

PRELIMINARY DRAFT – NOT READY FOR INTRODUCTION

1 **AN ACT** *to amend* 20.115 (2) (j); and *to create* 173.41 and 778.25 (1) (a) 8. of the
2 statutes; **relating to:** regulation of persons who sell dogs or operate animal
3 shelters or pet stores, granting rule-making authority, making an
4 appropriation, and providing a penalty.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

5 **SECTION 1.** 20.115 (2) (j) of the statutes is amended to read:
6 20.115 (2) (j) *Dog licenses, rabies control, and related services.* All moneys
7 received under ss. 95.21 (9) (c), 173.27, 173.41, and 174.09 (1) and (3), to provide dog
8 license tags and forms under s. 174.07 (2), to perform other program responsibilities
9 under ch. 174, to administer the rabies control program under s. 95.21, to help
10 administer the rabies control media campaign, and to carry out activities under s.
11 93.07 (11) and ch. 173.

1 **SECTION 2.** 173.41 of the statutes is created to read:

2 **173.41 Regulation of persons who sell dogs or operate animal shelters**
3 **or pet stores. (1) DEFINITIONS.** In this section:

4 (a) “Animal shelter” means a facility that is operated for the purpose of
5 providing for and promoting the welfare, protection, and humane treatment of
6 animals, that is used to shelter at least 25 dogs in a year, and that is operated by a
7 humane society, animal welfare society, or other nonprofit group.

 ****NOTE: The instructions did not contain a definition of “animal shelter.” This
definition is based on part of the definition in 2003 Assembly Bill 536.

8 (b) “Dog auction” means an auction at which dogs are sold.

9 (c) “Dog breeder” means a person who sells 50 or more dogs in a year that the
10 person has bred and raised.

11 (d) “Dog breeding facility” means a place at which dogs are bred and raised and
12 from which 50 or more dogs are sold in a year.

13 (e) “Dog dealer” means a person, other than a person who operates a pet store,
14 who sells dogs that the person has not bred and raised.

 ****NOTE: This definition is very broad. It would seem to cover, for example, a
person who owned a dog as a pet, but needed to sell it (because of developing an allergy,
say).

15 (f) “Out-of-state dog dealer” means a person who is not a resident of this state
16 who brings dogs into this state for sale in this state.

17 (g) “Pet store” means a store at which a person sells pet animals at retail.

18 (h) “Primary enclosure” means an enclosure in which a dog rests or sleeps.

19 (i) “Transfer” means to grant physical possession to another.

20 **(2) LICENSE REQUIRED.** (a) Except as provided in par. (c), beginning on the first
21 day of the 13th month beginning after the effective date of this paragraph [revisor

1 inserts date], no person may do any of the following without an annual license from
2 the department:

- 3 1. Operate an animal shelter.
- 4 2. Operate a dog auction.
- 5 3. Operate as a dog breeder.
- 6 4. Operate a dog breeding facility.
- 7 5. Operate as a dog dealer.
- 8 6. Operate a pet store.

9 (b) A person shall obtain a license under this subsection for each location at
10 which the person operates an animal shelter, dog auction, dog breeding facility, or pet
11 store or operates as a dog breeder or dog dealer.

12 (c) A veterinarian licensed under ch. 453 who operates an animal shelter, dog
13 auction, dog breeding facility, or pet store or who operates as a dog breeder or dog
14 dealer is not required to obtain a license under this subsection.

15 **(3) LICENSE FEES.** (a) Except as provided in par. (b), the annual fee for a license
16 under sub. (2) is as follows:

- 17 1. For a person who sells at least 50 but fewer than 100 dogs per year, \$250.
- 18 2. For a person who sells at least 100 but fewer than 250 dogs per year, \$500.
- 19 3. For a person who sells at least 250 dogs per year, \$750.

20 (b) The annual license fee for an out-of state dog dealer is 150 percent of the
21 fee determined under par. (a), based on the number of dogs sold in this state.

****NOTE: Some persons who sell fewer than 50 dogs will be required to obtain a
license (in fact the operator of a pet store may not sell dogs at all). Please determine what
the fees should be for those persons.

22 **(4) INSPECTIONS.** (a) The department shall inspect the location at which a
23 person who is required to obtain a license under sub. (2) operates before issuing the

1 initial license and at least once every 2 years after the year in which the person is
2 first licensed, except that the department is not required to inspect the out-of-state
3 locations at which an out-of-state dog dealer operates.

4 (b) The department may enter and inspect a location for which a person is
5 required to obtain a license under sub. (2) at any time during business hours.

6 (5) OUT-OF-STATE DOG DEALERS. The department may not issue a license under
7 sub. (2) to a person who is an out-of-state dog dealer unless the person provides to
8 the department a copy of any license required by the person's state of residence and
9 any license required under federal law.

10 (6) PET STORE CARE STANDARDS. The department shall promulgate rules for the
11 care of animals, other than dogs, applicable to persons operating pet stores. The
12 department shall base the rules on the Animal Care Guidelines for the Retail Pet
13 Industry published by the Pet Industry Joint Advisory Council.

14 (7) HEALTH REQUIREMENTS FOR SELLING DOGS. (a) No person who is required to
15 be licensed under sub. (2) may sell a dog without providing all of the following to the
16 purchaser:

- 17 1. A statement from a veterinarian that the dog is in good health.
- 18 2. A copy of the dog's health care records.

19 (b) A person may not sell a dog without providing proof that the dog has tested
20 negative for brucellosis, based on a test conducted no more than 30 days before the
21 day of sale, and that the parents of the dog have also tested negative for brucellosis
22 if any of the following apply:

- 23 1. The person sells 100 or more dogs in a year.
- 24 2. The person operates a facility from which 100 or more dogs are sold in a year.
- 25 3. The person sells the dog at auction.

1 **(8) AGE FOR TRANSFER OF PUPPY.** A dog breeder may not transfer a dog to a buyer
2 until the dog is 7 weeks of age. A person operating a pet store may not transfer a dog
3 to a buyer until the dog is 8 weeks of age.

4 **(9) FOOD AND WATER FOR DOGS.** A person who is required to be licensed under
5 sub. (2) shall do all of the following with respect to all dogs kept by the person:

6 (a) Feed each adult dog at least once a day, unless a veterinarian has
7 recommended otherwise and the recommendation is being followed.

8 (b) If a veterinarian recommends that an adult dog be fed more frequently than
9 once a day or that an adult dog be fed a specific diet, feed the dog according to the
10 veterinarian's recommendations.

11 (c) Feed each young dog more frequently than once a day and provide a diet that
12 is appropriate to the dog's needs.

13 (d) Provide fresh water at least twice a day, unless one of the following applies:

14 1. A veterinarian has recommended otherwise and the person is following the
15 veterinarian's recommendation.

16 2. The person provides the dog with food to which enough water has been added
17 to maintain the dog in good health.

 ****NOTE: The instructions referred to "supersaturated" food. That term is not
sufficiently clear to include in the statutes without a definition.

18 (e) Keep the containers used to provide food and water clean.

19 (f) Use only a durable container to provide water.

20 (g) Use only a durable container to provide food, except that the person may use
21 a disposable container if the person uses the disposable container for only one
22 feeding.

1 (h) Sanitize water and food containers and all other equipment used to provide
2 food or water, using heat or a chemical sanitizing solution, as often as necessary to
3 prevent disease hazards and maintain sanitary conditions.

4 (i) Store food in a manner that prevents spoilage and contamination.

5 **(10) ENCLOSURES FOR DOGS.** (a) *Metal strand flooring.* A person who is required
6 to be licensed under sub. (2) may use flooring made of metal strands in housing for
7 a dog only if all of the following apply:

8 1. The metal is coated with vinyl or a similar substance.

9 2. The flooring does not have any opening large enough for the dog's foot to pass
10 through and does not otherwise cause injury to the dog.

11 3. The metal is of sufficient thickness that the floor supports all dogs kept in
12 the enclosure in which the flooring is used without bending or sagging from the
13 weight of the dogs.

14 (b) *Other flooring.* A person who is required to be licensed under sub. (2) may
15 not keep a dog in a building with a dirt floor or in a building, other than a doghouse,
16 with an unfinished wood floor.

17 (c) *Indoor facilities.* A person who is required to be licensed under sub. (2) shall
18 ensure all of the following:

19 1. That the air temperature in any indoor facility used to house a dog is
20 consistent with the dog's needs, considering the breed and age of the dog.

21 2. That any indoor facility used to house a dog is cooled when the air
22 temperature in the facility rises above 90 degrees Fahrenheit.

23 3. That any indoor facility used to house a dog is heated when the air
24 temperature in the facility falls below 50 degrees Fahrenheit for 4 consecutive hours,

1 except that a lower temperature is acceptable if all of the dogs in the facility are
2 acclimated to that temperature.

3 4. That any indoor facility used to house a dog is ventilated, by natural or
4 mechanical means, with fresh or filtered air to minimize odors and moisture and to
5 provide for the health and comfort of the dog.

6 (d) *Keeping dogs outside.* A person who is required to be licensed under sub.
7 (2) may provide an outdoor primary enclosure for a dog if all of the following apply:

8 1. The dog is of a breed that is able to tolerate the outdoor temperature
9 prevalent in the area in which the person keeps the dog.

10 2. The dog is acclimated to the outdoor temperature prevalent in the area in
11 which the person keeps the dog.

12 3. One of the following applies:

13 a. The dog is not sick, injured, old, or young.

14 b. If the dog is sick, injured, old, or young, a veterinarian currently providing
15 care to the dog approves of keeping the dog outdoors.

16 4. The person provides a shaded area that is of sufficient size to protect all dogs
17 kept in the enclosure from the direct rays of the sun without undue crowding of the
18 dogs.

19 5. The person provides sufficient shelter to allow each dog kept in the enclosure
20 to remain dry during rain or snow and the shelter is moisture-proof, made of a
21 durable material, has a solid floor, is of sufficient size to accommodate each dog, and
22 allows the retention of body heat.

23 (e) *Tethering.* 1. A person who is required to be licensed under sub. (2) may not
24 provide a primary enclosure for a dog by tethering the dog within reach of a doghouse
25 except as provided under subd. 2.

1 2. A person may request a waiver from the department, in writing, of the
2 prohibition in subd. 1. on an annual basis. The department may grant a waiver
3 request at its discretion, for not more than one year, subject to all of the following
4 conditions:

5 a. The person may not provide a primary enclosure to a female dog that is
6 pregnant or that has puppies by tethering the female dog.

7 b. The person shall place each dog's tether so that it cannot become tangled with
8 the tether of another dog or any other object and shall use a swivel on each tether.

9 c. The person shall use a tether that is at least 6 feet long and is of a type
10 commonly used for the size of the dog being tethered.

11 d. The person shall attach the tether to the dog by means of a collar or harness
12 that does not tighten and that is of an appropriate size for the dog.

13 (f) *Temporary primary enclosures.* A person who is required to be licensed
14 under sub. (2) may provide a temporary primary enclosure, that may be used for only
15 one dog, if the enclosure is at least as long as the dog from the tip of its nose to the
16 base of its tail, is at least 3 inches higher than the height of the dog at its shoulders,
17 and is large enough to allow the dog to turn around and lie down. A temporary
18 primary enclosure may be used for not longer than 18 hours a day and may be used
19 only when the dog is sleeping or eating, when runs or exercise areas are being
20 cleaned, for purposes of behavior modification, or when the caretaker is away from
21 the facility for less than 10 hours.

22 (g) *Primary enclosure for one dog.* Subject to pars. (h) to (j), if a person who is
23 required to be licensed under sub. (2) keeps one dog in a primary enclosure at times
24 or for periods to or in which par. (f) does not authorize a temporary primary enclosure
25 to be used and if the primary enclosure does not have access to a run or exercise area,

1 the person may only use a primary enclosure that satisfies the following
2 requirements:

3 1. If the dog's height at its shoulders is less than 10 inches, the primary
4 enclosure has at least 4.5 square feet of floor area and is at least 18 inches high.

5 2. If the dog's height at its shoulders is at least 10 inches but less than 16 inches,
6 the primary enclosure has at least 6 square feet of floor area and is at least 24 inches
7 high.

8 3. If the dog's height at its shoulders is at least 16 inches but less than 22 inches,
9 the primary enclosure has at least 9 square feet of floor area and is at least 33 inches
10 high.

11 4. If the dog's height at its shoulders is at least 22 inches but less than 26 inches,
12 the primary enclosure has at least 12 square feet of floor area and is at least 39 inches
13 high.

14 5. If the dog's height at its shoulders is at least 26 inches but less than 30 inches,
15 the primary enclosure has at least 16 square feet of floor area and is at least 45 inches
16 high.

17 6. If the dog's height at its shoulders is at least 30 inches, the primary enclosure
18 has at least 20 square feet of floor area and is at least 48 inches high.

19 (h) *Primary enclosure for more than one dog.* If a person who is required to be
20 licensed under sub. (2) keeps more than one dog in a primary enclosure and the
21 primary enclosure does not have access to a run or exercise area, the person shall
22 ensure that the floor area of the primary enclosure equals the floor area required
23 under par. (g) for the tallest dog plus 50 percent of that floor area for each additional
24 dog and that the primary enclosure is at least as tall as required under par. (g) for
25 the tallest dog, except as provided in pars. (i) and (j).

1 (i) *Primary enclosure for dog with puppies.* A person who is required to be
2 licensed under sub. (2) shall provide a dog that is nursing puppies with a primary
3 enclosure that will allow the dog to lie stretched out on her side, permitting all of the
4 puppies to nurse, that is of an appropriate size given the number of puppies and the
5 temperament of the dog, and that provides the dog with a place to be away from the
6 puppies.

7 (j) *Primary enclosure for weaned puppies.* A person who is required to be
8 licensed under sub. (2) shall keep puppies that have been weaned but that are under
9 4 months old in a primary enclosure that is large enough to accommodate all of the
10 puppies, allowing them to turn around, stand up, lie down, and make other normal
11 movements, and to encourage socialization and exercise.

12 (k) *Exercise for dog kept in temporary primary enclosure.* If a person who is
13 required to be licensed under sub. (2) keeps a dog in a temporary primary enclosure
14 for any portion of a day, the person shall allow the dog to exercise in a run or exercise
15 area for at least 60 minutes during that day.

16 (L) *Runs and exercise areas.* An area may be considered a run or exercise area
17 for the purposes of pars. (g), (h), and (i) only if it is at least 3 times as long as the dog
18 from the tip of its nose to the base of its tail, is at least as wide as the dog from the
19 tip of its nose to the base of its tail plus 6 inches, and is at least 1.5 times the height
20 of the dog at its shoulders or 18 inches high, whichever is greater, except that the run
21 or exercise area is not required to be more than 48 inches high.

22 **(11) GROUPING AND SEPARATION OF DOGS.** (a) A person who is required to be
23 licensed under sub. (2) may keep more than one dog in a primary enclosure only if
24 the dogs are compatible. In addition, the person may not do any of the following:

1 1. Keep a dog that exhibits aggressive behavior in the same primary enclosure,
2 run, or exercise area with any other dog.

3 2. Keep a female dog in estrus in the same primary enclosure, run, or exercise
4 area with a male dog, except for breeding purposes.

5 3. Keep a female dog that is pregnant in the same primary enclosure, run, or
6 exercise area with any other dog beginning 7 days before the day on which she is
7 expected to give birth.

8 4. Keep puppies under 4 months of age in the same primary enclosure, run, or
9 exercise area with any adult dog other than their mother, unless an individual is
10 present to supervise the dogs.

11 5. Keep more than 5 dogs that are at least 6 months of age in one common area
12 at the same time, except as authorized under par. (b).

13 (b) A person may request a waiver from the department, in writing, of the
14 prohibition in par. (a) 5. on an annual basis. The department may grant a waiver
15 request, for not more than one year, if the person demonstrates provisions to ensure
16 the safety of the dogs kept in the common area.

17 (c) A person who is required to be licensed under sub. (2) shall keep a dog that
18 is under quarantine or treatment because it has or is suspected to have a
19 communicable disease physically separated from other dogs that may be susceptible
20 to the disease.

21 **(12) CLEANING AND SANITATION OF DOG FACILITIES.** (a) A person who is required
22 to be licensed under sub. (2) and who keeps dogs shall ensure all of the following:

23 1. That excreta are removed daily from all primary enclosures, runs, and
24 exercise areas and from any floor area or ground surface beneath a primary
25 enclosure.

1 2. That primary enclosures are kept clean and free of accumulation of dirt and
2 debris.

3 3. That primary enclosures and soiled surfaces of runs and exercise areas with
4 hard surfaces are cleaned at least once a week, and more often if necessary to prevent
5 an accumulation of debris or excreta or disease hazards, with detergent and a
6 sanitizer, except as provided in par. (b).

7 4. That a primary enclosure that was occupied by a dog is cleaned with
8 detergent and a sanitizer before the primary enclosure is occupied by another dog,
9 except as provided in par. (b).

10 (b) A person is not required to use detergent and a sanitizer to clean a wooden
11 dog house that is used as a primary enclosure for a dog kept outdoors, but the person
12 shall keep the doghouse clean.

13 **(13) OBSERVATION OF DOGS, PROVISION OF VETERINARY CARE.** (a) A person required
14 to be licensed under sub. (2) shall ensure that every day each dog at a facility at which
15 the person operates is observed by the caretaker of the facility or a person under the
16 caretaker's direct supervision.

17 (b) A person required to be licensed under sub. (2) shall provide a sick, diseased,
18 or injured dog with timely veterinary care or euthanize the dog in a proper and
19 humane manner.

20 **(14) CONDITION OF DOGS IN FACILITY.** It is a violation of this section for a person
21 required to be licensed under sub. (2) to have, at a location at which the person
22 operates, a dog in a condition that indicates a violation of sub. (9) to (13).

23 **(15) RECORD KEEPING.** A person who is required to be licensed under sub. (2),
24 except for a person operating a dog auction, shall keep a record of each dog that comes
25 into the person's possession that includes all of the following information:

1 (a) A description of the dog including the dog's breed or type, sex, date of birth
2 or approximate age, color, and any distinctive markings.

3 (b) The dog's official federal department of agriculture tag number or tattoo,
4 if any.

5 (c) A statement that the dog was born in the person's possession or the name
6 and address of the person from whom the dog was acquired and that person's federal
7 department of agriculture license or registration number or, if the person is not
8 licensed or registered by the federal department of agriculture, the person's state of
9 residence, driver's license number, and vehicle registration plate number.

10 (d) If the dog was not born in the person's possession, the date on which the
11 person acquired the dog.

12 (e) The date and method of disposition of the dog.

13 **(16)** SEIZURE OF ANIMALS. The department may seize an animal in the
14 possession of a person required to be licensed under sub. (2) if department has
15 reasonable grounds to believe that the animal is being mistreated in violation of ch.
16 951.

17 **(17)** PENALTIES. (a) A person who operates without a license required under
18 sub. (2) may be fined not more than \$10,000 or imprisoned for not more than 9
19 months or both.

20 (b) 1. Except as provided under par. (a), a person who violates this section or
21 a rule promulgated under this section may be required to forfeit not more than \$1,000
22 for the first offense and may be required to forfeit not less than \$200 nor more than
23 \$2,000 for the 2nd or any subsequent offense within 5 years.

24 2. If a violation under subd. 1. involves the keeping of animals, each animal
25 with respect to which the statute or rule is violated constitutes a separate violation.

