

A BILL

To create a new section 956 of the Revised Code to regulate commercial dog breeders known as McKenzie's Law

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That a new section 956 of the Revised Code is added:

§956.01 Definitions

As used in this chapter:

1. "Animal shelter" means a facility that is used to house or contain seized, stray, homeless, quarantined, abandoned, or unwanted animals and that is under contract with, owned, operated, or maintained by a county, city, town, or other municipality, or by a duly incorporated and licensed (if required by law) humane society, animal welfare society, society for the prevention of cruelty to animals, or other 501(c)3 nonprofit organization devoted to the welfare, protection, rehabilitation, or humane treatment of animals.

2. "Commercial breeder" does not apply to animal shelters or hobby breeders with 5 or fewer breeding dogs and refers to any person or business or other entity, that for consideration, fee, profit, or compensation: (a) maintains for breeding more than five dogs at any one time, (b) promotes, advertises, operates, supervises, or manages the breeding or business of breeding of dogs; or (c) sells, leases, trades, barter or auctions more than 5 litters of dogs, or offers to do so in this State, annually.

3. "Dog" means any age of *canis familiaris*.

4. "Minimum care" means care sufficient to preserve the health and well-being, including social well-being, of a dog, and, except for emergencies or circumstances beyond the reasonable control of the commercial breeder, includes, in addition to those requirements set forth in §§969.01 et seq., the following requirements:

(a) Continuous access to an enclosed shelter with a solid roof and which is clean and dry and protects the animal from weather emergencies, rain, hail, sleet, snow, temperatures above 85 degrees F and below 40 degrees F, or

from temperatures or a surrounding environment that may cause the animal to suffer, sustain injury or illness or die.

(b) Continuous access to an outdoor place or enclosure that is separate from but attached to the primary enclosure and which is at least four times the size of the primary enclosure described in (c) and allows any dog over 8 weeks of age room to run around unleashed or untied, freely mobile, and get sufficient daily exercise for at least one hour each day except that exercise shall not include use of a treadmill, cat mill, jenny mill, slat mill, or similar device, unless prescribed by a licensed veterinarian. The exercise requirements in this section shall not apply to a dog for which a licensed veterinarian has issued a signed certification stating the medical reason the dog should not be provided exercise and the dates during which the disability applies.

This exercise area shall be kept clean and free from animal feces and wastes, spoiled or contaminated food, dirty water, parasites or pests, trash, debris, sharp or dangerous objects and offensive odors or other contaminants that could affect the animal's health or injure the animal. The fencing for the exercise area shall be kept in good repair, free of rot, rust and sharp or dangerous edges or defects.

(c) A primary place or enclosure, the place where dogs are routinely kept, (1) that has a nonporous, solid surface for flooring, or, if the kennel or primary enclosure is raised, the flooring may be constructed with slats which shall be flat and must have spaces in between that are no more than 0.5 inches in width, and each slat shall be level with the slat next to it within a single enclosure; (2) that has flooring that is impervious to moisture and can be sanitized and is of sufficient strength to support the weight of dogs without sagging; (3) that has sides or walls and a solid roof that are impervious to moisture or which are replaceable, (4) that is well-ventilated with air circulating at a rate of 8 to 12 times per hour, (5) that has adequate lighting to allow for inspection of the dogs including at night and cleaning and is at least 10 foot candles but cannot be provided by flame, (6) that is dry and free from animal feces and wastes, spoiled or contaminated food, dirty water, parasites or pests, trash, debris, sharp or dangerous objects and offensive odors or other contaminants that could affect the animal's health or injure the animal; and (7) that protects the animal from weather emergencies, rain, hail, sleet, snow, temperatures above 85 degrees F and below 40 degrees F, or from temperatures or a surrounding environment

that may cause the animal to suffer, sustain injury or illness or die except that heat may not be provided by flame.

An animal kept in the commercial breeder's home is exempt from these requirements for a primary enclosure.

(d) The primary place or enclosure should be large enough to provide each animal with three times the space equal to the length of the largest dog, from tip of the nose to the end of the tail and at least 6 inches higher than the head of the tallest dog. If the dogs have access to a residence from the place or enclosure, the residence may be included in calculating the space available to the dogs.

(e) Only dogs that are compatible may be housed or exercised together. Vicious or aggressive dogs must be housed or exercised separately or only with dogs with which they are compatible. Breeding females in heat may not be housed or exercised in the same enclosure with sexually mature males, except for breeding. Breeding females with litters may not be housed or exercised in the same enclosure with other adult dogs. Puppies under 12 weeks may not be housed or exercised in the same enclosure with other adult dogs, other than the dam or foster dam.

(f) Primary places or enclosures as described in (c) may not be stacked on top of each other and may be no more than 42 inches above the ground.

(g) Dogs must be moved from primary places or enclosures or kennels, pens, cages, coops or crates during cleaning and sanitizing.

(h) A dog may be confined in a smaller enclosure such as a kennel, pen, cage, coop, or crate for transport or for short periods not to exceed 8 hours in a 24-hour day. These smaller enclosures must still (1) allow access to food and water as required by §959.01 et seq.; (2) have a nonporous, solid surface for flooring that is impervious to moisture and is of sufficient strength to support the weight of dogs without sagging and constructed to prevent injury to the dog's legs and feet; (3) have sides or walls and a solid roof that are impervious to moisture or which are replaceable, (4) be well-ventilated with air circulating at a rate of 8 to 12 times per hour, (5) have adequate lighting to allow for inspection of the dogs including at night and cleaning and is at least 10 foot candles but cannot be provided by flame, and (6) be kept dry and free from animal feces and wastes, spoiled or contaminated food, dirty water, parasites or pests, trash, debris, sharp or dangerous objects and offensive odors or other contaminants that could affect the animal's health or injure the animal and (7) have sufficient room

for the animal to stand, turn around, stretch its limbs easily and lie comfortably.

(i) Dogs can only be restrained by a leash, cord or other device that is of sufficient length for the size of the animal and is attached to a well-fitting collar or harness. No pinch, prong or shock collars are allowed.

(j) Dogs may not be tethered or chained including by a pulley, as a means of confinement or while the owner is not present. Any tether or chain should have a swivel on both ends and be at least 15 feet long and sufficient to prevent dogs from becoming entangled or injured and allow access to food and water and shelter as described in §959.01 et seq and this section.

(k) Veterinary care including a program or protocol for vaccinations that are required or recommended by a licensed veterinarian, pest or parasite control, disease prevention and control, nutrition, emergency care and treatment; and which provides for care and treatment a reasonably prudent person would find necessary or appropriate for injuries, neglect, illness or disease.

(l) Grooming that a reasonably prudent person would find is necessary or appropriate for the health of the dog, including periodic brushing and trimming of nails.

(m) A period of socialization and interaction with other animals and people each day for a period no less than 2 hours.

§ 956.02 Licenses and permits required

1. No commercial breeder shall operate in the State without a kennel registration as set forth in §955.04 and a valid business license or zoning permit issued under the authority and according to the ordinances and requirements of all localities where the commercial breeder operates.
2. A commercial breeder must obtain for each kennel a vendor number assigned by the Department of Taxation to solicit or advertise for the purchase or sale of dogs or to receive inquiries or solicitations about the sale or purchase of dogs.
3. A commercial breeder must maintain licenses required by U.S. Department of Agriculture.

§ 956.03 Commercial breeding; requirements.

Commercial breeders shall:

1. Maintain no more than 20 dogs over the age of 4 months at any time;
2. Breed female dogs only: (i) after annual certification by a licensed veterinarian that the dog is in suitable health for breeding; (ii) after the dog has reached the age of 18 months; (iii) if the dog has not yet reached the age of 6 years; and (iv) once each year.
3. Breed dogs together only if they are from different parents.
4. (a) Sell, barter, trade, exchange or distribute dogs only if they are older than 10 weeks of age, (b) house any dog under 10 weeks of age with its mother, and (c) keep any nursing dog with her puppies in housing separate from other dogs.
5. Dispose of dogs only by gift, sale, transfer, barter, or euthanasia by a licensed veterinarian; and not buy, sell, barter, trade, exchange, distribute or acquire dogs by auction, raffle or renting.
6. Dispose of deceased dogs in accordance with state and local laws and regulations.
7. Dispose of dog waste in accordance with federal, state and local laws and regulations.
8. Establish and submit a comprehensive evacuation plan for the safety of both personnel and the dogs in case of fire for each commercial breeding location. Each plan shall be submitted for approval to both the fire marshal and dog warden for the locality where the commercial breeder is located. No plan shall be approved without the demonstration of adequate and operational smoke detectors, fire extinguishers, sprinkler systems to protect both personnel and dogs, a plan for evacuation of personnel and dogs, and compliance with all state and local regulations for fire safety.
9. Maintain accurate records for at least five years including:
 - a. The date on which a dog enters the operation through purchase, birth or otherwise;
 - b. The person from whom the animal was purchased or obtained, including the address and phone number of such person;

- c. A description of the animal, including the species, color, breed, sex, and approximate age and weight;
 - d. Any tattoo, microchip number, or other identification number carried by or appearing on the animal;
 - e. Each date that puppies were born to such animal and the number of puppies;
 - f. All medical care and vaccinations provided to the animal, including certifications required by a licensed veterinarian under this chapter; and
 - g. A description of the disposition of each animal and, if applicable, the name, address and phone number of each person who subsequently acquired the dog, and the date.
10. Provide minimum care as defined in this chapter to each dog in its possession.
11. Not debark, crop the ears of, dock the tail of or perform surgical births on any dog without using a licensed veterinarian to perform the procedures under anesthesia.
12. Not maintain more than one licensed kennel for each address.
13. Comply with any other or additional requirements of local governing authorities.

§956.04 Right of entry

1. The Attorney General, Commissioner of the Department of Agriculture, the State Veterinarian or his assistants, any dog warden authorized under the laws of this state, any humane officer authorized under the laws of this state, and any public health or safety official employed by the locality where a commercial breeder resides or maintains breeding operations may, upon receiving a complaint or upon his own motion, investigate any alleged violation of the provisions of this chapter. Such investigation may include (i) the inspection of the books and records of any commercial breeder, (ii) the inspection of any companion animal owned by the commercial breeder, and (iii) the inspection of any place where animals are bred or maintained by a commercial breeder. In the course of any such inspection, any premises where animals may be bred or maintained may be entered during daytime hours.

2. Any commercial breeder who is the subject of an investigation under this section shall, upon request, provide assistance to the official making any inspection authorized by this section.

3. Any official conducting an inspection under this section, shall have available an inspection form listing the appropriate requirements of this chapter. The official conducting the inspection shall indicate on the form whether the commercial breeder is in compliance with each requirement. If the commercial breeder is not in compliance, the official shall describe on the form the condition(s) not in compliance with the provisions of this chapter. Upon completion of the inspection, the official shall sign and date the form, which shall be maintained by the county.

§956.05 Concurrent operation of animal shelter prohibited

It is unlawful for a commercial breeder to operate or maintain an interest in any animal shelter.

§956.06 Sale of animals after conviction; penalty

1. It shall be unlawful for any person who has been convicted of a violation of this Chapter or any law in any state, county or city that concerns abuse, neglect, or cruelty to animals, or who has been issued a final cease and desist order under Sec. 956.07, to sell, trade, barter or distribute dogs or offer to do so in this State.

2. Any person who violates this section is guilty of a misdemeanor of the first degree.

§956.07 Cease and desist order

1. The Attorney General, Commissioner of the Department of Agriculture, the State Veterinarian or his assistants, any dog warden authorized under the laws of this state, any humane officer authorized under the laws of this state, and any public health or safety official employed by the locality where a commercial breeder resides or maintains breeding operations may provide, individually or jointly, a written order to cease and desist operating to a commercial breeder who is operating without applicable licenses or permits as required by this chapter or who is in violation of the requirements of this chapter or chapter §959.01 et seq.

2. The order shall set forth the general factual and legal basis for the action and shall advise the affected person or entity that within ten days of receipt of the order, he may file with the authority issuing the order a written

request for a hearing. The order to cease and desist shall become a final order of the issuing authority upon expiration of the ten-day period for requesting a hearing, unless a timely request has been filed.

3. Upon receiving a cease and desist order, the affected party shall immediately cease and desist from operating as a commercial breeder and shall divest of all dogs, unless otherwise directed, within a reasonable time period determined by the issuing authority but not to exceed ten days. The authority issuing the order shall set forth the manner by which the commercial breeder may divest of the dogs.

4. A commercial breeder that has timely filed a request for a hearing may be allowed to operate under the conditions prescribed by the issuing authority or other authorities authorized under this section and removal of the dogs may occur as provided under Chapter §959.01 et seq.

5. Any hearing so requested must be held within 10 days and shall be conducted pursuant to the laws of this state.

§ 956.08 Action for injunction or other relief

1. The Attorney General, Commissioner of the Department of Agriculture, the State Veterinarian or his assistants, any dog warden authorized under the laws of this state, any humane officer authorized under the laws of this state, any public health or safety official employed by the locality where a commercial breeder resides or maintains breeding operations, any duly authorized humane society, society for the prevention of cruelty to animals, and any real party in interest may bring an action for injunction pursuant to Ohio law or other relief as provided by law against a person for violations of this chapter or chapter §959.01 et seq.

2. A real party in interest as plaintiff shall include any person who has observed dogs treated or used in violation of any section of this chapter. It will be considered an injury to that person as against public policy to have observed such dogs. Such person has standing to bring an action under this section to promote the purposes of this chapter.

§ 956.09 Penalty

Any commercial breeder violating any provision of this chapter is guilty of a misdemeanor of the first degree. Any commercial breeder who has been convicted of 2 or more violations of this chapter that sells, barter, trades,

distributes dogs or offers to do so in this State is guilty of a misdemeanor of the first degree.

§956.10 Duty of attorneys for the State

It shall be the duty of each county attorney with responsibility for the enforcement of this chapter, and to whom any violation is reported, to institute proceedings in an appropriate court without delay.

§956.11 Duties of county auditors as to commercial breeders

Each county auditor shall notify the Attorney General, Department of Taxation, State Veterinarian, county dog warden or humane officer of the presence of any commercial breeder, as defined in §956.01, operating within the locality.

§956.12 Consumer protection

1. No dogs may be sold, bartered, traded, or distributed for consideration or compensation, in this state by a pet store, commercial breeder or otherwise, without providing to the purchaser, adopter or recipient the names and addresses of all commercial breeders which have had possession of the dog, the business license or zoning permit numbers of each such commercial breeder, along with a record of the date of sale, description of the dog including breed, date of birth, age, any licensing and tag information, records of rabies vaccinations and veterinary care, a certificate of medical health that has been completed and attested to by a veterinarian licensed in this state and that states that the veterinarian has examined the dog and has not found evidence of disease, illness, or injury or congenital defect at the time of the examination; and information about the benefits and importance of spay/neuter and places available in the state for low cost spay/neuter.

2. No dogs may be sold, bartered, traded, or distributed for consideration or compensation in this state by a pet store, commercial breeder or otherwise, without a money-back guarantee. The guarantee shall authorize the purchaser of the dog to receive the purchase price of the dog within twenty-one-days of purchase if the purchaser presents a statement to the pet store, commercial breeder, or seller, from a licensed veterinarian who has examined the dog within fourteen days of the purchase of the dog that the dog has or had a disease, illness, or injury that was in existence at the time of the purchase of the dog and which requires or required veterinary

treatment and care. In addition to receiving a refund under this section, the purchaser may keep the dog.

The guarantee shall also authorize the purchaser of the dog to receive the purchase price of the dog up to one year after purchase if the purchaser presents a statement during that time to the pet store, commercial breeder, or seller, from a licensed veterinarian who has examined the dog that the dog has or had a congenital defect that was in existence at the time of the purchase of the dog and which requires or required veterinary treatment and care or affects or affected the dog's health or mobility. In addition to receiving a refund under this section, the purchaser may keep the dog.

3. A pet store, commercial breeder or other seller shall post written notice of the seller's responsibility under this section in a conspicuous location visible to buyers and also in or next to any advertisement on websites, newspapers or other place offering or describing the sale of the dogs . The written notice shall be prominent and easily read type that is not less than eighteen-point type.

4. No commercial breeder may solicit or advertise dogs for sale, barter, trade or distribution without listing the commercial breeder's vendor number and business license or zoning permit numbers in the advertisement.

5. Dogs under 4 months of age can only be sold, bartered, traded or distributed for consideration or compensation, from the commercial breeder's location listed on the business license or zoning permit. Dogs under 4 months of age cannot be sold, bartered, traded or distributed on public or commercial property or along public roads, even with the Owner's permission.

6. Any person or entity that fails to comply with this section with respect to the sale of a dog or that fails to refund the purchase price of a dog in accordance with this section is liable to the purchaser of the dog for an amount that is equal to three times the purchase price of the dog plus any veterinary expenses that are incurred by the purchaser within one year after the date of the purchase of the dog and also for any attorney's fees and costs incurred by the purchaser. In addition, the purchaser of the dog may keep the dog.

7. Any violation of this section is a misdemeanor in the first degree.