

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH SESSION

S.F. No. 36

(SENATE AUTHORS: MARTY, Hayden, Bonoff, Dibble and Carlson)

DATE	D-PG	OFFICIAL STATUS
01/14/2013	61	Introduction and first reading Referred to Jobs, Agriculture and Rural Development
01/28/2013	107	Author added Dibble
03/20/2013	1357	Author added Carlson
03/12/2014	6130a	Comm report: To pass as amended and re-refer to Judiciary
03/17/2014	6254a	Comm report: To pass as amended and re-refer to State and Local Government
03/19/2014	6307	Comm report: To pass and re-referred to Finance

1.1

A bill for an act

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relating to dogs and cats; providing for licensing and inspection of certain dog

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and cat breeders; authorizing rulemaking; providing penalties; appropriating

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money; amending Minnesota Statutes 2012, section 13.643, subdivision 6;

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proposing coding for new law in Minnesota Statutes, chapter 347.

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7

Section 1. Minnesota Statutes 2012, section 13.643, subdivision 6, is amended to read:

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Subd. 6. **Animal premises data.** (a) The following data collected and maintained

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by the Board of Animal Health related to registration and identification of premises and

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animals under chapter 35, are classified as private or nonpublic:

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(1) the names and addresses;

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(2) the location of the premises where animals are kept; and

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(3) the identification number of the premises or the animal.

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(b) Except as provided in section 347.58, subdivision 5, data collected and

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maintained by the Board of Animal Health under sections 347.57 to 347.64 are classified

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as private or nonpublic.

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~~(b)~~ (c) The Board of Animal Health may disclose data collected under paragraph (a)

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or (b) to any person, agency, or to the public if the board determines that the access will

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aid in the law enforcement process or the protection of public or animal health or safety.

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Sec. 2. [347.57] DEFINITIONS.

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Subdivision 1. **Terms.** The definitions in this section apply to sections 347.57

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to 347.64.

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Subd. 2. **Animal.** "Animal" means a dog or a cat.

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Subd. 3. **Board.** "Board" means the Minnesota Board of Animal Health.

Subd. 4. **Cat.** "Cat" means a mammal that is wholly or in part of the species *Felis domesticus*. An adult cat is a cat 28 weeks of age or older. A kitten is a cat under 28 weeks of age.

Subd. 5. **Commercial breeder.** "Commercial breeder" means a person who possesses or has an ownership interest in animals and is engaged in the business of breeding animals for sale or for exchange in return for consideration, and who possesses ten or more adult intact animals and whose animals produce more than five total litters of puppies or kittens per year.

Subd. 6. **Confinement area.** "Confinement area" means a structure used or designed for use to restrict an animal to a limited amount of space, such as a room, pen, cage, kennel, compartment, crate, or hutch.

Subd. 7. **Dog.** "Dog" means a mammal that is wholly or in part of the species *Canis familiaris*. An adult dog is a dog 28 weeks of age or older. A puppy is a dog under 28 weeks of age.

Subd. 8. **Facility.** "Facility" means the place used by a commercial breeder for breeding animals, and includes all buildings, property, confinement areas, and vehicles.

Subd. 9. **Local animal control authority.** "Local animal control authority" means an agency of the state, county, municipality, or other political subdivision of the state that is responsible for animal control operations in its jurisdiction.

Subd. 10. **Person.** "Person" means a natural person, firm, partnership, corporation, or association, however organized.

Subd. 11. **Possess.** "Possess" means to have custody of or have control over.

Subd. 12. **Veterinarian.** "Veterinarian" means a veterinarian in good standing and licensed in the state of Minnesota.

Sec. 3. **[347.58] LICENSING AND INSPECTIONS.**

Subdivision 1. **Licensing.** (a) The board may grant an operating license to a commercial breeder and shall enforce sections 347.58 to 347.64.

(b) Beginning July 1, 2015, a commercial breeder must obtain an annual license for each facility it owns or operates. More than one building on the same premises is considered one facility. The initial prelicense inspection fee and the annual license fee is \$10 per adult intact animal, but each fee must not exceed \$250.

(c) The board must perform an announced initial prelicense inspection within 60 days from the date of receiving a license application. A commercial breeder is not in violation of this section if the commercial breeder has filed a completed license application with the board and the board has not performed the initial prelicense inspection. The

board shall inspect a commercial breeder's facility before an initial license is issued. The initial prelicense inspection fee must be included with the license application. Upon completion of the inspection, the inspector must provide the commercial breeder an inspection certificate signed by the inspector in a format approved by the board.

(d) The license application must indicate if a commercial breeder operates under more than one name from a single location or has an ownership interest in any other facility. License holders must keep separate records for each business name.

(e) The application must include a statement that includes the following information:

(1) whether any license held by an applicant under this section or under any other federal, state, county, or local law, ordinance, or other regulation relating to breeding cats or dogs was ever suspended, revoked, or denied; and

(2) whether the applicant was ever convicted of animal cruelty.

(f) An application from a partnership, corporation, or limited liability company must include the name and address of all partners, directors, officers, or members and must include a notation of any partners, directors, officers, members, or others authorized to represent the partnership, corporation, or limited liability company.

(g) A nonresident applicant must consent to adjudication of any violation under the laws of the state of Minnesota and in Minnesota courts.

(h) A license issued under this section is not transferable.

(i) A license holder must apply for license renewal annually by submitting a renewal application on a form approved by the board. The license renewal application must be postmarked or submitted electronically in a method approved by the board by July 1 of each year. The board may assess a late renewal penalty of up to 50 percent of the license fee. If a license is not renewed by August 1, the board may require the commercial breeder to reapply for an initial license.

(j) A commercial breeder must submit to the board an annual report by July 1 on a form prepared by the board. The form must include the current number of cats and dogs at the facility on the date of the report, the number of animals during the preceding year that were sold, traded, bartered, leased, brokered, given away, euthanized, or deceased from other causes, and any other information required by the board.

(k) If a commercial breeder is required to be licensed by the United States Department of Agriculture, United States Department of Agriculture inspection reports and records relating to animal care plans and veterinary care must be made available during an inspection, upon request.

(l) A commercial breeder must prominently display the commercial breeder's license at each facility.

4.1 (m) A commercial breeder's state license number or a symbol approved by the board
4.2 must be included in all of the commercial breeder's advertisements or promotions that
4.3 pertain to animals being sold or traded including, but not limited to, all newspapers,
4.4 Internet, radio, or flyers.

4.5 (n) A commercial breeder must notify the board by certified mail or electronically
4.6 in a method approved by the board within ten days of any change in address, name,
4.7 management, or substantial control and ownership of the business or operation.

4.8 (o) The board shall refuse to issue an initial license when a commercial breeder:

4.9 (1) is in violation of sections 343.21; 343.24; 343.27; 343.28; 343.31; 343.37;
4.10 346.37; 346.38; 346.39; 346.44; and 346.155;

4.11 (2) has failed to meet any of the requirements of this section and section 347.59;

4.12 (3) is in violation of a local ordinance regarding breeders;

4.13 (4) has been convicted, other than a petty misdemeanor conviction, of cruelty to
4.14 animals under Minnesota law or a substantially similar animal cruelty law of another
4.15 jurisdiction;

4.16 (5) has had a substantially similar license denied, revoked, or suspended by another
4.17 federal or state authority within the last five years; or

4.18 (6) has falsified any material information requested by the board.

4.19 (p) A person who has been an officer, agent, direct family member, or employee of a
4.20 commercial breeder whose license was revoked or suspended and who was responsible for
4.21 or participated in the violation that was a basis for the revocation or suspension may not
4.22 be licensed while the revocation or suspension is in effect.

4.23 Subd. 2. **Inspections.** (a) The board shall inspect each licensed facility at least
4.24 annually. The inspection must be with the commercial breeder or an agent of the
4.25 commercial breeder present. The inspector must submit an inspection report to the board
4.26 within ten days of each inspection on a form prepared by the board. The inspection report
4.27 form must list separately each law, rule, regulation, and ordinance the facility is not in
4.28 compliance with and what correction is required for compliance. The inspection report
4.29 form must document the animal inventory on the date of the inspection.

4.30 (b) If, after the prelicense inspection, the commercial breeder has two consecutive
4.31 years of inspections with no violations, the board shall inspect the commercial breeder at
4.32 least every two years. If the commercial breeder has any violations during an inspection or
4.33 if the board has cause, the board shall inspect the commercial breeder at least annually.

4.34 (c) If a license to operate is suspended, revoked, or denied, the board must be granted
4.35 access to the facility during normal business hours to verify that it is not operating.

5.1 Subd. 3. **Record requirements.** (a) The commercial breeder shall keep records
5.2 on each animal at the facility that include:

5.3 (1) the name, address, and United States Department of Agriculture license number,
5.4 if applicable, from whom an animal was received; the date the commercial breeder
5.5 received the animal; the date of the animal's birth; the breed, sex, color, and identifying
5.6 marks of the animal; any identifying tag, tattoo, microchip, or collar number; worming
5.7 treatments, vaccinations, and name of the person who administered the vaccination;
5.8 medication received by the animal while in the possession of the commercial breeder; and
5.9 any disease conditions diagnosed by a veterinarian; and

5.10 (2) the name and address of the person or entity to whom an animal was transferred.

5.11 (b) The commercial breeder shall maintain a copy of the records required to be
5.12 kept under this subdivision for two years.

5.13 Subd. 4. **Veterinary protocol.** (a) A commercial breeder must establish and
5.14 maintain a written protocol for disease control and prevention, euthanasia, and veterinary
5.15 care of animals at each facility. The initial protocol must be developed under the direction
5.16 and supervision of the board. A commercial breeder must maintain a written protocol that
5.17 is updated at least every 12 months and that is signed and dated by the board or by a
5.18 veterinarian along with the commercial breeder. The written protocol must be available to
5.19 the board upon request or at the time of inspection.

5.20 (b) An animal sold or otherwise distributed by a commercial breeder must be
5.21 accompanied by a veterinary health certificate completed by a veterinarian. The certificate
5.22 must be completed within 30 days prior to the sale or distribution and must indicate that
5.23 the animal is current with vaccinations and has no signs of infectious or contagious
5.24 diseases. The certificate accompanying an adult dog that was not spayed or neutered must
5.25 indicate that the dog has no signs of infectious or contagious diseases and was tested for
5.26 canine brucellosis with a test approved by the board and found to be negative.

5.27 Subd. 5. **Posting of information.** The board shall maintain and post in a timely
5.28 manner on its Web site a list of commercial breeders in good standing and licensed
5.29 pursuant to this section.

5.30 Sec. 4. **[347.59] STANDARDS OF CARE.**

5.31 (a) A commercial breeder must comply with chapters 343 and 346.

5.32 (b) A commercial breeder must ensure that animals that are part of the commercial
5.33 breeder's breeding business operations are cared for as follows:

5.34 (1) cats must not be housed in outdoor confinement areas;

6.1 (2) animals exercised in groups must be compatible and show no signs of contagious
6.2 or infectious disease;

6.3 (3) females in estrus must not be housed in the same confinement area with
6.4 unneutered males, except for breeding purposes;

6.5 (4) animals must be provided daily enrichment and must be provided positive physical
6.6 contact with human beings and compatible animals at least twice daily unless a veterinarian
6.7 determines such activities would adversely affect the health or well-being of the animal;

6.8 (5) animals must not be sold, traded, or given away before the age of eight weeks
6.9 unless a veterinarian determines it would be in the best interests of the health or well-being
6.10 of the animal;

6.11 (6) the commercial breeder must provide identification and tracking for each animal,
6.12 which is not transferable to another animal; and

6.13 (7) the commercial breeder must provide adequate staff to maintain the facility and
6.14 observe each animal daily to monitor each animal's health and well-being, and to properly
6.15 care for the animals.

6.16 (c) A commercial breeder must not knowingly hire staff or independent contractors
6.17 who have been convicted of cruelty to animals under the law of any jurisdiction.

6.18 (d) A commercial breeder must comply with any additional standards the board
6.19 considers necessary to protect the public health and welfare of animals covered under
6.20 sections 347.57 to 347.61. The standards must be established by rule.

6.21 (e) A United States Department of Agriculture (USDA) licensed breeder or dealer
6.22 who is in compliance with the minimum USDA regulations governing the license holder
6.23 as they relate to animal confinement areas as of the effective date of this section does not
6.24 have to comply with the minimum confinement area measurements under section 346.39,
6.25 subdivision 4, for existing confinement areas in each facility the breeder or dealer owns. If
6.26 a USDA licensed breeder or dealer builds a new confinement area after the effective date
6.27 of this section, those minimum standards must meet or exceed the minimum specifications
6.28 as they relate to confinement area size under section 346.39, subdivision 4.

6.29 **Sec. 5. [347.60] INVESTIGATIONS.**

6.30 (a) The board shall initiate an investigation upon receiving a formal complaint
6.31 alleging violations of section 347.58 or 347.59.

6.32 (b) When a local animal control authority, a peace officer, or a humane agent
6.33 appointed under section 343.01 is made aware of an alleged violation under this chapter
6.34 or chapter 343 or 346, committed by a commercial breeder, the local animal control

authority, peace officer, or humane agent appointed under section 343.01 shall report the alleged violation in a timely manner to the board.

Sec. 6. ~~[347.61]~~ CIVIL ENFORCEMENT.

Subdivision 1. Correction orders. (a) The board may issue a correction order requiring a commercial breeder to correct a violation of state statutes, rules, and regulations governing breeding facilities. The correction order must state the deficiencies that constitute the violation; the specific statute, rule, or regulation violated; and when the violation must be corrected.

(b) A commercial breeder may ask the board to reconsider any portion of the correction order that the commercial breeder believes is in error. The request for reconsideration must be made in writing by certified mail or electronically in a method approved by the board within seven days after receipt of the correction order. The request for reconsideration does not stay the correction order. The board must respond to the request for reconsideration within 15 days after receiving a request. The board's disposition of a request for reconsideration is final. The board may extend the time for complying with a correction order after receiving a request for reconsideration if necessary.

(c) The board shall reinspect the facility within 15 days after the time for correcting the violation has passed to determine whether the violation has been corrected. If the violation has been corrected, the board shall notify the commercial breeder in writing that the commercial breeder is in compliance with the correction order. The board may charge a reinspection fee to determine if a previous violation has been corrected.

Subd. 2. Administrative penalty orders. After the inspection required under subdivision 1, paragraph (c), the board may issue an order requiring violations to be corrected and administratively assessing monetary penalties for violations. The administrative penalty order must include a citation of the statute, rule, or regulation violated; a description of the violation; and the amount of the penalty for each violation. A single correction order may assess a maximum administrative penalty of \$5,000.

Subd. 3. Injunctive relief. In addition to any other remedy provided by law, the board may bring an action for injunctive relief in the district court in Ramsey County or in the county in which a violation of the statutes, rules, or regulations governing the breeding of cats and dogs occurred to enjoin the violation.

Subd. 4. Cease and desist. The board must issue an order to cease a practice if its continuation would result in an immediate risk to animal welfare or public health. An order issued under this subdivision is effective for a maximum of 72 hours. The board or its designated agent must seek an injunction or take other administrative action authorized

by law to restrain a practice beyond 72 hours. The issuance of a cease-and-desist order does not preclude other enforcement action by the board.

Subd. 5. Refusal to reissue license; license suspension or revocation. (a) The board may suspend, revoke, or refuse to renew a license as follows:

- (1) for failure to comply with a correction order;
- (2) for failure to pay an administrative penalty;
- (3) for failure to meet the requirements of section 347.58 or 347.59; or
- (4) for falsifying information requested by the board.

A license suspension, revocation, or nonrenewal may be appealed through the Office of Administrative Hearings. A notice of intent to appeal must be filed in writing with the board within 20 days after receipt of the notice of suspension, revocation, or nonrenewal.

(b) The board shall revoke a license if a commercial breeder has been convicted of cruelty to animals under Minnesota law or a substantially similar animal cruelty law of another jurisdiction, or for the denial, revocation, or suspension of a similar license by another federal or state authority. A license revocation under this subdivision may be appealed through the Office of Administrative Hearings. A notice of intent to appeal must be filed in writing with the board within 20 days after receipt of the notice of revocation.

(c) A commercial breeder whose license is revoked may not reapply for licensure for two years after the date of revocation. The license is permanently revoked if the basis for the revocation was a gross misdemeanor or felony conviction for animal cruelty.

(d) A commercial breeder whose license is suspended or revoked two times is permanently barred from licensure.

Subd. 6. Administrative hearing rights. (a) Except as provided in paragraph (b), if the board proposes to refuse to renew, suspend, or revoke a license, the board must first notify the commercial breeder in writing of the proposed action and provide an opportunity to request a hearing under the contested case provisions of chapter 14. If the commercial breeder does not request a hearing within 20 days after receipt of the notice of the proposed action, the board may proceed with the action without a hearing.

(b) The contested case provisions of chapter 14 do not apply when the board denies a license based on an applicant's failure to meet the minimum qualifications for licensure.

(c) A commercial breeder may appeal the amount of an administrative penalty order through the Office of Administrative Hearings pursuant to the procedures set forth in chapter 14. A commercial breeder wishing to file an appeal must notify the board in writing within 20 days after receipt of the administrative penalty order.

Subd. 7. Other jurisdictions. The board may accept as prima facie evidence of grounds for an enforcement action under this section any enforcement or disciplinary

9.1 action from another jurisdiction, if the underlying violation would be grounds for a
9.2 violation under the provisions of this section.

9.3 Subd. 8. **Appeals.** A final order by the board may be appealed to the Minnesota
9.4 Court of Appeals.

9.5 Sec. 7. **[347.615] BIOSECURITY; ENTRY INTO FACILITIES.**

9.6 No law enforcement officer, agent of the board, or other official may enter a
9.7 commercial breeder facility unless the person follows either the biosecurity procedure
9.8 issued by the board or a reasonable biosecurity procedure maintained and prominently
9.9 posted by the commercial breeder at each entry to a facility, whichever is more stringent.
9.10 This section does not apply in emergency or exigent circumstances.

9.11 Sec. 8. **[347.62] PENALTIES.**

9.12 (a) A violation of section 347.58 or 347.59 that results in cruelty or torture to an
9.13 animal, as those terms are defined in section 343.20, subdivision 3, is subject to the
9.14 penalties in section 343.21, subdivisions 9 and 10, relating to pet or companion animals.

9.15 (b) It is a misdemeanor to falsify information in a license application, annual report,
9.16 or record.

9.17 (c) It is a misdemeanor for an unlicensed commercial breeder to advertise animals
9.18 for sale.

9.19 (d) It is a misdemeanor for a commercial breeder to operate without a license.

9.20 Sec. 9. **[347.63] DOG AND CAT BREEDERS LICENSING ACCOUNT;**
9.21 **APPROPRIATION.**

9.22 A dog and cat breeders licensing account is created in the special revenue fund.
9.23 All fees and penalties collected by the board under sections 347.58 to 347.62 must be
9.24 deposited in the state treasury and credited to the dog and cat breeders licensing account
9.25 in the special revenue fund. Money in the account, including interest on the account, is
9.26 annually appropriated to the board to administer those sections.

9.27 Sec. 10. **[347.64] APPLICABILITY.**

9.28 Sections 347.57 to 347.63 do not apply to:

9.29 (1) any species other than dogs and cats as they are defined in section 347.57; and

9.30 (2) veterinary clinics or veterinary hospitals.

9.31 Sec. 11. **RECOGNITION; COMMERCIAL BREEDER EXCELLENCE.**

10.1 The Board of Animal Health, in consultation with representatives of the licensed
10.2 commercial breeder industry, shall develop a program to recognize persons who
10.3 demonstrate commercial breeder excellence and exceed the standards and practices
10.4 required of commercial breeders under this act.

10.5 Sec. 12. **REGISTRATION; INITIAL PRELICENSE INSPECTIONS.**

10.6 Subdivision 1. **Commercial breeder registration.** Beginning July 1, 2014, until
10.7 June 30, 2015, a commercial breeder must register each facility it owns or operates by
10.8 paying a registration fee not to exceed \$250 per facility to the Board of Animal Health.

10.9 Subd. 2. **Initial prelicense inspections.** Beginning July 1, 2014, the board may
10.10 begin the initial prelicense inspections under Minnesota Statutes, section 347.58.

10.11 Subd. 3. **Deposits of fees.** Fees collected under this section must be deposited in the
10.12 dog and cat breeders licensing account in the special revenue fund.

10.13 Sec. 13. **BOARD OF ANIMAL HEALTH; APPROPRIATION.**

10.14 \$310,000 in fiscal year 2015 is appropriated from the general fund to the Board of
10.15 Animal Health to administer sections 1 to 12. \$426,000 is added to the agency's base
10.16 budget.

10.17 Sec. 14. **EFFECTIVE DATE.**

10.18 Sections 1 to 13 are effective July 1, 2014.