A bill for an act

relating to animals; providing standards of care for dog and cat breeders; authorizing rulemaking; providing criminal penalties; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 347.

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

Section 1. **[347.57] DEFINITIONS.**

Subdivision 1. **Terms.** The definitions in this section apply to sections 347.57 to 347.64.

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

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

Subd. 4. **Breeder.** "Breeder" means a person, other than a hobby breeder, who possesses animals and is engaged in the business of breeding animals for direct or indirect sale or for exchange in return for consideration, and who possesses six or more adult intact female animals for the purpose of breeding.

Subd. 5. **Broker.** "Broker" means a person, firm, partnership, corporation, or association that purchases animals for resale to other brokers or pet dealers.

Subd. 6. **Cat.** "Cat" means a mammal that is wholly or in part of the species Felis domesticus. An adult cat is a cat 24 weeks of age or older. A kitten is a cat under 24 weeks of age.

Subd. 7. **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. 8. **Dog.** "Dog" means a mammal that is wholly or in part of the species Canis familiaris. An adult dog is a dog 24 weeks of age or older. A puppy is a dog under 24 weeks of age.

Subd. 9. **Facility.** "Facility" means the place used by a breeder for breeding animals, and includes all buildings, property, confinement areas, and vehicles.

Subd. 10. **Hobby breeder.** "Hobby breeder" means a person who possesses animals and is engaged in the business of breeding animals for direct sale or for exchange in return for consideration, and who possesses fewer than six adult intact female animals for the purpose of breeding.

Subd. 11. **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. 12. **Person.** "Person" means a natural person, firm, partnership, corporation, or association, however organized.

Subd. 13. **Pet dealer.** "Pet dealer" means a person, including a breeder, that is required to collect sales tax for the sale of animals to the public. "Pet dealer" does not include a humane society, nonprofit organization performing the functions of a humane society, or local animal control authority.

Subd. 14. **Possess.** "Possess" means to have custody of or have control over.

Subd. 15. **Veterinarian.** "Veterinarian" means a veterinarian in good standing and licensed in the state of Minnesota.

Sec. 2. **[347.58] LICENSING AND INSPECTIONS.**

Subdivision 1. **Licensing.** (a) The board may grant an operating license to a breeder and shall enforce sections 347.58 to 347.63. The board may delegate that authority to a county or a city pursuant to a written agreement between the board and an authorized official of the county or city. A delegated county or city shall provide a copy to the board of any license issued to a breeder and shall retain a copy of each license issued by the delegated county or city.

(b) Beginning July 1, 2010, a 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 board shall establish by rule the initial license fee and the annual license fee for each facility where a breeder possesses adult breeding animals.

(c) The board or its agent shall inspect a breeder's facility before an initial license is issued. An initial prelicense inspection must be performed no more than 30 days before

filing a license application. The application must include an inspection certificate signed by the inspector in a format approved by the board.

(d) The license application must indicate if a 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 notarized 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 dealing in or handling cats or dogs was ever suspended, revoked, or denied;

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

(3) the number of adult animals that will be kept, housed, and maintained by the applicant at the location that is the subject of the application and the estimated number of puppies and kittens to be kept, housed, and maintained during the term of the license.

(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 by July 1 of each year. A late renewal is subject to a 50 percent penalty fee. If a license is not renewed by August 1, the license holder must reapply for an initial license.

(j) A breeder must submit to the board an annual report by August 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 breeder is required to be licensed by the United States Department of Agriculture, the initial application must include United States Department of Agriculture inspection reports and records for the past five years for any facility owned or operated by that breeder. All license renewal applications must include United States Department of Agriculture inspection reports and records for the preceding year.

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

(m) A breeder must notify the board by certified mail within ten days of any change in address, name, management, or substantial control and ownership of the business or operation.

(n) The board shall refuse to issue an initial license when a breeder:

(1) fails to meet the applicable federal laws and United States Department of Agriculture regulations governing the license holder;

(2) has violated any provision of chapter 343 or 346;

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

(4) has failed to meet any of the requirements of a local ordinance governing the license holder;

(5) has been convicted of cruelty to animals under Minnesota law or under the law of another jurisdiction;

(6) has been denied a similar license issued by another authority, either federal or state, or if the license has been revoked or suspended; or

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

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

Subd. 2. **Inspections.** (a) The board or its designated agent shall inspect each licensed facility at least annually. The inspection must be during normal business hours and with the breeder or an agent of the breeder present. Notice is not required before an inspection. The inspector must submit an inspection report to the board within ten days of each inspection on a form prepared by the board. The inspection report form must list separately each law, rule, regulation, and ordinance the facility is not in compliance with and what correction is required for compliance. The inspection report form must document the animal inventory on the date of the inspection.

(b) The board may request a veterinarian not affiliated with the breeder, a peace officer, a local animal control authority, or a humane agent appointed under section 343.01 to assist in an inspection or investigation.

(c) If a license to operate is suspended, revoked, or denied, the board or its designated agent shall have access to the facility during normal business hours to verify that it is not operating.

Subd. 3. **Fees; rules.** The board shall adopt rules to establish the license fees required by this section.

Sec. 3. **[347.59] STANDARDS OF CARE.**

(a) A breeder must comply with the following:

(1) all applicable federal laws and United States Department of Agriculture regulations governing the license holder;

(2) chapters 343 and 346; and

(3) the requirements of an applicable local ordinance governing the license holder.

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

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

(2) animals exercised in groups must be compatible and free of illness;

(3) females in estrus must not be housed with unneutered males, except for breeding purposes;

(4) animals must be provided daily socialization with human beings and compatible animals;

(5) animals must not be sold, traded, or given away before the age of eight weeks;

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

(7) the breeder must provide adequate staff to maintain the facility and properly care for the animals; and

(8) after July 1, 2010, the breeder may not possess more than 50 adult animals at a facility for the purpose of breeding, except that a breeder possessing more than 50 adult animals for the purpose of breeding on July 1, 2010, may continue to maintain the inventory of animals but may add or replace animals only if the number of animals possessed for the purpose of breeding is less than 51 animals.

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

(d) A breeder must comply with any additional standards the board considers necessary to protect the public health and welfare of animals covered under sections 347.57 to 347.61.

Sec. 4. **[347.60] INVESTIGATIONS.**

The board, a local animal control authority, a peace officer, or a humane agent appointed under section 343.01 may initiate an investigation upon receiving a formal complaint alleging violations of section 347.58 or 347.59.

Sec. 5. **[347.61] SEIZURE.**

An animal may be seized for a violation of section 347.58 or 347.59 that threatens the health or welfare of the animal. Section 343.235 applies to the disposition of animals seized under this section.

Sec. 6. **[347.62] CIVIL ENFORCEMENT.**

Subdivision 1. **Correction orders.** (a) The board may issue a correction order requiring a breeder to correct a violation of federal and 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 breeder may ask the board to reconsider any portion of the correction order that the breeder believes is in error. The request for reconsideration must be made in writing by certified mail 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.

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 may 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 a license; suspension and revocation of a license.** (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 breeder or any agent of a breeder has been convicted of cruelty to animals under Minnesota law or the 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 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 breeder whose license is suspended or revoked three 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 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 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 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 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 action from another jurisdiction, if the underlying violation would be grounds for a violation under the provisions of this section.

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

Sec. 7. **[347.63] PENALTIES.**

(a) Except as provided in paragraph (b), a violation of section 347.58 or 347.59 is a misdemeanor.

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

(c) It is a misdemeanor for a broker or pet dealer to knowingly purchase or trade a dog or cat for the purpose of resale or trade to another person from a person required to be licensed but who does not have a valid license.

(d) It is a misdemeanor for a pet dealer who is not the breeder of any animal to knowingly possess an animal under the age of eight weeks. This restriction does not apply to humane societies, nonprofit organizations performing the functions of a humane society, or a local animal control authority.

(e) It is a misdemeanor to falsify information in a license application, annual report, or records.

(f) It is a misdemeanor for an unlicensed breeder to advertise animals for sale.

Sec. 8. **[347.64] DOG AND CAT BREEDERS LICENSING ACCOUNT; APPROPRIATION.**

A dog and cat breeders licensing account is created in the special revenue fund. All fees and penalties collected by the board under sections 347.58 to 347.63 must be deposited in the state treasury and credited to the dog and cat breeders licensing account in the special revenue fund. Money in the account, including interest on the account, is annually appropriated to the board to administer those sections.

Sec. 9. **REGISTRATION.**

Beginning July 1, 2009, until June 30, 2010, a breeder shall register each facility it owns or operates by paying a registration fee of $..... per facility to the board. Fees collected under this section must be disposed of under Minnesota Statutes, section 347.64.

Sec. 10. **EFFECTIVE DATE.**

Sections 1 to 7 are effective July 1, 2010. Sections 8 and 9 are effective the day following final enactment.