



OHIO LEGISLATIVE SERVICE COMMISSION

Final Analysis

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Reps. Hill, Thompson, R. Smith, Patterson, Schuring, Seitz, Koehler, Patton, Stein, West, Sweeney, Kick, Ryan, Hoops, Hambley, Rezabek, Rogers

Sens. Hackett, Hoagland, O'Brien, Yuko

Effective date: September 28, 2018

ACT SUMMARY

High-volume dog breeders

- Alters which dog breeders are high-volume dog breeders subject to regulation by the Department of Agriculture by specifying that an establishment is a high-volume dog breeder if it keeps six or more breeding dogs and does one of the following in a calendar year:
 - Sells five or more adult dogs or puppies to dog brokers or pet stores;
 - Sells 40 or more puppies to the public; or
 - Keeps, at any given time of year, 40 or more puppies that are (1) younger than four months, (2) bred on the premises of the establishment, and (3) primarily kept from birth on the premises.
- Reclassifies which dogs are breeding dogs by specifying that a breeding dog is an unspayed female adult dog that is primarily used for producing offspring (rather than an unneutered or unspayed male or female dog that is primarily housed on property that is the dog's primary residence).
- Revises the fee schedule for an annual high-volume dog breeder license by generally basing the fee on the number of puppies sold, rather than the number of litters of puppies sold as under former law. (The fee ranges from \$150 to \$750.)

Standards of care

- Imposes additional standards of care on high-volume dog breeders, including standards governing sustenance, housing, veterinarian care, and exercise and human interaction.¹
- Prohibits a high-volume dog breeder from failing to comply with the additional standards of care.
- Requires a dog broker or pet store, prior to purchasing a dog from an in-state or out-of-state high-volume dog breeder, to request that the breeder sign a document stating that the breeder complies with Ohio's standards of care.

Exemptions

- Exempts animal shelters for dogs from the law governing high-volume dog breeders.
- Clarifies that a veterinarian is exempt from the law only if the veterinarian is providing clinical care and is not engaged in the practice of dog breeding.

Civil penalties

- Alters the procedures that the Director of Agriculture must follow when imposing civil penalties on high-volume dog breeders and pet stores.
- Increases the civil penalty for a first violation from \$500 to \$2,500, and for a second violation from \$2,500 to \$5,000.

Animal rescues for dogs

- Changes the registration for an animal rescue for dogs (animal rescue) from permanent to annual registration.
- Requires the Director to establish appropriate procedures for an animal rescue's registration renewal if the rescue was permanently registered as an animal rescue prior to September 28, 2018.
- Retains the prohibition against imposing a registration fee on an animal rescue, but authorizes the Director to charge a \$200 late renewal fee if an animal rescue fails to renew registration prior to its expiration.

¹ Please note: many of the care standards established by the act are addressed in rules adopted under continuing law.



- Specifies that an entity cannot be considered an animal rescue if it sells a dog to a dog broker or pet store.

Dog brokers

- Changes the title of dog retailer to dog broker throughout the law governing dog breeders and makes conforming changes.

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CONTENT AND OPERATION

High-volume dog breeders

Overview

The law governing high-volume dog breeders prohibits a person from operating as a high-volume dog breeder in Ohio without an annual license issued by the Director of Agriculture. The person also must comply with certain standards of care established by the Director in rules. At least once a year, the Director or the Director's authorized representative must inspect a high-volume dog breeder to ensure compliance with the law and rules adopted under it, including the standards of care. The Director may take certain enforcement actions against violators, including impounding dogs and assessing civil penalties.²

² R.C. Chapter 956.

The act revises several provisions of the law, including altering which dog breeders and dogs are subject to regulation, establishing additional standards of care for dogs, altering the fee schedule for an annual high-volume dog breeder license, altering the registration requirements that apply to animal rescues for dogs (animal rescues), and amending civil penalty procedures and amounts.

Scope of the law

The act alters the factors that determine whether a dog is a breeding dog and whether a dog breeder is a high-volume dog breeder subject to regulation, as follows:³

Term	Former law	The act
Breeding dog	"An unneutered, unspayed male or female dog that is primarily harbored or housed on property that is the dog's primary residence."	"An unspayed female adult dog that is primarily used for producing offspring."
High-volume dog breeder	"An establishment that keeps, houses, and maintains adult breeding dogs that produce at least <u>nine litters</u> of puppies in any calendar year and, in return for a fee or other consideration, <u>sells 60 or more</u> adult dogs or puppies per calendar year."	<p>An establishment that keeps, houses, and maintains <u>six or more breeding dogs</u> and does at least one of the following:</p> <p>(1) In return for a fee or other consideration, <u>sells five or more</u> adult dogs or puppies in a calendar year to dog brokers or pet stores;</p> <p>(2) In return for a fee or other consideration, <u>sells 40 or more</u> puppies in a calendar year to the public; or</p> <p>(3) Keeps, houses, and maintains, at any time in a calendar year, <u>more than 40</u> puppies that:</p> <p>--Are younger than four months of age;</p> <p>--Have been bred on the premises of the establishment; and</p>

³ R.C. 956.01.



Term	Former law	The act
		--Have been primarily kept, housed, and maintained from birth on the premises of the establishment.

License application fee

The act revises the fee schedule for annual high-volume dog breeder licenses by generally basing it on the number of puppies sold, rather than the number of litters of puppies sold as under former law. The fee ranges from \$150 to \$750, depending on the number of puppies sold by the breeder. The following table illustrates the act's changes to the fee schedule:⁴

Fee	Former law (litters of puppies annually sold)	The act (number of puppies annually sold to the public)
\$150	9 to 15	40 to 60
\$250	16 to 25	61 to 150
\$350	26 to 35	151 to 250
\$500	36 to 45	251 to 350
\$750	46 or more	351 or more

A high-volume dog breeder that annually sells 39 or fewer dogs must pay a \$150 license application fee if the breeder either:

(1) Sells five or more adult dogs or puppies to a dog broker or pet store; or

(2) Keeps, houses, and maintains, at any time in a calendar year, more than 40 puppies that are under four months old, have been bred on the premises of the establishment, and have been primarily kept, housed, and maintained from birth on the premises of the establishment.⁵

⁴ R.C. 956.07(A)(1)(a) through (e).

⁵ R.C. 956.07(A)(1)(f).



Standards of care

Continuing law

Continuing law requires the Director to adopt rules governing standards of care for dogs kept, housed, and maintained by a high-volume dog breeder. Those standards govern housing, nutrition, exercise, grooming, biosecurity and disease control, waste management, whelping, and other matters. In adopting the rules, the Director must consider at least the following factors:

- (1) Best management practices for the care and well-being of dogs;
- (2) Biosecurity;
- (3) Prevention of disease;
- (4) Morbidity and mortality data;
- (5) Generally accepted veterinary medical standards and ethical standards established by the American Veterinary Medical Association; and
- (6) Standards established by the U.S. Department of Agriculture under the federal Animal Welfare Act.⁶

The act

The act establishes specific care standards in statute, and requires a high-volume dog breeder to comply with them in addition to the standards of care established in rules. (Many of the act's care standards are also addressed in the rules.) The act's care standards require a high-volume dog breeder to do all of the following with regard to a dog that is kept, housed, and maintained by the breeder:

- (1) Unless otherwise directed by a veterinarian, provide the dog, twice each day, with food that is:
 - Sufficient to maintain normal body condition and weight;
 - Unspoiled and uncontaminated;
 - Provided in accordance with a nutritional plan recommended by a veterinarian licensed to practice in Ohio (hereafter veterinarian); and
 - Served in receptacles that are clean and sanitary.

⁶ R.C. 956.03(A)(7).



A breeder may temporarily withhold food when directed by a veterinarian to do so.

(2) Each day, provide the dog access to a continuous supply of potable water in clean and sanitary receptacles that is of sufficient quality and quantity to ensure maintenance of normal body condition and growth, unless otherwise directed by a veterinarian;

(3) Keep or confine the dog in a primary enclosure that complies with all of the following:

--Its interior is at least six inches higher than the head of the tallest dog housed in the enclosure when the dog is in a normal standing position;

--It allows each dog housed in the enclosure to turn in a complete circle, lie down, and fully extend its limbs;

--It is not stacked on top of another primary enclosure; and

--It is cleaned at least once per day to remove excreta, dirt, grime, and other waste.

(4) On and after December 31, 2021, keep or confine the dog in a primary enclosure that has a minimum floor space in square inches equal to:

(length of the dog in inches, as measured from the tip of the nose to the base of the tail + 9 inches)² × 2

(Thus, a 30-inch dog would need a cage that is 3,042 sq. in., or 21.125 sq. ft.).

For each additional dog kept or confined in a primary enclosure, the enclosure must have additional floor space in square inches equal to:

(length of each additional dog in inches, as measured from the tip of the nose to the base of the tail + 9 inches)²

(5) On and after December 31, 2021, ensure that the minimum floor space provided in accordance with (4) is solid or consists of slats. If it consists of slats, the breeder must ensure all of the following:

--The spaces between the slats are not more than ½ inch in width;

--The slats are not less than 3½ inches in width;

--All of the slats run in the same direction; and



--The floor is level.

(6) On and after December 31, 2021, ensure that all flooring for the dog's primary enclosure complies with all of the following:

--It consists of materials that can be cleaned and sanitized; are safe for the breed, size, and age of the dog; are free from protruding sharp edges; and are designed so that the dog's paw is unable to extend through or become caught in the flooring;

--If the flooring surface consists of a material that is not solid, it has a solid resting area that can accommodate the dog's full length while lying down;

--It does not sag, bend, or bounce; and

--It does not consist of wire made of metal, including metal wire that is coated with another material.

(7) If the breeder uses an indoor primary enclosure to house the dog, ensure that it is located in a facility that permits regulation of temperature, ventilation, and lighting, including diurnal lighting. The breeder must ensure that the lighting is sufficient, through natural or artificial means, to observe the dog's physical condition and to permit inspection and cleaning of the dog and the primary enclosure.

(8) Use an outdoor primary enclosure to house the dog only if a veterinarian approves that use;

(9) If the breeder uses an outdoor primary enclosure to house the dog and if climatic or ambient temperatures pose a threat to the dog's health and welfare, take effective measures to eliminate the threat. If the breeder has to take those measures, the breeder must consider the dog's age, breed, overall health, and acclimation to the environment. The breeder must not use an outdoor primary enclosure if the dog is unable to tolerate the prevalent temperatures within the dog's thermoneutral zone. The thermoneutral zone is the range of ambient temperature in which a dog is able to maintain normal body temperature without a change in metabolic rate.

(10) House the dog with other dogs, except for reasons of health, biosecurity, breeding, and behavioral issues;

(11) If the dog is a puppy that is four months or younger, house the dog with an adult dog only if the adult dog is the puppy's dam or foster dam;



(12) If the dog is a female, breed the dog only if the dog has maintained a normal body condition and has been declared healthy by a veterinarian following a physical examination;

(13) If the dog is a female, ensure that the dog does not produce more than eight litters in its lifetime;

(14) Provide a clean, dry whelping area for each dam and her nursing puppies. The breeder must ensure that the area fully accommodates all puppies, allows the dam to lie fully recumbent and stand, and permits the dam to temporarily move away from her puppies as she chooses. The breeder must ensure that no other animals inhabit the whelping area other than the dam and her puppies.

(15) Provide the dog with an opportunity for daily exercise of at least 30 minutes that allows the dog to extend to full stride, play, and engage in other types of mentally stimulating and social behaviors. However, this requirement does not apply to an expectant or postpartum female dog or any other dog as directed by a veterinarian.

(16) Provide the dog an opportunity to safely access the outdoors during daylight hours;

(17) Provide the dog with daily environmental enrichment in the dog's primary enclosure. Enrichment is any modification in the environment of a confined dog that seeks to enhance the dog's physical and psychological well-being by providing stimuli that meets the dog's breed-specific needs.

(18) Provide human interaction with the dog for at least 15 minutes each day in addition to interaction that occurs during feeding and cleaning time. The interaction, at a minimum, must include verbal and tactile stimulation in a positive and beneficial manner.

(19) Provide the dog with appropriate medical care by a veterinarian, including prompt treatment for any significant disease, illness, or injury;

(20) If the dog is an adult dog, provide the dog with an annual physical examination by a veterinarian;

(21) Comply with a vaccination and parasite control program provided by a veterinarian and consistent with recommendations of the American Veterinarian Medical Association or the American Animal Hospital Association; and



(22) If a surgical or euthanasia procedure is required, use a veterinarian to perform the procedure.⁷

Standards of care prohibition

The act prohibits a person operating as a high-volume dog breeder from failing to comply with the act's care requirements. It also retains a prohibition against a breeder failing to comply with the care standards adopted by the Director in rules.⁸

Verification of compliance

The act requires a dog broker or the owner or operator of a pet store that seeks to purchase a dog from an in-state or out-of-state high-volume dog breeder, prior to completing the transaction, to do all of the following:

(1) Request the breeder to sign a document prescribed and provided by the Director. The document must state that the breeder is in compliance with the standards of care established by the act and by the Director in rules.

(2) Keep and maintain the signed document. If the breeder does not provide the signed document, the broker or owner or operator cannot purchase the dog; and

(3) Allow the Director to inspect the signed document during normal business hours. With respect to a pet store, the owner or operator also must comply with the requirements governing the sales of dogs by a pet store.

The act prohibits a dog broker or owner or operator of a pet store from knowingly selling a dog unless the broker or owner or operator has obtained the signed document. The Director cannot assess a civil penalty against a dog broker or the owner or operator of a pet store for a violation of the prohibition if the broker or owner or operator has obtained the signed document.

Finally, the Director must adopt rules in accordance with the Administrative Procedure Act that establish requirements and procedures governing the administration and enforcement of the provisions governing compliance verification.⁹

For purposes of the act, a dog broker is a person who buys, sells, or offers to sell dogs at *wholesale* for resale to another or who sells or gives one or more dogs to a pet

⁷ R.C. 956.01 and 956.031.

⁸ R.C. 956.08(A).

⁹ R.C. 956.041.



store annually. A dog broker does not include an animal rescue, an animal shelter for dogs, a humane society, a medical kennel for dogs, a research kennel for dogs, a pet store, or a veterinarian.

A pet store is an individual retail store to which both of the following apply: the store sells dogs to the public; and with regard to the sale of a dog from the store, the salesperson, the buyer, and the dog are physically present during the sales transaction so that the buyer may personally observe the dog and help ensure its health prior to taking custody. A pet store does not include an animal rescue, an animal shelter for dogs, a humane society, a medical kennel for dogs, or a research kennel for dogs.¹⁰

Civil penalties

The act alters the procedures that the Director must follow in order to assess a civil penalty against a person who has violated or is violating the law governing high-volume dog breeders. It also increases the civil penalties for a first or second violation of the law governing high-volume dog breeders and pet stores. For a first violation, it increases the civil penalty from \$500 to \$2,500. For a second violation, it increases the penalty from \$2,500 to \$5,000. The act retains a \$10,000 civil penalty for a third or subsequent violation.

The act retains the Director's authority to assess a civil penalty, provided that the Director allows a violator an opportunity for an adjudication hearing in accordance with the Administrative Procedure Act. It eliminates a requirement that the Director send a citation by certified mail or personal service and a notice requiring the person to do one of the following:

(1) Cease the acts or practices that constituted a violation of the law; or

(2) Take corrective actions to eliminate the conditions that constituted a violation of the law. (The notice had to state specifically the provision or provisions of the law that had been violated and the facts constituting the violation, the actions that the person had to take to correct the deficiencies, and the time period within which the person had to correct the violations.)

The act also eliminates a requirement that all appeals from the adjudication hearing had to be made to the Environmental Division of the Franklin County Municipal Court. Thus, an appeal may be made to the court of commons pleas with jurisdiction. It retains, as part of the adjudication hearing process under the Administrative Procedure Act, a requirement that a person who has violated or is

¹⁰ R.C. 956.01.



violating the law be provided notice of the right to have an adjudicatory hearing. It then makes identical changes to the civil penalty procedures under the law governing pet stores.¹¹

Records

The act requires the Director to adopt rules requiring each high-volume dog breeder to keep and maintain a record of veterinary care for each dog kept, housed, and maintained by the breeder. The records must be kept and maintained for three years after the care is provided by a veterinarian. Continuing law requires the Director to adopt rules governing record-keeping. However, the law did not specifically require the rules to address veterinarian care records.¹²

Exemptions from the law governing high-volume dog breeders

The act modifies the exemptions from the law governing high-volume dog breeders, including licensure requirements. First, it exempts animal shelters that are operated by a humane society organized under state law. Second, it clarifies that a veterinarian is exempt only if the veterinarian is providing clinical care and is not engaged in the practice of dog breeding. Under former law, a veterinarian was exempt from the law, even if the veterinarian was operating as a high-volume dog breeder.¹³

Animal rescues

Annual registration

Continuing law requires an animal rescue to register with the Director. Under former law, the registration was permanent. However, the act changes the registration from permanent to annual registration. Thus, an animal rescue must submit a renewal registration application at least 90 days before the registration expires.

With regard to the annual registration, the Director must:

(1) Establish appropriate procedures for renewing the registration of a person operating as a registered animal rescue before September 28, 2018; and

(2) Include in the procedures an appropriate time within which the person must renew the registration, which cannot be later than June 30, 2019.

¹¹ R.C. 956.12 (repealed), 956.13, 956.14, and 956.22.

¹² R.C. 956.03(A)(1).

¹³ R.C. 956.02.



The act retains law that prohibits the Director from charging a registration fee. However, the act specifies that if a person fails to renew a registration before its expiration, the Director must charge the person a late renewal fee of \$200. The fee must be credited to the High Volume Breeder Kennel Control License Fund.¹⁴

Selling dogs to a dog broker or pet store

The act specifies that an entity cannot be considered an animal rescue if it sells a dog to a dog broker or pet store. It further prohibits an entity registered as an animal rescue from selling a dog to a dog broker or pet store. An animal rescue is an individual or organization recognized by the Director that keeps, houses, and maintains dogs and that is dedicated to the welfare, health, safety, and protection of dogs, provided that the individual or organization does not:

(1) Operate for profit;

(2) Sell dogs for a profit;

(3) Breed dogs; and

(4) Purchase more than nine dogs in any given calendar year, unless the dogs are purchased from a dog warden, a humane society, or another animal rescue.

An animal rescue includes an individual or organization that offers spayed or neutered dogs for adoption and charges reasonable adoption fees to cover the costs of the individual or organization, including costs related to spaying or neutering dogs.¹⁵

Dog brokers

The act changes the title of dog retailer to dog broker throughout the law governing dog breeders. An unexpired dog retailer license that was issued under law that existed prior to September 28, 2018, remains valid until its expiration date as if the license is a dog broker license. If the licensee applies to renew the license after that date, the Director must renew the license as a dog broker license if the person is eligible for the renewal.¹⁶

¹⁴ R.C. 956.03(A)(5), 956.06, and 956.18, and Section 4.

¹⁵ R.C. 956.08(C) and 956.01.

¹⁶ R.C. 956.05 and conforming changes in other R.C. sections; and Section 3.



HISTORY

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