppies shall be provided with an additional amount of floor space based on her breed and behavioral characteristics and in accordance with generally accepted husbandry practices as determined by the attending veterinarian. If the additional amount of floor space for each nursing puppy is less than 5% of the minimum requirement for the bitch, the amount of floor space must be approved in writing by the attending veterinarian and shall be kept in the kennel records.

(4) All dogs housed in the same primary enclosure must be compatible, as determined by observation. Not more than six adult dogs may be housed in the same primary enclosure. Bitches in heat may not be housed in the same primary enclosure with sexually mature males, except for breeding. Bitches with litters may not be housed in the same primary enclosure with other adult dogs, and puppies under 12 weeks of age may not be housed in the same primary enclosure with adult dogs, other than the dam or foster dam. Dogs displaying vicious or aggressive behavior toward other dogs must be housed separately.

(4.1) The kennel in which the primary enclosure is located shall establish a veterinarian-client-patient relationship.

(5) The kennel in which the primary enclosure is located shall establish a written program of veterinary care, which shall include a physical examination and vaccination schedule, a protocol for disease control and prevention, pest and parasite control, nutrition and euthanasia. A copy of the program shall be kept in the kennel records.

(6) *Housing facilities for dogs must be sufficiently heated and cooled to protect the dogs from temperature or humidity extremes and to provide for their health and well-being. If dogs are present, the ambient temperature in the facility must not fall below 50 degrees F. The ambient temperature must not rise above 85 degrees F when dogs are present, unless the requirements of paragraph (7) are met.*

(7) *Housing facilities for dogs must be sufficiently ventilated at all times when dogs are present to provide for their health and well-being and to minimize odors, drafts, ammonia levels and to prevent moisture condensation. The Canine Health Board shall determine auxiliary ventilation to be provided if the ambient air temperature is 85 degrees F or higher. The relative humidity must be maintained at a level that ensures the health and well-being of the dogs housed therein. The appropriate ventilation, humidity and ammonia ranges shall be determined by the Canine Health Board.*

(8) *Housing facilities for dogs must be lighted well enough to permit routine inspection and cleaning of the facility and observation of the dogs. Animal areas must be provided a regular diurnal lighting cycle of either natural or artificial light. Lighting must be uniformly diffused throughout housing facilities and provide sufficient illumination to aid in maintaining good housekeeping practices, adequate cleaning and observation of animals at any time and for the well-being of the animals. Primary enclosures must be placed so as to protect the dogs from excessive light. The appropriate lighting ranges shall be determined by the Canine Health Board.*

(9) *The floors and walls of primary enclosures must be impervious to moisture. The ceilings of indoor housing facilities must be impervious to moisture or be replaceable.*

(10) *All dogs must be provided with adequate food that is clean and free from contaminants.*

(11) *All dogs must be removed from the primary enclosure when the primary enclosure is cleaned in accordance with paragraph (14)(iv).*

(12) *Primary enclosures may not be stacked more than two rows high, and the bottom of the uppermost primary enclosure may not be more than four and one-half feet off the housing facility floor. Where the primary enclosures are stacked, a tray or other department-approved device which will prevent urine, feces and other debris from passing into or being discharged into the underlying primary enclosure shall be placed under the upper primary enclosures. The tray or approved device must be impermeable to water and capable of being easily sanitized.*

(13) *All kennels shall be equipped with a smoke alarm and shall have a means of fire suppression, such as fire extinguishers or a sprinkler system on the premises.*

(14) *The following shall apply:*

(i) Excreta, feces, hair, dirt, debris and food waste must be removed from primary enclosures at least daily or more often if necessary to prevent an accumulation of excreta, feces, hair, dirt, debris and food waste to prevent soiling of dogs contained in the primary enclosures and to reduce disease hazards, insects, pests and odors.

(ii) Used primary enclosures and food and water receptacles must be cleaned and sanitized in accordance with this section before they can be used to house, feed or water another dog or grouping of dogs.

(iii) Used primary enclosures and food and water receptacles for dogs must be sanitized at least once every two weeks using one of the methods under subparagraph (iv) and more often if necessary to prevent an accumulation of excreta, feces, hair, dirt, debris, food waste and other disease hazards.

(iv) Hard surfaces of primary enclosures and food and water receptacles must be sanitized using one of the following methods:

(A) Live steam under pressure.

(B) Washing with water with a temperature of at least 180 degrees F and soap or detergent, as with a mechanical cage washer.

(C) Washing all soiled surfaces with appropriate detergent solutions and disinfectant or by using a combination detergent or disinfection product that accomplishes the same purpose with a thorough cleaning of the surfaces to remove excreta, feces, hair, dirt, debris and food waste so as to remove all organic material and mineral buildup and to provide sanitization followed by a clean water rinse.

(v) Primary enclosures, exercise areas and housing facilities using material that cannot be sanitized using the methods under subparagraph (iv) must be made sanitary by removing the contaminated material as necessary to prevent odors, diseases, pests, insects and vermin infestation.

(vi) Premises where primary enclosures are located, including buildings and surrounding grounds, must be kept clean and in good repair to protect the animals from injury, to facilitate the husbandry practices required in this act and to reduce or eliminate breeding and living areas for rodents and other pests and vermin. Premises must be kept free of accumulations of trash, junk, waste products and discarded matter. Weeds, grasses and bushes must be controlled so as to facilitate cleaning of the premises and pest control and to protect the health and well-being of the animals.

(vii) An effective program for the control of insects, external parasites affecting dogs or pests must be established and maintained so as to promote the health and well-being of the dogs and reduce contamination by pests in housing facilities.

(15) For each dog in a kennel, a permanent record shall be kept and made readily available for inspection. The record shall contain all of the following information:

- (i) The date of birth of the dog.**
- (ii) The date of the last rabies vaccination.**
- (iii) The date of the dog's last veterinarian check.**

(16) All veterinarian records shall be kept for two years after the dog has left the care of the facility.

(17) Notwithstanding any law, a dog may not be euthanized except by a veterinarian.

(18) All laws and regulations pertaining to kennel conditions enforced prior to the effective date of this paragraph shall remain in force until the effective date of the remainder of this subsection or of the period of time established by a waiver under subsection (j), whichever is longer. This paragraph shall not apply to paragraph (17).

(i) Additional requirements for Kennel Class C license holders only.—The following shall apply only to dogs over 12 weeks of age in Kennel Class C kennels:

(1) A dog housed in a primary enclosure must be provided a minimum amount of floor space in the primary enclosure, calculated as provided under this subparagraph: Find the mathematical square of the sum of the length of the dog in inches, measured in a straight line from the tip of its nose to the base of its tail, plus six inches, then divide the product by 144, then multiply by 2. The calculation is: (length of dog in inches + 6)(length of dog in inches + 6) = required floor space in square inches. Required floor space in inches/144 x 2 = required floor space in square feet. For the second dog placed in the primary enclosure the minimum floor space shall be doubled. The floor space shall be calculated using the longest dog. For each dog above two, the minimum floor space shall be multiplied by 1.5 per additional dog.

(2) Primary enclosures must be placed no higher than 30 inches above the floor of the housing facility and may not be placed over or stacked on top of another cage or primary enclosure.

(3) (i) The floor of the primary enclosure shall be strong enough so that the floor does not sag or bend between the structural supports, shall not be able to be destroyed through digging or chewing by the dogs housed in the primary enclosure, shall not permit the feet of any dog housed in the primary enclosure to pass through any opening, shall not be metal strand whether or not it is coated, shall allow for moderate drainage of fluids and shall not be sloped more than 0.25 inches per foot.

(ii) Except as set forth in subparagraph (iii), flooring constructed with slats meeting all of the following conditions shall be acceptable:

- (A) Be flat.**

(B) Have spaces between them that are no more than 0.5 inch in width.

(C) Have spaces between them that run the length or the width of the floor, but not both.

(D) Be no less than 3.5 inches in width.

(E) Be level with the slat next to it within a single primary enclosure.

(iii) Additional flooring options that meet the provisions of subparagraph (i) may be approved by the Canine Health Board.

(4) Except as provided in paragraph (5), each primary enclosure shall have an entryway that will allow the dog unfettered clearance out of the enclosure to an exercise area under paragraph (6) unless the enclosure is closed for active cleaning under subsection (h)(11) or by order of a veterinarian under paragraph (6)(xi).

(5) The Canine Health Board established in section 221 may, upon a request from a kennel owner, provide on a case-by-case basis for an alternative means of allowing clearance from a primary enclosure to the exercise area or exercise that is required in paragraphs (4) and (6)(i) if the kennel owner presents the board with a plan that the board determines is verifiable, enforceable and provides for exercise equal to or greater than that which the dogs would receive under paragraphs (4) and (6)(i). The board shall meet within 60 days of a request submitted or sooner if necessary.

(6) Exercise requirements shall be as follows:

(i) Except as provided in paragraph (5), the exercise area must allow for unfettered clearance for dogs from their primary enclosure.

(ii) The exercise area must be at least twice the size of the primary enclosure under paragraph (1).

(iii) The exercise area must have adequate means to prevent dogs from escaping.

(iv) The exercise area fencing must be kept in good repair and be free of rust, jagged edges or other defects that could cause injury to the dogs.

(v) The exercise area shall be cleaned in accordance with the requirements under subsection (h)(14).

(vi) Dogs must not be placed in the area in a manner that would cause injury to the dogs.

(vii) Compatible dogs, as determined under subsection (h)(4), may be exercised together.

(viii) Nursing bitches and their puppies shall be exercised separately from other dogs.

(ix) The exercise area must be on ground level, and the ground of the exercise area must be solid and maintainable. Surfaces such as gravel, packed earth and grass which are solid and maintainable may be utilized.

(x) (A) Except as provided under clause (B), the exercise area must be outdoors.

(B) Any licensed kennel operating as of the effective date of this clause, where local zoning or other ordinance requirements or a decision of the applicable zoning hearing board or other municipal body with jurisdiction prohibits further expansion of the kennel use to include the required outdoor exercise area, may apply to the department within 180 days after the effective date of this clause for approval to construct the required exercise area indoors. The department shall notify the applicant by certified mail of approval or disapproval within 30 days of receipt of the application. The department shall not require that the licensed kennel appeal the decision of a zoning hearing board or other municipal body with jurisdiction to interpret a local ordinance as a condition of application or approval. Denial by the department of an application for an indoor exercise area shall be appealable in the same manner and according to the same procedures set forth under section 211(c). While an appeal is pending and until final conclusion of the appeal, the kennel shall not be considered in violation of this act for failure to have the required exercise area. The required exercise area shall be constructed within 90 days of the final conclusion of an appeal under this clause or within one year of the effective date of this clause, whichever is later.

(xi) If, in the opinion of the veterinarian, it is inappropriate for a dog to exercise because of its health, condition or well-being, this paragraph shall not apply with respect to that dog. Such a determination must be documented by the veterinarian and, unless the basis for determination is a permanent condition, shall be reviewed at least every 30 days by the veterinarian and updated as necessary. Records of determinations shall be maintained by the kennel.

(xii) Forced exercise methods or devices such as swimming, treadmills or carousel-type devices shall not meet the exercise requirements of this paragraph.

(7) Rabies vaccinations may only be administered by or under the supervision of a veterinarian.

(8) A dog shall be examined by a veterinarian at least once every six months. During the examination, the veterinarian shall use appropriate methods to prevent, control, diagnose and treat diseases and injuries.

(9) (Reserved).

(j) Waiver.—

(1) The secretary may waive the applicability of subsection (h)(1) through (16) and (i) if one of the following subparagraphs applies:

(i) The kennel owner:

(A) has not been convicted of, pled guilty to or pled no contest to a violation under this act within the three years preceding the effective date of this subsection; and

(B) has made substantial structural improvements to the housing facility of the kennel within the three years prior to the effective date of this subsection.

(ii) The kennel owner:

(A) has not been convicted of, pled guilty to or pled no contest to a violation under this act within the three years preceding the effective date of this subsection;

(B) is making a good faith effort to comply with the requirements of this act but is not in compliance because of a circumstance beyond the kennel owner's control; and

(C) makes a showing of reasonable expectation that compliance can be achieved through the granting of an extension as determined by the secretary.

(2) A waiver under paragraph (1)(i) shall apply for the lesser of:

(i) the time set by the secretary; or

(ii) three years.

(3) A waiver under paragraph (1)(ii) shall apply for the time set by the secretary.

(4) A waiver may be only granted under paragraph (1)(i) or (ii), but not both.

(5) A kennel owner must make an application under this subsection to the department in a manner prescribed by the department within one year of the effective date of this subsection, except that the secretary may consider a request for an extension of a waiver previously granted under paragraph (1)(ii) after this time period.

Section 5. Section 209 of the act, amended December 11, 1996 (P.L.943, No.151), is amended to read:

Section 209. **[Out-of-state dealer]** *Dealer* license; application; fee; prohibitions.

(a) *Out-of-state dealers.*—All out-of-state dealers shall on or before January 1 of each year, apply to the secretary for an out-of-state dealer license. The fee for such license shall be \$300, plus appropriate kennel license fees required under section 206. All fees collected under this section shall be remitted to the State Treasury for credit to the Dog Law Restricted Account. All licenses under this section shall expire upon December 31 of the year for which the license was issued. The forms for the application and license shall be approved by the secretary **[through regulations]**.

(a.1) In-state dealers.—

(1) Except as set forth in paragraph (2), a dealer residing in this Commonwealth must, by January 1 of each year, obtain a license from the department. A dealer license shall expire on December 31 of the year for which it was issued. The license fee for a dealer license shall be

the same as the license fee established for Kennel Classes C-I through C-VI as calculated based on the number of dogs sold, offered for sale or maintained by the applicant. It shall be unlawful for a person to sell or offer for sale a dog belonging to another for a fee or commission or maintain a dog at retail or wholesale for resale to another without obtaining a dealer license or a dealer kennel license from the department.

(2) This subsection shall not apply to a person that secures a dealer kennel license from the department under section 206.

(b) Unlawful acts.—It shall be unlawful for out-of-state dealers to [transport dogs] *sell, exchange, negotiate, barter, give away or solicit the sale, resale, exchange or transfer of a dog or transport a dog* into or within the Commonwealth or to operate or maintain a dealer kennel or to deal in any manner with dogs without first obtaining an out-of-state dealer license from the department. *It shall be unlawful for a kennel licensed under this act to knowingly accept, receive, buy, barter or exchange a dog with an unlicensed out-of-state dealer for resale. A conviction for a violation of this section shall result in a penalty as determined under section 903(c). Each transaction for each dog shall constitute a separate violation.*

(c) *List of out-of-state dealers.—The department shall annually provide to licensed kennels a list of licensed out-of-state dealers. If a kennel wants to conduct business with an out-of-state dealer not listed on the list, the kennel must first obtain written approval from the department.*

Section 6. Section 210 of the act is amended to read:

Section 210. Bills of sale.

All owners or operators of kennels described in section 206, and all out-of-state dealers shall be required to have in their possession a bill of sale for each dog purchased [or transported], except for dogs delivered to the kennel licensee for purposes of boarding or for dogs whelped at the kennel. Any bill of sale *or record* which is fraudulent or indicates the theft of any dog, shall be prima facie evidence for the immediate revocation of license *and imposition of fines and penalties* by the secretary. The bill of sale shall contain information required by the secretary through regulations. *For each dog transferred by a manner other than sale by a kennel described in section 206 or an out-of-state dealer, a record of the transaction shall be kept. The bill of sale or record shall include the current and valid kennel license number of the kennel or out-of-state dealer that sold, exchanged, bartered, gave away or transferred the dog and any other information required by the secretary. The bill of sale or record shall be kept for two years.*

Section 7. Section 211 of the act, amended December 11, 1996 (P.L.943, No.151), is amended to read:

Section 211. Revocation[, **suspension**] or refusal of kennel licenses.

(a) General powers of secretary.—*The secretary shall revoke a kennel license, dealer license or out-of-state dealer license if a licensee is*

convicted of a violation of 18 Pa.C.S. § 5511 (relating to cruelty to animals) or of substantially similar conduct pursuant to a cruelty law of another state. The secretary shall not issue a kennel license, dealer license or out-of-state dealer license to a person that has been convicted of a violation of 18 Pa.C.S. § 5511 within the last ten years. The secretary may revoke or [suspend a kennel license or out-of-state dealer license or] refuse to issue a kennel license, *dealer license* or out-of-state dealer license for any one or more of the following reasons:

(1) the person holding or applying for a license has made a material misstatement or misrepresentation in the license application;

(2) the person holding or applying for a license has made a material misstatement or misrepresentation to the department or its personnel regarding a matter relevant to the license;

(3) the person holding or applying for a license has [been convicted of any violation of] *failed to comply with* this act;

(4) the person holding or applying for a license has failed to comply with any regulation promulgated under this act; [or]

(5) the person holding or applying for a license has been convicted of any law relating to cruelty to animals[,] *and the conviction is more than ten years old, if there is evidence the person has not been rehabilitated and granting a license would jeopardize the health, safety and welfare of the dogs;*

(6) *the person holding or applying for a license has been convicted of a felony;*

(7) *the person holding or applying for a license has:*

(i) *within the last ten years, been found to have violated section 9.3 of the act of December 17, 1968 (P.L.1224, No.387), known as the "Unfair Trade Practices and Consumer Protection Law," or been required to cease and desist from operating a kennel or owning, selling or caring for dogs, or both; or*

(ii) *within the last ten years, entered into an agreement with the Office of Attorney General which requires the person to cease and desist from operating a kennel or owning, selling or caring for dogs, or both;*

(8) *the location of the kennel for which the license is sought is subject to a final, binding order, which is not subject to a pending legal challenge, declaring the kennel is not a permitted use under the applicable zoning ordinance;*

(9) *the person holding or applying for a license has acted or is acting in concert with a person who has violated the act of December 15, 1986 (P.L.1610, No.181), known as the "Rabies Prevention and Control in Domestic Animals and Wildlife Act";*

(10) *the person holding or applying has had a kennel license, dealer license or out-of-state dealer license refused or revoked within the past ten years; or*

(11) the person holding or applying for a license has a person who does or will play a role in the ownership of the kennel or caring for the dogs, and such other person would be refused a license if that person had been the applicant. A role shall include ownership of a financial interest in the kennel operation, caring for the dogs or participation in the management of the kennel.

(a.1) Factors to consider.—In determining whether to revoke or refuse a kennel license, dealer license or out-of-state dealer license for a misstatement as set forth under subsection (a)(1) or (2), the secretary shall consider the gravity of the misstatement. In determining whether to revoke or refuse an existing kennel license, dealer license or an out-of-state dealer license for a failure to comply with a provision of the act or regulations promulgated under it as set forth under paragraph (3) or (4), the secretary shall consider the following factors:

(1) The gravity of the violation.

(2) The number of current or past violations.

(3) The potential effect of the violation on the health or welfare of a dog.

(4) Whether the kennel has been warned previously to correct the violation.

(5) Whether the violation resulted in a criminal conviction.

(6) The length of time that has elapsed between violations.

(b) Notice of action.—

(1) The secretary shall provide written notice of a kennel license, dealer license or an out-of-state dealer license revocation, suspension or refusal to the person whose license is revoked, suspended or refused. The notice shall set forth the general factual and legal basis for the action and shall advise the affected person that within ten days of receipt of the notice he may file with the secretary a written request for an administrative hearing. The hearing shall be conducted in accordance with 2 Pa.C.S. (relating to administrative law and procedure).

(2) Written notice of revocation, suspension or refusal shall be served by personal service or by registered or certified mail, return receipt requested, to the person or to a responsible employee of such person whose license is revoked, suspended or refused. Revocation or [suspension shall commence upon service of the written notice.

(c) Seizure and constructive seizure.— refusal shall be effective upon the expiration of the ten-day period for requesting an administrative hearing, unless a timely request for a hearing has been filed with the department.

(c) Administrative process.—

[(1) Whenever the secretary revokes, suspends or refuses a kennel license or an out-of-state dealer license, the department may seize and impound any dog in the possession, custody or care of the person whose license is revoked, suspended or refused if there are reasonable

grounds to believe that the dog's health, safety or welfare is endangered. Reasonable costs of transportation, care and feeding of a seized and impounded dog shall be paid by the person from whom the dog was seized and impounded.

(2) (i) If the person whose kennel license or out-of-state dealer license is revoked, suspended or refused and whose dog has been seized and impounded provides the secretary with satisfactory evidence or assurances that the dog will receive adequate care and has paid all costs of transportation, care and feeding related to the seizure and impoundment of the dog, the person may retrieve the seized and impounded dog.

(ii) If the owner of a seized and impounded dog is someone other than the person from whom the dog was seized and impounded, the dog owner may retrieve his dog from impoundment upon payment of all transportation, care and feeding costs applicable to the dog. The person from whom the dog was seized and impounded shall be responsible to reimburse the dog owner for the transportation, care and feeding costs.

(3) The secretary shall allow a dog to remain in the physical possession, custody or care of the person whose kennel license or out-of-state dealer license is revoked, suspended or refused upon any one or more of the following findings:

(i) if the secretary has no reasonable grounds to believe that the health, safety or welfare of the dog is endangered; or

(ii) the person whose license is revoked, suspended or refused has provided satisfactory evidence or assurances that the dog will receive adequate care.

(4) Ownership of a dog which has been seized and impounded or which is under constructive seizure may be forfeited upon the written request of its owner.

(5) The secretary may direct that ownership of a particular dog which is seized and impounded pursuant to paragraph (1) is to be forfeited. The department shall serve the owner of the affected dog with written notice of forfeiture. The notice shall indicate that ownership of the dog in question may be forfeited to some entity other than the department. Notice of forfeiture shall be served by personal service or by registered or certified mail, return receipt requested, to the owner of the affected dog or a responsible person at the kennel from which the dog was seized and impounded. The notice shall specify an effective date of forfeiture which shall be not less than ten days from service of the notice. The notice shall further inform the dog owner of his right to request an administrative hearing on the issue of forfeiture by delivering a written request to the department prior to the date of forfeiture. A written hearing request shall act as a supersedeas of the forfeiture action. At the

administrative hearing, the department shall have the burden of proving that the affected dog owner did not adequately care for the subject dog, or that no satisfactory evidence or assurances have been given to the department that the subject dog will be adequately cared for if it is returned to the owner, or that the owner has abandoned the subject dog. Abandonment shall be presumed if an owner fails to make timely payment of reasonable costs of transportation, care and feeding of the seized and impounded dog after two written requests to do so have been served by personal service or registered or certified mail, return receipt requested, upon a responsible person at the kennel in question or to the dog owner.

(d) Reimbursement of transportation, care and feeding costs.—A person described in subsection (c)(1) and (2) who has paid transportation, care and feeding costs with respect to a dog seized under this section may make application to the department for reimbursement of the costs if all persons cited or charged with violations of this act as the result of the conditions at the kennel at issue are acquitted of all charges or violations.

(e) Department as guarantor of payment of certain costs.—A kennel at which a dog is impounded by the department under the authority of this section shall be compensated from the Dog Law Restricted Account in the amount of \$5 per dog for each day or portion thereof that the dog is held at the kennel if:

(1) the kennel has attempted, without success, to obtain payment for transportation, care and feeding costs from the owner of the dog and the owner of the kennel from which the dog was seized and impounded; and

(2) the kennel makes written application to the department, setting forth the amount sought, details of a good faith attempt at obtaining payment of the costs from the dog owner and the kennel owner and the dates and number of dogs justifying the amount sought.

(f) Prohibition.—No dog seized under this section shall be sold or given freely for the purpose of vivisection or research or be conveyed in any manner for these purposes or be conveyed to a dealer.]

(1) If the secretary revokes or refuses a kennel license, dealer license or an out-of-state dealer license, a person whose license revocation or refusal has become effective shall comply with all of the following:

(i) Immediately cease and desist from operating a kennel, including boarding, buying, exchanging, selling, offering for sale, giving away or in any way transferring dogs.

(ii) Acquire no additional dogs nor increase the number of dogs in the kennel by any means, including breeding. This subparagraph does not apply to an acquisition or increase by birth of puppies from a mother which, at the time of revocation or refusal was:

- (A) on the property;*
- (B) pregnant; and*
- (C) owned by the kennel or the kennel owner.*

(iii) Notify the department prior to the euthanization of any dog. No dog may be euthanized unless it is determined by a veterinarian that the euthanasia will prevent the dog from suffering caused by a medical condition. If a veterinarian determines a dog should be euthanized, a copy of the veterinarian's findings, signed by the veterinarian, must be provided to the department. The provisions of this subparagraph do not apply to an emergency situation if it is deemed by the veterinarian that immediate euthanasia is necessary to relieve the suffering of the dog. Following euthanasia in an emergency situation, a copy of the veterinarian's findings must be signed by the veterinarian and provided to the department.

(iv) Permit State dog wardens to inspect the kennel without a warrant in order to determine compliance with the department's order, any relevant court order and any provision of this act.

(v) Divest of all dogs over 25, unless directed otherwise by the department or court order, within a reasonable time period as determined by the department, but not to exceed ten days. The department's notice of revocation or refusal shall set forth the manner by which the kennel owner may divest of the dogs. If there are more dogs on the premises than permitted in the department or court order after the expiration of the time period set forth in the order, the kennel may select the dogs to be kept, up to the number allowed under this subparagraph. The dogs not selected shall be forfeited to the entity set forth in the department or court order or to an entity approved by the department without compensation to the owner.

(2) The following apply to appeals:

(i) This paragraph applies to a person whose license is refused or revoked and who:

- (A) has timely filed a request for an administrative appeal; and*
- (B) would continue to require a kennel license under this act, pending the exhaustion of all administrative appeals.*

(ii) A person subject to subparagraph (i) shall:

- (A) be considered to be operating under suspension;*
- (B) receive notice from the department of the license being suspended; and*

(C) during the duration of all administrative appeals, and thereafter if the department's action is upheld, be subject to the requirements set forth in paragraph (1)(i), (ii), (iii) and (iv).

(iii) Within ten days after the exhaustion of an administrative appeal under subparagraph (i)(A) in which the department's action

is upheld, the kennel shall reduce the number of dogs under paragraph (1)(v).

(3) Failure to take action or to meet the conditions imposed under this subsection, in addition to any other penalties allowed under this act, may result in imposition by the department of an administrative penalty of not less than \$100 nor more than \$500 per day for each violation. Each dog in excess of the number of dogs permitted under subparagraph (1)(v) or (2)(iii) shall count as one violation.

(4) Any violation of this subsection shall constitute a misdemeanor of the third degree.

(d) Seizure of dogs.—

(1) After service of an order under subsection (b) or section 207(a.3) or during the duration of an administrative appeal under subsection (c)(2) or section 207(a.3)(2), the department may order the seizure of any dog from that kennel if the department determines, based on the conditions found at that kennel, there are reasonable grounds to believe the dog's health, safety or welfare is endangered because of neglect of duty of care, deprivation of necessary sustenance, water, shelter or veterinary care or access to clean and sanitary shelter which will protect the animal against inclement weather and preserve the animal's body heat and keep it dry or other conditions which a veterinarian determines pose a serious health risk to the dog. The seizure may occur immediately upon notice, whether personal or otherwise, and shall be followed by service of the order.

(2) The order of seizure shall set forth the general factual and legal basis for the action taken and shall advise the kennel owner that, within ten days of receipt, the kennel owner may file with the secretary a written request for an administrative hearing subject to bonding requirements of this section. The order shall be served by personal service or by registered or certified mail, return receipt requested, to the kennel owner affected or to a responsible employee of such kennel owner. The department order shall become final upon the expiration of the ten-day period for requesting an administrative hearing, unless a timely request for a hearing has been filed with the secretary.

(3) The written request for a hearing must be filed by the affected kennel owner with the secretary within ten days of receipt of the order of seizure or such order shall become final. The request for a hearing shall set forth the factual and legal grounds upon which the request is based. A hearing on the matter shall be held in accordance with 2 Pa.C.S. (relating to administrative law and procedure). The issue on appeal shall be limited to whether the department order was justified under paragraph (1).

(4) If the department's order has become final or after the exhaustion of any administrative appeals, in cases where the department's action is upheld, the dogs seized under the order shall be

forfeited to the entity set forth in the department's order or to an entity approved by the department without compensation to the owner.

(e) Bonding requirements.—The following shall apply to bonding requirements:

(1) If dogs are seized from a kennel under this act and an administrative appeal is filed, within ten days of filing the appeal, the owner of the licensed or unlicensed kennel shall either:

(i) post a surety bond in the amount determined by the department applying the criteria set forth in paragraph (2); or

(ii) deposit a sum of money not to exceed 10% of the amount of the surety bond determined by the department applying the criteria set forth in paragraph (2).

(2) The amount of the surety bond shall be based on the number of dogs seized and shall be equal to the estimated cost of transportation, care and feeding, pursuant to removal and impoundment, for a period of 31 days.

(2.1) Any surety bond posted pursuant to paragraph (1)(i) shall be payable to the Commonwealth of Pennsylvania, Department of Agriculture, Bureau of Dog Law Enforcement. The department shall remit such funds to the entity holding the dogs.

(2.2) Any deposit pursuant to paragraph (1)(ii) shall be held by the Department of Agriculture, Bureau of Dog Law Enforcement, until after the appeal. If, after the appeal, the dogs are not placed under the care of the owner from which they were seized, the department shall be entitled to keep the deposit and collect from the owner the remainder of the amount determined by the department applying the criteria set forth in paragraph (2).

(3) If, after appeal, the dogs are placed under the care of the owner from which they were seized, the department shall reimburse the owner for the deposit or the reasonable costs of the bond incurred under this subsection.

(4) The department shall guarantee payment of any difference in the amount paid to the holding entity and the amount owed under paragraph (2). The department may refer the matter to the Attorney General who may initiate an action in the appropriate court to recover the amount paid under this paragraph.

(f) Prohibitions.—No dog removed under this section may be:

(1) sold or given freely for the purpose of vivisection, auction or research;

(2) conveyed in any manner for purposes of vivisection, auction or research;

(3) conveyed to a dealer;

(4) sold to pay the costs of their transportation, care and feeding under this section before the issuance of a final order and the exhaustion of all appeals; or

(5) spayed or neutered before the issuance of a final order and the exhaustion of all appeals.

Section 8. Section 213 of the act is amended to read:

Section 213. Transportation of dogs.

It shall be unlawful for any dog required to be licensed as hereinbefore provided, to be transported for any purpose without a current license tag firmly attached to a collar or harness securely fastened to the dog except when a dog is being transported for law enforcement **[or]**, *to receive veterinary care pursuant to an order of the secretary for humane purposes[.] or by the owner to or from a hunt, show, performance event, field trial or commonly accepted training practice involving hunting dogs and dogs that participate in such events.* All vehicles being used to transport dogs are subject to inspection and must meet requirements for such transportation through regulations as promulgated by the secretary.

Section 9. Sections 214, 218 and 219 of the act, amended or added December 11, 1996 (P.L.943, No.151), are amended to read:

Section 214. Health certificates for importation.

It shall be **[unlawful] a violation of this act** to transport any dog into this Commonwealth except under the provisions in section 212 without a certificate of health prepared by a licensed doctor of veterinary medicine, which certificate, or copy of such, shall accompany **[such] the** dog while in this Commonwealth. **[Such] The** certificate shall state that the dog is at least **[seven] eight** weeks of age and shows no signs or symptoms of infectious or communicable disease; did not originate within an area under quarantine for rabies; and, as ascertained by reasonable investigation, has not been exposed to rabies within 100 days of importation. All dogs must have been vaccinated for rabies in accordance with the act of December 15, 1986 (P.L.1610, No.181), known as the "Rabies Prevention and Control in Domestic Animals and Wildlife Act." The name of the vaccine manufacturer, the date of administration, and the rabies tag number must appear on health certificates prepared by a licensed doctor of veterinary medicine.

Section 218. Inspections **[of premises and dogs]**.

(a) Premises and dogs.—State dog wardens and other employees of the department are hereby authorized to inspect all *licensed* kennels **[and]**, *all* dogs within the Commonwealth *and all unlicensed establishments which are operating as a kennel as defined by section 206. For purposes of inspection, a State dog warden and other full-time employees of the department shall be authorized* to enforce the provisions of this act and regulations promulgated by the department **[pursuant to] under** this act. State dog wardens and employees of the department shall inspect all licensed kennels within the Commonwealth at least **[once] twice** per calendar year to enforce the provisions of this act and regulations promulgated by the department under this act. State dog wardens and only regular, full-time employees of the department shall be authorized to enter upon the premises of approved medical, dental or veterinary schools, hospitals, clinics or other

medical or scientific institutions, organizations or persons where research is being conducted or where pharmaceuticals, drugs or biologicals are being produced. [Research facilities in the Commonwealth that are currently under Federal Government inspection shall be exempt from State inspection if they have undergone no less than one Federal Government inspection within the past 12 months. Submission of such evidence of Federal inspection by documentation to the department may be established by regulation subject to legislative review.] It shall be unlawful for any person to refuse admittance to such State dog wardens and employees of the department for the purpose of making inspections and enforcing the provisions of this act.

(b) Records.—State dog wardens and other employees of the department shall be authorized to inspect the records required under this act of all licensed and unlicensed kennels.

(c) Search warrant.—State dog wardens and other employees of the department may apply for a search warrant to any court of competent jurisdiction authorized to issue a search warrant for the purposes of inspecting or examining any kennel or for the purpose of removing any dog under section 207 or 211. The warrant shall be issued upon probable cause. It shall be sufficient probable cause to show any of the following:

(1) That, in cases involving kennels other than private kennels, the State dog warden or an employee of the department has been refused entry as defined under section 220(a) for an inspection or examination of the kennel.

(2) The State dog warden or employee of the department has reasonable grounds to believe that a violation of this act or the regulations promulgated under the authority of this act has occurred.

(d) Results of inspection.—Only employees of the department who have received the training required under section 901(b) may issue reports of the inspection.

Section 219. Additional duties of the department.

(a) Enforcement of licensure requirement; development of plan.—By no later than June 30, 1997, the department shall develop and begin to implement a written plan to increase the number of dog licenses issued in this Commonwealth. Such plan shall be developed in consultation with the several counties and municipalities which enforce the provisions of this act and in consultation with the Dog Law Advisory Board and shall at least include methodology for increasing the number of dog licenses issued and assuring the annual renewal of such licenses. The methodology may include the periodic use of public service advertisements, newspaper advertisements, school and special events-based educational programs conducted in conjunction with counties and organizations concerned with the humane care and treatment of dogs, and literature designed to increase awareness of this act which may be provided to purchasers of dogs at the point of sale.

(b) Analysis of plan; report.—By no later than June 30, 1998, *and annually thereafter*, the department shall submit to the chairperson and minority chairperson of the Agriculture and Rural Affairs Committee of the Senate and the chairperson and minority chairperson of the Agriculture and Rural Affairs Committee of the House of Representatives a report analyzing the activities adopted by the department to implement the plan and the results of such activities.

Section 10. The act is amended by adding sections to read:

Section 220. Refusal of entry.

(a) *Violation.*—It shall be a violation of this act if a kennel refuses entry to an agent of the Commonwealth acting to enforce this act. The term “refusal of entry” shall include any of the following:

- (1) Preventing an agent from entering the establishment.
- (2) Preventing an agent from inspecting a dog.
- (3) Hiding a dog from an agent.
- (4) An act or omission that prevents an agent from gaining entry to the establishment.

(b) *Order of inspection.*—When a State dog warden or employee of the department attempts a kennel inspection in a building and no person is present to grant him access, a State dog warden or employee of the department may post an order on an entrance to the building demanding access to the building within 36 hours. Failure to permit an inspection within the 36-hour time period indicated in the order that was posted shall be a violation of this act and shall constitute a refusal of entry for purposes of subsection (a), unless there are no dogs at the kennel or the kennel owner and the dog warden or employee of the department who posted the order agrees within the 36-hour time period indicated in the order that was posted to permit an inspection at a time agreed to by both parties.

(c) *Affirmative defense.*—It shall be an affirmative defense to subsection (b) that there were no dogs in the kennel at the time the order was posted.

Section 221. Canine Health Board.

(a) *Establishment.*—The Canine Health Board is established.

(b) *Membership.*—The board shall be comprised of veterinarians with expertise in small animal medicine and in the caring for and treating of canines. The board shall be appointed as follows:

- (1) Three members appointed by the Governor.
- (2) One member appointed by the President pro tempore of the Senate.
- (3) One member appointed by the Minority Leader of the Senate.
- (4) One member appointed by the Majority Leader of the House of Representatives.
- (5) One member appointed by the Minority Leader of the House of Representatives.

(6) One member appointed by the President of the Pennsylvania Veterinary Medical Association.

(7) One member appointed by the Dean of the University of Pennsylvania's School of Veterinary Medicine.

(c) Chairman.—The chairman of the board shall be selected by the Governor.

(d) Term.—Members shall be appointed to four-year terms, except that the initial terms for legislative appointees shall be for two years.

(e) Quorum.—A quorum shall consist of at least five members of the board who must be present to make decisions. Decisions shall be made by majority vote of a quorum of members. There shall be no proxy voting.

(f) Purpose.—The board shall determine the standards based on animal husbandry practices to provide for the welfare of dogs under section 207(h)(7) and (8) and (i)(3).

(g) Temporary guidelines and regulations.—The board shall issue temporary guidelines under this section within 45 days of their first meeting, which shall take place within 30 days of the effective date of this section. The temporary guidelines shall be published in the Pennsylvania Bulletin. The department shall promulgate the temporary guidelines as a regulation concurrently with publication in the Pennsylvania Bulletin.

(h) Administrative support.—Administrative support shall be provided by the department.

(i) Compensation.—Members of the board shall not be compensated for their service as board members but shall be reimbursed for reasonable expenses.

Section 11. The heading of Article III of the act is amended to read:

ARTICLE III

QUARANTINES, DOGS AT LARGE, CONFINEMENT

Section 12. Section 302 of the act, amended December 11, 1996 (P.L.943, No.151), is amended to read:

Section 302. Seizure and detention of dogs; costs; destruction of dogs.

(a) General rule.—It shall be the duty of every police officer, State dog warden, employee of the department or animal control officer to seize and detain any dog which is found running at large, either upon the public streets or highways of the Commonwealth, or upon the property of a person other than the owner of [such] *the* dog, and unaccompanied by the owner or keeper. Every police officer, State dog warden, employee of the department or animal control officer may humanely kill any dog which is found running at large and is deemed after due consideration by the police officer, State dog warden, employee of the department or animal control officer to constitute a threat to the public health and welfare.

(b) Licensed dogs.—The State dog warden or employee of the department, the animal control officer, or the chief of police or his agents of any city, borough, town or township, the constable of any borough and the

constable of any incorporated town or township shall cause any dog bearing a proper license tag or permanent identification and so seized and detained to be properly kept and fed at any licensed kennel approved by the secretary for **[such] those** purposes and shall cause immediate notice, by *personal service* or registered or certified mail with return receipt requested, to the *last known address, which shall be set forth in the license application record, of the* person in whose name the license was procured, or his agent, to claim **[such] the** dog within five days after receipt thereof. The owner or claimant of a dog so detained shall pay a penalty of **[\$15] \$50** to the political subdivision whose police officers make **[such] the** seizures and detention and all reasonable expenses incurred by reason of its detention to the detaining parties before the dog is returned. If five days after obtaining the postal return receipt, **[such] the** dog has not been claimed, such chief of police, or his agent, or a constable, or State dog warden or employee of the department shall dispense **[such] the** dog by sale or by giving it to a humane society or association for the prevention of cruelty to animals. No dog so caught and detained shall be sold for the purpose of vivisection, or research, or be conveyed in any manner for these purposes. All moneys derived from the sale of **[such] the** dog, after deducting the expenses of its detention, shall be paid through the Department of Agriculture to the State Treasurer for credit to the Dog Law Restricted Account.

(c) **Unlicensed dogs.**—Except as otherwise provided by section 305, any police officer, State dog warden, employee of the department or animal control officer shall cause any unlicensed dog to be seized, detained, kept and fed for a period of 48 hours at any licensed kennel approved by the secretary for **[such] those** purposes, except any dog seriously ill or injured or forfeited with the owner's permission. *The 48-hour period shall not include days the approved kennel is not open to the general public.* Any person may view **[such] the** detained dogs during normal business hours. Any unlicensed dog remaining unclaimed after 48 hours may be humanely killed or given to a humane society or association for the prevention of cruelty to animals. No dog so caught and detained shall be sold for the purpose of vivisection, or research, or be conveyed in any manner for these purposes.

Section 13. Section 305 of the act is amended to read:

Section 305. Confinement *and housing* of dogs *not part of a kennel*.

(a) **Confinement and control.**—It shall be unlawful for the owner or keeper of any dog to fail to keep at all times **[such dog either] the dog in any of the following manners:**

- (1) confined within the premises of the owner;
- (2) firmly secured by means of a collar and chain or other device so that it cannot stray beyond the premises on which it is secured; or
- (3) under the reasonable control of some person, or when engaged in lawful hunting, exhibition, *performance events* or field training.

(b) **Housing.**—*It shall be unlawful for the owner or keeper of a dog to house the dog for any period of time in a drum, barrel, refrigerator or*

freezer regardless of the material of which the drum, barrel, refrigerator or freezer is constructed.

Section 14. Sections 502 and 502-A of the act, amended December 11, 1996 (P.L.943, No.151), are amended to read:

Section 502. Dog bites; detention and isolation of dogs.

(a) Confinement.—Any dog which bites or attacks a human being shall be confined in quarters approved by a designated employee of the Department of Health, a State dog warden or employee of the Department of Agriculture, an animal control officer or a police officer. [Such] *The* dog may be detained and isolated in an approved kennel or at the dog owner's property *or at another¹ location approved by the investigating officer.* Where [such] *the* dog is detained is at the discretion of the investigating officer. All dogs so detained must be isolated for a minimum of ten days. Any costs incurred in the detaining and isolation of [such] *the* dog shall be paid by the offending dog's owner *or keeper or both.* [When] *If* the dog's owner *or keeper* is not known, the Commonwealth is responsible for all reasonable costs for holding and detaining [such] *the* dog.

(b) Bite victims.—*The following shall apply:*

(1) The investigating officer shall be responsible for notifying the bite victim of the medical results of the offending dog's confinement. Any cost to the victim for medical treatment resulting from an attacking or biting dog must be paid fully by the owner *or keeper* of [such] *the* dog. The Commonwealth shall not be liable for medical treatment costs to the victim.

(2) (i) *For the purpose of this subsection, the term "medical results of the offending dog's confinement" shall mean, except as provided in subparagraph (ii), information as to whether the quarantined dog is still alive and whether it is exhibiting any signs of being infected with the rabies virus.*

(ii) *If a nonlethal test for rabies is developed, the term shall mean the results of the test and not the meaning given in subparagraph (i).*

(c) Exception.—When a dog that bites or attacks a human being is a service dog or a police work dog in the performance of duties, [said] *the* dog need not be confined if it is under the active supervision of a licensed doctor of veterinary medicine.

Section 502-A. [Registration] *Court proceedings, certificate of registration and disposition.*

(a) Summary offense of harboring a dangerous dog.—Any person who has been attacked by one or more dogs, or anyone on behalf of [such] *the* person, a person whose domestic animal, *dog or cat* has been killed or injured without provocation, the State dog warden or the local police officer may file a complaint before a [district justice] *magisterial district judge*, charging the owner or keeper of [such] *the* a dog with harboring a dangerous

¹“or to another” in enrolled bill.

dog. The owner or keeper of the dog shall be guilty of the summary offense of harboring a dangerous dog if the **[district justice] magisterial district judge** finds beyond a reasonable doubt that the following elements of the offense have been proven:

- (1) The dog has done **[one or more] any** of the following:
 - (i) Inflicted severe injury on a human being without provocation on public or private property.
 - (ii) Killed or inflicted severe injury on a domestic animal, **dog or cat** without provocation while off the owner's property.
 - (iii) Attacked a human being without provocation.
 - (iv) Been used in the commission of a crime.
- (2) The dog has either or both of the following:
 - (i) A history of attacking human beings and/or domestic animals, **dogs or cats** without provocation.
 - (ii) A propensity to attack human beings and/or domestic animals, **dogs or cats** without provocation. A propensity to attack may be proven by a single incident of the conduct described in paragraph (1)(i), (ii), (iii) or (iv).
- (3) The defendant is the owner or keeper of the dog.

(a.1) Effect of conviction.—A finding by a **[district justice] magisterial district judge** that a person is guilty under subsection (a) of harboring a dangerous dog shall constitute a determination that the dog is a dangerous dog for purposes of this act.

(b) Report of conviction.—The **[district justice] magisterial district judge** shall make a report of a conviction under subsection (a) to the Bureau of Dog Law Enforcement, identifying the convicted party, identifying and describing the dog or dogs and providing **[such]** other information as the bureau might reasonably require.

(c) Certificate of registration required.—It is unlawful for an owner or keeper to have a dangerous dog without a certificate of registration issued under this article. This article shall not apply to dogs used by law enforcement officials for police work, certified guide dogs for the blind, hearing dogs for the deaf nor aid dogs for the handicapped.

(d) Disposition of dog during court proceedings.—An owner or keeper of any dog who has been charged with harboring a dangerous dog shall keep **[such] the** dog or dogs confined in a proper enclosure or, when off the property of the owner or keeper for purposes of veterinary care, muzzled and on a leash until **[such] the** time a report is made under subsection (b). If an appeal of a decision under subsection (b) is filed, **[such] the** dog or dogs shall remain so confined until **[such] the** proceedings are completed. It shall be unlawful for an owner or keeper of a dog who has been charged with harboring a dangerous dog to dispense, **move, sell, offer to sell, give away or transfer** the dog in any manner except to **[be] have it** humanely killed or **move the dog to a licensed kennel if approved by the investigating officer.**

A violation of this subsection shall constitute a summary offense accompanied by a fine of not less than [~~\$200~~] \$500.

Section 15. Sections 503-A and 504-A of the act, added May 31, 1990 (P.L.213, No.46), are amended to read:

Section 503-A. Requirements.

[(a) Enclosure and insurance.—The department shall issue, upon payment of all fees under subsection (b), a certificate of registration to the owner of such animal within 30 days of notification, in writing, by the department that the dog has been determined to be dangerous and that the owner presents sufficient evidence of:

(1) A proper enclosure to confine a dangerous dog and the posting of a premises with a clearly visible warning sign that there is a dangerous dog on the property. In addition, the owner shall conspicuously display a sign with a warning symbol that informs children of the presence of a dangerous dog.

(2) (i) A surety bond in the amount of \$50,000 issued by an insurer authorized to do business within this Commonwealth, payable to any person injured by the dangerous dog; or

(ii) a policy of liability insurance, such as homeowner's insurance, issued by an insurer authorized to do business within this Commonwealth in the amount of at least \$50,000, insuring the owner for any personal injuries inflicted by the dangerous dog. The policy shall contain a provision requiring the secretary to be named as additional insured for the sole purpose of being notified by the insurance company of cancellation, termination or expiration of the liability insurance policy.]

(a) Certificate of registration requirements.—The owner or keeper of a dog who has been convicted of harboring a dangerous dog shall keep the dog properly confined and shall register the dog with the department. Within 30 days of receiving written notification from the department that the dog has been determined to be dangerous, the owner or keeper of the dog shall comply with all the provisions of this section. The department shall issue, upon sufficient evidence of compliance with the requirements of this section and payment of all fees under subsection (b), a certificate of registration to the owner or keeper of the dangerous dog.

(a.1) Compliance requirements.—The owner or keeper of a dog who has been convicted of harboring a dangerous dog shall do all of the following:

(1) Present sufficient evidence of a proper enclosure to confine a dangerous dog and the posting of a premises with a clearly visible warning sign that there is a dangerous dog on the property. In addition, the owner shall conspicuously display a sign with a warning symbol that informs children of the presence of a dangerous dog.

(2) Pay court-ordered restitution to a victim of a dangerous dog.

(3) Permanently identify the dangerous dog by having a microchip implanted in the dangerous dog. The microchip shall be implanted by a properly licensed doctor of veterinary medicine, and the costs shall be borne by the owner or keeper of the dangerous dog. The owner or keeper of the dangerous dog and the veterinarian implanting the microchip shall sign a form, developed by the department, verifying the dangerous dog has had a microchip implanted and setting forth the microchip number.

(4) Have the dangerous dog spayed or neutered. The spaying or neutering shall be done by a properly licensed doctor of veterinary medicine, and the costs shall be borne by the owner or keeper of the dangerous dog. The owner or keeper of the dangerous dog and the veterinarian performing the spaying or neutering shall sign a form, developed by the department, verifying the dangerous dog has been spayed or neutered.

(5) Obtain:

(i) a surety bond in the amount of \$50,000 issued by an insurer authorized to do business within this Commonwealth, payable to any person injured by the dangerous dog; or

(ii) a policy of liability insurance, such as homeowner's insurance, issued by an insurer authorized to do business within this Commonwealth in the amount of at least \$50,000, insuring the owner for any personal injuries inflicted by the dangerous dog. The policy shall contain a provision requiring the secretary to be named as additional insured for the sole purpose of being notified by the insurance company of cancellation, termination or expiration of the liability insurance policy.

(b) [Fee] Registration fee.—The registration fee for a dangerous dog certificate shall be **[\$25 or such] \$500 per calendar year for the life of the dog plus an additional** amount set by the department as may be necessary to cover the costs of issuing this registration and enforcing this section. This registration fee shall be in addition to any other fees collectable under this act and shall be credited to the Dog Law Restricted Account for the purpose of administering and enforcing this act.

(c) Uniform identifiable symbol.—The department shall have the authority to establish a uniform identifiable symbol for visual recognition of dangerous dogs. **[The “Ugh Dog” symbol developed by Animal-Vues may be adopted as the standard symbol to identify dangerous dogs.]**

(d) Other requirements.—The owner *or keeper of a dangerous dog* shall **[sign a statement attesting that]:**

(1) The owner shall maintain and not voluntarily cancel the liability insurance required by this section during the period for which licensing is sought unless the owner ceases to own the dangerous dog prior to expiration of the license.

(2) The owner *or keeper* shall notify the Bureau of Dog Law Enforcement, the State dog warden and the local police department within 24 hours if a dangerous dog is on the loose, is unconfined, has attacked another animal, has attacked a human being, has died or has been sold or donated. If the dangerous dog has been sold or donated, the owner shall also provide the Bureau of Dog Law Enforcement and the State dog warden with the name, address and telephone number of the new owner *or new address* of the dangerous dog.

(3) The new owner or keeper of the dangerous dog shall be required to comply with all of the provisions of this act and regulations pertaining to a dangerous dog.

Section 504-A. Control of dangerous dogs.

It is unlawful for an owner *or keeper* of a dangerous dog to permit the dog to be outside the proper enclosure unless the dog is muzzled and restrained by a substantial chain or leash and under physical restraint of a responsible person. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting any person or animal or from destroying property with its teeth.

Section 16. Section 505-A of the act, amended December 11, 1996 (P.L.943, No.151), is amended to read:

Section 505-A. Public safety and penalties.

(a) Failure to register and restrain.—[A dangerous dog shall be immediately confiscated by a State dog warden or a police officer upon the occurrence of any of the following:] *The owner or keeper of a dangerous dog who violates any of the following provisions on the first occurrence commits a misdemeanor of the third degree if:*

(1) The *dangerous* dog is not validly registered under this act.

(2) The owner [does not secure and maintain the liability insurance coverage required under section 503-A.] *or keeper of the dangerous dog fails to comply with the provisions of section 503-A or 504-A.*

(3) The *dangerous* dog is not maintained in the proper enclosure.

(4) The *dangerous* dog is outside of the dwelling of the owner *or keeper* or outside of the proper enclosure and not under physical restraint of the responsible person.

(5) The dog is outside the dwelling of the owner without a muzzle, regardless of whether the dog is physically restrained by a leash.

(6) The dog is outside the dwelling of the owner or a proper enclosure without a muzzle and unsupervised, regardless of whether the dog is physically restrained by a leash.

[In addition, an owner violating this subsection commits a misdemeanor of the third degree.]

(a.1) Subsequent violations.—The owner or keeper of a dangerous dog who commits a subsequent violation under subsection (a) commits a misdemeanor of the second degree and, upon conviction, shall pay a fine

not to exceed \$5,000, plus the costs of quarantine, kennel charges and destruction of the dangerous dog. The dangerous dog shall be forfeited immediately by the owner or keeper to a dog warden or police officer and shall be placed in a kennel or, if necessary, quarantined for a length of time to be determined by the department. After a period of ten days, if no appeal has been filed and the necessary quarantine period has elapsed, the dangerous dog shall be destroyed humanely in an expeditious manner. If an appeal is filed, the dangerous dog shall remain confined at the owner's or keeper's expense until the proceedings are completed.

(a.2) Utilization of fines.—All fines collected under this section shall be deposited into the Dog Law Restricted Account and may be utilized to pay the expenses of the department in administering its duties under this act.

(a.3) Collection.—In cases of inability to collect the fine assessed or failure of any person to pay all or a portion of the fine, the secretary may refer the matter to the Office of Attorney General, which shall institute an action in the appropriate court to recover the fine.

(b) Attacks by dangerous dog.—If a dangerous dog, through the intentional, reckless or negligent conduct of the dog's owner or keeper, attacks a person or a domestic animal, dog or cat, the dog's owner [is] or keeper shall be guilty of a misdemeanor of the second degree. In addition, the dangerous dog shall be immediately [confiscated, placed in quarantine for the proper length of time and thereafter humanely killed in an expeditious manner, with costs of quarantine and destruction to be borne by the dog's owner.] seized by a dog warden or police officer and placed in quarantine for a length of time to be determined by the department. After a period of ten days, if no appeal has been filed by the owner or keeper of the dangerous dog, and after the quarantine period has expired, the dangerous dog shall be humanely destroyed in an expeditious manner, with costs of kenneling, quarantine and destruction to be borne by the dog's owner or keeper. If an appeal is filed, the dangerous dog shall remain confined at the owner's or keeper's expense until the proceedings are completed and, if found guilty of the cited offense, the dangerous dog shall thereafter be humanely destroyed in an expeditious manner, with costs of kenneling, quarantine and destruction to be borne by the dog's owner or keeper.

(c) Attacks causing severe injury or death.—The owner or keeper of any dog that, through the intentional, reckless or negligent conduct of the dog's owner or keeper, aggressively attacks and causes severe injury or death of any human shall be guilty of a misdemeanor of the first degree. In addition, the dog shall be immediately confiscated by a State dog warden or a police officer[, placed in quarantine for the proper length of time and thereafter humanely killed in an expeditious manner, with costs of quarantine and destruction to be borne by the dog's owner.] and placed in quarantine for a length of time to be determined by the department. After a period of ten days, if no appeal has been filed by the owner or

keeper of the dangerous dog, and after the quarantine period has expired, the dangerous dog shall be humanely destroyed in an expeditious manner, with costs of kenneling, quarantine and destruction to be borne by the dog's owner or keeper. If an appeal is filed, the dangerous dog shall remain confined at the owner's or keeper's expense until the proceedings are completed and, if found guilty of the cited offense, the dangerous dog shall be humanely destroyed in an expeditious manner, with costs of kenneling, quarantine and destruction to be borne by the dog's owner or keeper.

(d) Dog owned by a minor.—If the owner of the dangerous dog is a minor, the parent or guardian of the minor shall be liable for injuries and property damages caused by an unprovoked attack by the dangerous dog under section 4 of the *former* act of July 27, 1967 (P.L.186, No.58), entitled “An act imposing liability upon parents for personal injury, or theft, destruction, or loss of property caused by the willful, tortious acts of children under eighteen years of age, setting forth limitations, and providing procedure for recovery.”

(e) Mandatory reporting.—

(1) All known incidents of dog attacks shall be reported to the State dog warden, who shall investigate each incident and notify the department if a dog has been determined to be dangerous.

(2) A State dog warden or police officer who has knowledge of a dog which has attacked a person shall file a written report summarizing the circumstances of the attack with the police in the municipality where the owner of the dog resides or if the attack occurred outside the owner's municipality of residence, with the police having jurisdiction in the municipality where the attack occurred. The report shall be available for public inspection.

Section 16.1. Section 507-A(f)(1) of the act, added May 31, 1990 (P.L.213, No.46), is amended to read:

Section 507-A. Construction of article.

* * *

(f) Procedure in certain cities.—In cities of the first class, second class and second class A, the following procedure shall apply:

(1) A person who has been attacked by a dog, or anyone on behalf of such person, or a person whose domestic animal, *dog or cat* has been killed or injured without provocation while the attacking dog was off the owner's property or a police officer or an animal control officer employed by or under contract with the city may make a complaint before a [**district justice**] *magisterial district judge*, charging the owner or keeper of such a dog with harboring a dangerous dog. The [**district justice**] *magisterial district judge* shall make a report of the determination under section 502-A(a) to the police or an animal control officer employed by or under contract with the city and to the Bureau of Dog Law Enforcement. The

Bureau of Dog Law Enforcement shall give notice of this determination to the respective city treasurer.

* * *

Section 16.2. Sections 602, 603, 706, 802, 901 and 903 of the act, amended or added December 11, 1996 (P.L.943, No.151), are amended to read:

Section 602. Dogs used for law enforcement.

(a) Illegal to taunt law enforcement dogs.—It shall be unlawful for any person to willfully and maliciously taunt, torment, tease, beat, kick or strike any dog, including any search and rescue or **[accelerant]** detection dogs, used by any municipal, county or State police or sheriff's department or agency, fire department or agency or handler under the supervision of such department or agency, in the performance of the functions or duties of such department or agency or to commit any of the stated acts in the course of interfering with any such dog used by the department or agency or any member or supervised handler thereof in the performance of the functions or duties of the department or agency or of such officer or member or supervised handler. Any person who violates any of the provisions of this subsection commits a felony of the third degree.

(b) Illegal to torture certain dogs.—It shall be unlawful for any person to willfully or maliciously torture, mutilate, injure, disable, poison or kill any dog, including any search and rescue or **[accelerant]** detection dog, used by any municipal, county or State police or sheriff's department or agency, fire department or agency or handler under the supervision of such department or agency, in the performance of the functions or duties of the department or agency or to commit any of the stated acts in the course of interfering with any such dog used by the department or agency or any member or supervised handler thereof in the performance of any of the functions or duties of the department or agency or of such officer or member or supervised handler. Any person who violates any of the provisions of this subsection commits a felony of the third degree.

(c) Illegal to deny facilities or service due to **[police]** dog use.—It shall be unlawful for the proprietor, manager or employee of a theater, hotel, motel, restaurant or other place of entertainment, amusement or accommodation to refuse, withhold from or deny to any person, due to the use of a working police dog, *detection dog or search and rescue dog* used by any State or county or municipal police or sheriff's department or agency, *fire department, search and rescue unit or agency or handler under the supervision of those departments*, either directly or indirectly, any of the accommodations, advantages, facilities or privileges of the theater, hotel, motel, restaurant or other place of public entertainment, amusement or accommodation. Any person who violates any of the provisions of this subsection commits a misdemeanor of the third degree.

(d) Quarantine of certain dogs not required.—Quarantine of dogs as required by law shall not apply to dogs owned by any municipal or State

police department or agency when such dogs are under the direct supervision and care of a police officer and subject to routine veterinary care.

Section 603. Selling, bartering or trading dogs.

(a) **Illegal transfers.**—It shall be unlawful to offer a dog as an inducement to purchase a product, commodity or service. The sale of a dog by a licensed kennel shall not be considered to be an inducement.

(b) **Illegal to transfer ownership of certain puppies.**—It shall be unlawful to barter, trade, raffle, sell, auction or in any way transfer ownership of a dog under [seven] *eight* weeks of age, unless the dog has been orphaned and it becomes necessary to transfer ownership of the orphaned dog to a nonprofit kennel, or from a nonprofit kennel with approval by a licensed doctor of veterinary medicine.

(c) **Illegal for certain persons to transfer dogs.**—It shall be unlawful for any person to buy, sell, *offer to sell*, transfer, barter, trade, raffle, auction or rent a dog at any public place in this Commonwealth other than a kennel licensed pursuant to this act, or a dog show, *performance event* or field trial sponsored by a recognized breed or kennel association *or transfer by a rescue network kennel within its own network or to another rescue network kennel*. If a purchase, sale, transfer, barter, trade, raffle, auction or rental of a dog occurs at or on the premises of a kennel, the transaction shall be unlawful unless one of the parties to the transaction is an employee, volunteer or other person acting as an authorized representative of the kennel.

Section 706. Damages caused by coyotes; complaints; liability.

(a) **Reimbursement.**—A person may make application to the department for reimbursement for damage to a domestic animal by a coyote, whether or not the domestic animal is directly damaged by the coyote or is necessarily destroyed due to damage caused by the coyote, if the damage occurs when the domestic animal is confined in a field or other enclosure adequate for confinement of such animal.

(b) **Complaint.**—To receive reimbursement under subsection (a), a person must file a written, signed complaint with the department. The complaint must state all of the following:

(1) The time, place and manner of the damage.

(2) The number and type of domestic animal damaged.

(3) The amount of the damage. The amount under this paragraph is limited to \$10,000 for each domestic animal.

(c) **Limitation.**—A written complaint under subsection (b) must be filed within five business days of discovery of the damage.

(d) **Investigation.**—Within 48 hours of receipt of a complaint under subsection (b), a State dog warden shall investigate the complaint by examining the site of the occurrence. The State dog warden may examine witnesses under oath or affirmation.

(e) **Determination.**—

(1) Within ten business days after the initiation of the investigation under subsection (d), the State dog warden shall issue one of the following determinations:

(i) A dismissal of the complaint.

(ii) A damage award. The amount under this subparagraph is limited to \$10,000 for each domestic animal, and the award shall not exceed 90% of the appraised value of the domestic animal.

(2) Failure to act within the time period under paragraph (1) shall be deemed a damage award in the amount claimed in the complaint under subsection (b)(3).

(f) Arbitration.—

(1) If the complainant does not agree to the damage award under subsection (e)(1)(ii), the complainant and the State dog warden shall appoint a disinterested, qualified citizen to act as arbitrator.

(2) The arbitrator shall determine the damage award. The amount under this paragraph is limited to \$10,000 for each domestic animal.

(3) The arbitrator shall receive appropriate compensation paid by the complainant.

(g) Administrative appeal.—

(1) A complainant may appeal to the department a determination under subsection (e)(1)(i) [or (f)(2)].

(2) The appeal must be filed within 30 days of issuance of the determination.

(3) Within 30 days of filing under paragraph (2), the department must issue one of the following adjudications:

(i) Affirming the original determination.

(ii) Modifying the original determination.

(4) Failure to act within the time period under paragraph (3) shall be deemed a modification of the original determination to grant an award in the amount claimed in the complaint under subsection (b)(3).

(5) This subsection is subject to 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies).

(h) Judicial review.—A complainant may appeal to Commonwealth Court an adjudication under subsection (g)(3). This subsection is subject to 2 Pa.C.S. Ch. 7 Subch. A (relating to judicial review of Commonwealth agency action).

(i) Payment of claims.—

(1) All damage claims shall be paid from the Dog Law Restricted Account. No payment shall be made for any claim which has already been paid by the claimant's insurance carrier. The claimant shall certify to the department that he has not received payment for any damages under this section by any person. Claims paid under this section shall not exceed ~~[\$20,000]~~ \$75,000 annually.

(2) If, in any given year, damage claims exceed the allocation for this subsection, those claims left unpaid at the end of the fiscal year shall be paid from the account first during the following year.

(j) Rules and regulations.—The secretary shall promulgate rules and regulations to enforce the provisions of this section.

Section 802. Burdens of proof.

(a) *Licensing.*—In any proceeding under this act, the burden of proof of the fact that a dog has been licensed, or has been imported for breeding, trial, *hunting, performance event* or show purposes, or that a dog is under the required licensed age of three months as hereinbefore provided, shall be on the owner of such dog. Any dog not bearing a license tag shall prima facie be deemed to be unlicensed *except as provided under this act*. It is unlawful for any person dealing in and with dogs, to use a false or fictitious name unless such name is registered with the Commonwealth.

(b) *Age and name.*—*In a proceeding under this act, the burden of proof of the age of a dog shall be on the owner of the dog. It shall be unlawful for a person dealing in and with dogs to use a false or fictitious name unless the name is registered with the Commonwealth.*

Section 901. Enforcement of this act by the secretary; provisions for inspections.

(a) General rule.—The secretary, through State dog wardens, employees of the department and police officers, shall be charged with the general enforcement of this law. The secretary may employ all proper means for the enforcement of this act [and], *including issuing notices and orders, filing violations for criminal prosecution, seeking injunctive relief, imposing civil penalties and entering into consent agreements. The secretary* may enter into agreements pursuant to section 1002, which shall be filed with the department, for the purpose of dog control. State dog wardens and employees of the department are hereby authorized to enter upon the premises of any [persons] *person* for the purpose of investigation. A dog warden or employee of the department may enter into a home or other building only with the permission of the occupant or with a duly issued search warrant.

(b) Training for dog wardens.—The secretary shall establish training requirements for dog wardens and other employees of the department charged with the enforcement of this act which shall include dog handling [and], *cruelty*, humane capture, preliminary recognition of dog pathology, knowledge of proper dog sanitation, kennel inspection procedures and shelter and dog law enforcement.

(b.1) Training requirements.—The department shall establish a program for initial training of dog wardens and employees of the department which must include, at a minimum, a total of [56] 64 hours of instruction, in accordance with [paragraphs (1), (2) and (3).] *this subsection. The following shall apply:*

(1) The program for initial training of dog wardens must include at least 32 hours of instruction in the following group of instructional areas:

(i) Dog laws and applicable rules and regulations.

(ii) Care and treatment of dogs, *including breed and use variability*.

(iii) Pennsylvania criminal law and criminal procedure.

(2) At least [24] 32 hours of instruction in the initial training program must be provided in the following group of instructional areas:

(i) Dog handling and humane capture.

(ii) Preliminary recognition of dog pathology.

(iii) Proper dog sanitation and shelter.

(iv) Kennel inspection procedures.

(v) *Biosecurity risks, techniques and protocol*.

(3) The initial training program must also require an individual, as a prerequisite to successful completion of the training program, to take and pass a final examination that sufficiently measures the individual's knowledge and understanding of the instructional material.

(4) Training shall be conducted in accordance with 22 Pa.C.S. Ch. 37 (relating to humane society police officers).

(b.2) Limitation on the possession of firearms.—No dog warden or employee of the department shall carry, possess or use a firearm in the performance of duties. [unless the person has the approval of the secretary and holds a current and valid certification in the use and handling of firearms pursuant to at least one of the following:

(1) The act of June 18, 1974 (P.L.359, No.120), referred to as the **Municipal Police Education and Training Law**.

(2) The act of October 10, 1974 (P.L.705, No.235), known as the **“Lethal Weapons Training Act.”**

(3) The act of February 9, 1984 (P.L.3, No.2), known as the **“Deputy Sheriffs’ Education and Training Act.”**

(4) Any other firearms program which has been determined by the Commissioner of the Pennsylvania State Police to be of sufficient scope and duration to provide the participant with basic training in the use and handling of firearms. The department may provide for such firearms training for dog wardens.]

(b.3) Application of section to prior dog wardens.—

(1) Any dog warden or employee of the department who, prior to the effective date of this act, has successfully completed a training program similar to that required under subsection [(b)] (b.1) shall, after review by the secretary, be certified as having met the training requirements of this act. Any dog warden or employee of the department who, prior to the effective date of this act, has not successfully completed a training program similar to that required under subsection [(b)] (b.1) may continue to perform the duties of a dog warden until the person has successfully completed the required training program, but not longer than two years from the effective date of this act.

(2) [Any dog warden or employee of the department who, prior to the effective date of this act, has not received approval of the secretary and been certified in the use and handling of firearms pursuant to one or more of the acts set forth in subsection (b.2)(1), (2) and (3) shall not carry or possess a firearm in the performance of the duties of a dog warden on or after the effective date of this act until the person has, under subsection (b.2), received approval of the secretary and been certified in the use and handling of firearms.] *(Reserved)*.

(b.4) Refusal, suspension or revocation authorized.—The department may refuse to employ a person to act as a dog warden or may suspend or revoke the employment of a person who is acting as a dog warden if the department determines that the person has:

(1) Failed to satisfy the training requirements of subsection (b.1).

(2) Had a criminal history record which would disqualify the applicant from becoming a law enforcement officer.

(3) Been convicted of violating 18 Pa.C.S. § 5301 (relating to official oppression).

(b.5) Additional grounds.—The department may refuse to employ a person to act as a dog warden or other employee charged with the enforcement of this act or may suspend or revoke the employment of a person who is acting as a dog warden or is charged with the enforcement of this act if the department determines that the person has:

(1) Made a false or misleading statement in the application for employment.

(2) Carried or possessed a firearm in the performance of his or her duties without certification pursuant to subsection (b.2).

(3) Engaged in conduct which constitutes a prima facie violation of 18 Pa.C.S. [§ 5301] §§ 5301 and 5511 (relating to cruelty to animals).

(4) Knowingly failed to enforce any of the provisions of this act.

(5) Violated any of the provisions of this act.

(b.6) Training available to others.—The department may provide training under subsections (b.1) and (b.2) to any person not employed by the department and may charge a reasonable fee to cover the costs incurred for providing this service. Training for any person not employed by the department need not include instruction in kennel inspection procedures.

(c) Advisory board.—The secretary shall appoint a Dog Law Advisory Board to advise [him] *the secretary* in the administration of this act. The board shall consist of the following[:], *who shall either be a resident of this Commonwealth or an organization of this Commonwealth*:

(1) The secretary or his designee, who shall act as chairman.

(2) A representative of animal research establishments.

(3) A representative of a Statewide veterinary medical association.

(4) Two representatives of animal welfare organizations.

(5) Three representatives of farm organizations, with one from each Statewide general farm organization.

(6) A representative of dog clubs.

(7) A representative of commercial kennels.

(8) A representative of pet store kennels.

(9) A representative of sportsmen.

(10) A representative of a national purebred canine pedigree registry.

(11) A representative of lamb and wool growers.

(12) A county treasurer.

(13) A representative of hunting-sporting dog organizations.

(14) A representative of the police.

(15) A representative of boarding kennels.

(16) Seven members representing the general public who are recommended by the Governor.

(d) Terms.—The length of the initial term of each appointment to the board shall be set by the secretary and shall be staggered so that the terms of approximately one-third of the appointments expire each year.

(e) Absences.—Three consecutive unexcused absences from regular board meetings or failure to attend at least 50% of the regularly scheduled board meetings in any calendar year shall be considered cause for termination of appointment unless the secretary, upon written request of the member, finds that the member should be excused from attending a meeting because of illness or death of a family member or for a similar emergency.

(f) Vacancies.—Vacancies in the membership of the board shall be filled for the balance of an unexpired term in the same manner as the original appointment.

(g) Recommendations.—The board may make nonbinding recommendations to the secretary on all matters related to the provisions of this act.

Section 903. [Violations.

Unless heretofore provided, any person found in violation of any provision of Article II through Article VIII of this act shall be guilty of a summary offense for the first violation and for a second and subsequent violation which occurs within one year of sentencing for the first violation shall be guilty of a misdemeanor of the third degree.]

Enforcement and penalties.

(a) Civil penalty.—

(1) Where the department finds that the first violation of a provision of this act or a rule or regulation adopted under this act by a kennel owner or operator has occurred, it will, for the violations found during that inspection, issue a Notice of Violation (NOV) to the kennel owner or operator in lieu of assessing a civil penalty. Where the kennel owner or operator takes action in the time period provided in the NOV to correct the violation set forth in the NOV and come into compliance, no civil penalty shall be issued for a violation which is corrected. The time

period to come into compliance shall be based on the time reasonably necessary to correct the violation.

(2) (i) The department may assess a civil penalty of not less than \$100 nor more than \$1,000 per day for each offense where the kennel owner or operator:

(A) has not taken the remedial measures required by and necessary to comply with the NOV issued under paragraph (1); or

(B) where the kennel owner or operator has already been issued one NOV in any calendar year and the department finds a subsequent violation of this act or a rule or regulation adopted under this act.

(ii) In determining the amount of the penalty, the department shall set forth in writing the basis for the amount of the penalty, detailing its evaluation of the impact of the following factors:

(A) The gravity of the violation.

(B) The potential harm to the public.

(C) The potential effect on the dog or dogs.

(D) The willfulness of the violation.

(E) Previous violations.

(F) The economic benefit to the person for failing to comply with this act or rules or regulations adopted under this act.

(iii) The department shall provide written notice of the penalty amount as well as the general factual and legal basis for the penalty and shall advise the affected person that, within 20 days of receipt of the notice, he may file with the secretary a written request for an administrative hearing. Unless a timely request has been filed, the written notice shall become final. Each person assessed a penalty shall be given notice and opportunity for a hearing on the penalty assessment in accordance with the provisions of 2 Pa.C.S. Chs. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and 7 Subch. A (relating to judicial review of Commonwealth agency action).

(3) In cases of inability to collect the civil penalty or failure of any person to pay all or a portion of the penalty, the department may refer the matter to the Office of General Counsel or the Office of Attorney General, which shall institute an action in the appropriate court to recover the penalty.

(b) Criminal penalties.—Unless otherwise provided under this act, a person who violates a provision of Articles II through VII or a rule or regulation adopted or order issued under this act commits the following:

(1) For the first offense, a summary offense and shall, upon conviction, be sentenced for each offense to pay a fine of not less than \$100 nor more than \$500 or to imprisonment for not more than 90 days, or both.

(2) For a subsequent offense that occurs within one year of sentencing for the prior violation, a misdemeanor of the third degree and shall, upon conviction, be sentenced for each offense to pay a fine of not less than \$500 nor more than \$1,000 plus costs of prosecution or to imprisonment of not more than one year, or both.

(3) Upon conviction for an offense, as set forth in paragraphs (1) and (2), and solely for the purpose of determining the amount of the fine to be imposed for each offense or the term of imprisonment, or both, the court shall consider the following factors:

(i) The gravity of the offense.

(ii) The potential effect of the offense on the dog or dogs.

(iii) The number of dogs affected or endangered by the offense.

(iv) The person's criminal history, including past violations of this act.

(v) The economic benefit to the person for failing to comply with this act or a rule or regulation adopted thereunder.

(c) Representation.—Upon prior authorization and approval of the district attorney for the county in which the proceeding is held, a State dog warden may be represented in any proceeding under this section by an attorney employed by the Office of General Counsel.

(d) Civil remedies.—In addition to any other remedies set forth under this act, a violation of this act or the regulations promulgated under this act shall be abatable in the manner provided by law or equity.

(e) Equitable relief.—In cases where the circumstances require it, a mandatory preliminary injunction, special injunction or temporary restraining order may be issued upon the terms prescribed by the court, provided such notice of the application has been given to the respondent in accordance with the rules of equity practice. In any such proceeding, the court shall issue a prohibitory or mandatory injunction if it finds that the respondent is engaging in unlawful conduct as defined under this act or is engaging in conduct which is causing immediate and irreparable harm to the public. In addition to the injunction, the court, in such equity proceeding, may assess civil penalties in accordance with this section.

(f) Penalties collected.—All civil penalties collected under this act shall be remitted to the Dog Law Restricted Account.

(g) Limitation on penalty.—A violation of this act cannot result in the issuance of both a civil penalty under subsection (a)(2) and the pursuit of a criminal penalty under subsection (b).

(h) Violation.—Each day there is a violation may count as a separate violation of the act.

Section 17. The act is amended by adding a section to read:

Section 908. Exemption.

Research kennels in this Commonwealth that are currently registered with and inspected by the Federal Government under the Animal Welfare Act (Public Law 89-544, 7 U.S.C. § 2131 et seq.) shall be exempt from this

act and regulations promulgated under this act if they can provide documentation to the department demonstrating that the research kennel has undergone at least one Federal inspection in the last 12 months and the research kennel still¹ maintains a valid Federal registration. Submission of such evidence of Federal inspection and registration by documentation to the department may be established by regulation.

Section 18. The definition of "releasing agency" in section 901-A of the act, added December 11, 1996 (P.L.943, No.151), is amended to read:

Section 901-A. Definitions.

The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

* * *

"Releasing agency." A public or private pound, animal shelter, humane society, society for the prevention of cruelty to animals, *rescue network kennel* or other similar entity that releases a dog or cat for adoption.

* * *

Section 19. This act shall take effect as follows:

- (1) The following provisions shall take effect in one year:
 - (i) The addition of section 207(h)(1) through (16) of the act.
 - (ii) Except as set forth in paragraph (2)(ii), the addition of section 207(i) of the act.
- (2) The following provisions shall take effect immediately:
 - (i) The addition of section 207(h)(17) and (18) of the act.
 - (ii) The addition of section 207(i)(6)(x)(B) and (j) of the act.
 - (iii) The addition of section 221 of the act.
 - (iv) This section.
- (3) The remainder of this act shall take effect in 60 days.

APPROVED—The 9th day of October, A.D. 2008.

EDWARD G. RENDELL

¹"sill" in enrolled bill.