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“PUPPY MILLS”: STATE LICENSING OF PET BREEDERS AND DEALERS

This brief examines the history of a law enacted in 2001 relating to the licensing of pet breeders, pet dealers, kennels, and animal shelters. This provision, also known as the “puppy mills” law, was scheduled to take effect February 1, 2004, but was vetoed in 2003 prior to implementation. Legislation was subsequently introduced to reinstate licensing requirements for pet breeders, pet dealers, kennels, and animal shelters and raise the fees charged for dog licenses.

LICENSE LAW CREATION

2001 Wisconsin Act 16, the biennial state budget, included a provision that required pet breeders, pet dealers, kennels, and animal shelters to obtain licenses and provided for the inspection of these facilities. Created as Section 173.40, Wisconsin Statutes, this law was scheduled to take effect February 1, 2004. Also known as the “puppy mills” law, it would apply to pet breeders who sell or offer to sell at least 25 dogs or cats for resale as pets in a year and pet dealers, such as pet stores, who sell or offer to sell at least 25 mammals as pets at retail in a year. It would also apply to animal shelters which house 25 or more animals in a year’s time, and to kennels which board dogs or cats for 24 hours or more.

The law required the Department of Agriculture, Trade and Consumer Protection (DATCP) to establish fees for two-year licenses by administrative rule, to inspect each facility prior to issuing an operating license, and allowed the department to make

additional inspections at reasonable times after licensure.

As passed by the legislature, the budget bill prescribed penalties for persons who failed to obtain required licenses or violated the laws and regulations regarding humane care and other aspects of animal handling. It also increased dog license taxes to fund seven positions in the DATCP animal health inspector program. Governor Scott McCallum vetoed both provisions. In his veto message, he stated that he considered the increased license taxes and the penalties for operating without a license and other specified violations “burdensome to pet owners and businesses.” He also vetoed the 2001-03 appropriation for the seven inspector positions citing the fact that the licensing program was not scheduled to begin until 2004.

LICENSE LAW REPEAL

The original version of 2003 Senate Bill 44 (the executive budget bill) proposed to repeal Section 173.40 of the statutes, that required DATCP to license and regulate pet breeders, pet dealers, kennels, and animal shelters. The version of SB-44 passed by the legislature proposed to eliminate DATCP’s responsibility to license and inspect pet dealers, animal shelters, and kennels, but retain DATCP licensing and inspection functions relating to pet breeders. It applied the licensing requirement to pet breeders who offer for sale at least 50 dogs or cats as pets in a year. DATCP would set license fees by administrative rule, but the bill provided no additional staff or funding for the program.

Governor Jim Doyle, through his use of the partial veto power, repealed Section 173.40, thereby eliminating DATCP responsibility to license and regulate pet breeders and dealers, animal shelters, and kennels. The governor repealed the statute by vetoing all modifications the legislature made to the license law in Sections 2120bd-2120bw of SB-44 and a selected phrase in bill Section 2120bb. As passed by the legislature, Section 2120bb would have repealed statute Section 173.40 (1) (c). By vetoing "(1) (c)" and all other modifications, the governor repealed the law in its entirety, effective February 1, 2004.

In his veto message for 2003 Senate Bill 44, Governor Doyle stated:

I am partially vetoing this provision to repeal the entire pet breeder, dealer, kennel and shelter regulation because I object to the imposition of regulatory duties without the necessary staff and funding. Furthermore, the modified regulations offer only limited protections to animals. Limiting the department's regulatory requirements to pet breeders, while requiring fewer resources than the full pet regulation program, nonetheless requires staff and funding. The inevitable diversion of resources from the department's primary mission of animal health and disease control will place the state's commercial and wild animal populations at risk for a potentially devastating disease outbreak.

With this veto, local governments will still be able to appoint humane officers to investigate cases of inhumane treatment, execute inspection warrants, seek subpoenas, issue citations and request prosecution. The department will continue

to train and certify local humane officials. I recognize the importance of humane treatment of pets and will support reasonable regulation of the pet industry if adequate resources are provided to the department.

Although the state law was repealed, units of local government are not prohibited from enacting ordinances regarding licensure, inspection, and regulation of pet breeders, pet dealers, animal shelters, or kennels within their jurisdictions.

PROPOSAL TO RESTORE LICENSING LAW

2003 Assembly Bill 536, introduced by Representative Larry Balow, would require persons who breed and sell dogs and cats for resale (pet breeders), persons who operate pet stores selling mammals as pets (pet dealers), and persons who operate kennels and animal shelters to obtain licenses from DATCP. DATCP would need to inspect each establishment before issuing a license. The bill would authorize the department to promulgate administrative rules that specify minimum standards for licensed facilities and minimum requirements for humane care. Operating without a license would be a criminal offense, and forfeitures (civil monetary penalties) would apply for other violations of the law.

A public hearing on the bill was held by the Assembly Committee on Agriculture on October 16, 2003.

FOR FURTHER INFORMATION

The text of 2003 Assembly Bill 536 is available at: <http://www.legis.state.wi.us/2003/data/AB-536.pdf>.