



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Jeff Grim

Sub. H.B. 506*

132nd General Assembly
(As Reported by S. Agriculture)

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

BILL SUMMARY

High-volume dog breeders

- Alters the factors for determining whether a dog breeder is subject to the law governing high-volume dog breeders by specifying that an establishment is a high-volume breeder if it keeps six or more breeding dogs and does one of the following:
 - Sells five or more adult dogs or puppies in a calendar year to dog brokers or pet stores;
 - Sells 40 or more puppies in a calendar year to the public; or
 - Keeps, at any given time in a calendar year, 40 or more puppies that are younger than four months, that are bred on the premises of the establishment, and that have primarily been kept from birth on the premises.
- Revises which dogs qualify as 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, unspayed male or female dog that is primarily harbored or housed on property that is the dog's primary residence as in current law).
- 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 current law. (The fee ranges from \$150 to \$750, depending on the number of puppies sold.)

* This analysis was prepared before the report of the Senate Agriculture Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

Standards of care

- Requires a high-volume dog breeder, in addition to complying with the existing rule-based standards of care, to comply with additional standards, including standards governing sustenance, housing, veterinarian care, and exercise and human interaction.¹
- Prohibits a person operating as a high-volume dog breeder from failing to comply with the above care requirements.
- Generally requires dog brokers and pet stores, 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 is in compliance with Ohio's standards of care.

Exemptions from the law

- Does both of the following regarding exemptions from the law governing high-volume dog breeders:
 - Exempts animal shelters that are operated by a humane society; and
 - Clarifies that a veterinarian is exempt 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 must follow in order to impose civil penalties under the law governing high-volume dog breeders and pet stores.
- Increases the civil penalties for a first violation of that law from \$500 to \$2,500, and for a second violation of that law from \$2,500 to \$5,000.

Animal rescues for dogs

- Changes the registration for an animal rescue for dogs from a permanent registration to an annual registration.
- Requires the Director to establish appropriate procedures for renewing the registration of a person who was registered as an animal rescue prior to the bill's effective date.

¹ Please note: many of the care standards established by the bill are currently addressed in rules.



- Retains current law that does not authorize the imposition of a registration fee for an animal rescue for dogs, but authorizes the Director to charge a \$200 late renewal fee if a person fails to renew a registration prior to its expiration.
- Specifies that an entity cannot be considered an animal rescue for dogs if the entity 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 law also requires a person operating as a high-volume dog breeder to 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 law also authorizes the Director to take certain

enforcement actions against violators, including impoundment of dogs and assessment of civil penalties.²

Scope of the law

The bill 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 under the high-volume dog breeder law as follows:³

Term	Current law	The bill
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 nine litters of puppies in any given calendar year and, in return for a fee or other consideration, sells 60 or more adult dogs or puppies per calendar year.	<p>An establishment that keeps, houses, and maintains six or more breeding dogs and does at least one of the following:</p> <p>(1) In return for a fee or other consideration, sells five or more 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, sells 40 or more puppies in a calendar year to the public; or</p> <p>(3) Keeps, houses, and maintains, at any given time in a calendar year, more than 40 puppies that:</p> <ul style="list-style-type: none"> --Are younger than four months of age; --Have been bred on the premises of the establishment; and --Have been primarily kept,

² R.C. Chapter 956.

³ R.C. 956.01.



Term	Current law	The bill
		housed, and maintained from birth on the premises of the establishment.

License application fee

Current law establishes an application fee that a high-volume dog breeder must pay for an annual license to operate. The fee ranges from \$150 to \$750 depending on the number of puppy litters sold by the breeder. The bill generally retains the fee schedule, but bases the fee on the number of puppies annually sold rather than the number of litters of puppies annually sold. The following table illustrates the changes made to the fee schedule by the bill:⁴

Fee	Current law (litters of puppies annually sold)	The bill (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 must pay a \$150 license application fee if the breeder does not annually sell more than 39 puppies and if one of the following applies:

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

(2) The breeder, keeps, houses, and maintains, at any given time in a calendar year, more than 40 puppies that are under four months old, that have been bred on the premises of the establishment, and that 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

Current law

As mentioned above, current 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 of care govern housing, nutrition, exercise, grooming, biosecurity and disease control, waste management, whelping, and any other general standards of care for dogs. 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) The 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 bill

The bill requires a high-volume dog breeder, in addition to complying with the standards of care established in rules, to comply with specific care standards established by the bill. Many of the care standards established by the bill are currently addressed in rules. The bill's care standards require a 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 all of the following:
 - 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)(6).



A high-volume dog breeder may temporarily withhold food when directed by a veterinarian to do so.

(2) Each day, provide to 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:

--The interior of the enclosure 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 the following: (the length of the dog housed in the enclosure in inches, as measured from the tip of the nose to the base of the tail, + nine inches)² multiplied by 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 that is kept or confined in a primary enclosure, the enclosure must have additional floor space in square inches equal to the following: (length of each additional dog housed in the enclosure in inches, as measured from the tip of the nose to the base of the tail, + nine inches)².

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

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

--The slats are not less than three and one-half 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 paw of the dog 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 full length of the dog while lying down;

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

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

(7) If the high-volume dog breeder is using an indoor primary enclosure to house the dog, ensure that the enclosure 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, either through natural or artificial means, to observe the physical condition of the dog 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 such use;

(9) If the high-volume dog breeder is using an outdoor primary enclosure to house the dog and if climatic or ambient temperatures pose a threat to the health and welfare of the dog, take effective measures to eliminate the threat. If the breeder has to take such 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 to house the dog 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 high-volume dog 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 a 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 female dog, 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 that is provided by a veterinarian and that is 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 bill prohibits a person operating as a high-volume dog breeder from failing to comply with the above care requirements established by the bill. It retains a prohibition against such a person failing to comply with the care standards adopted by the Director in rules.⁸

Verification of compliance

The bill requires a dog broker (see below) 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 Director in rules adopted under current law and with the standards of care established by the bill;

(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 existing requirements governing the sales of dogs by a pet store.

The bill 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 with respect to the dog. 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 such a document with regard to the dog.

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

⁷ R.C. 956.01 and 956.031.

⁸ R.C. 956.08(A).

⁹ R.C. 956.041.

Under current law, a dog retailer (dog broker under the bill) 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 store annually. A dog retailer does not include an animal rescue for dogs, 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 of a dog, and the dog for sale 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 for dogs, an animal shelter for dogs, a humane society, a medical kennel for dogs, or a research kennel for dogs.¹⁰

Civil penalties

The bill alters the current 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 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 constitute a violation of the law; or

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

The bill also eliminates a requirement that all appeals from the adjudication hearing 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 under the Administrative Procedure Act, a requirement that a person who has violated or is 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. Finally, the bill increases the civil penalties for a first or second violation of the law governing high-volume dog

¹⁰ R.C. 956.01.



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 \$5,000.¹¹

Records

The bill 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 rules must require the records to be kept and maintained for three years after the care is provided by a veterinarian. Current law requires the Director to adopt rules governing record-keeping, but does not specifically require the rules to address veterinarian care records.¹²

Exemptions from the law governing high-volume dog breeders

The bill modifies the entities that are exempt from the law governing high-volume dog breeders, including provisions of that law that establish licensure requirements for high-volume dog breeders and dog brokers. First, it exempts animal shelters that are operated by a humane society organized under state law. It also 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 current law, all veterinarians are exempt from the law.¹³

Animal rescues for dogs

Annual registration

Current law requires an animal rescue for dogs (hereafter animal rescue) to register with the Director. The registration is permanent. However, the bill changes the registration from a permanent registration to an annual registration. Thus, an animal rescue must submit a renewal registration application at least 90 days prior to the expiration of the registration.

With regard to the annual registration, the Director must do both of the following:

(1) Establish appropriate procedures for renewing the registration of a person operating as a registered animal rescue prior to the bill's effective date; and

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.



(2) Include in the procedures an appropriate time within which the person must renew the registration, which cannot be later than 275 days after the bill's effective date.

As under current law, the Director cannot charge a registration fee. However, under the bill, if a person fails to renew a registration prior to its expiration, the Director must charge the person a late renewal fee of \$200. The fee must be credited to the existing High Volume Breeder Kennel Control License Fund.¹⁴

Selling dogs to a dog broker or pet store

The bill specifies that an entity cannot be considered an animal rescue if the entity 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. Under current law, 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 appointed under the law governing dogs, a humane society, or another animal rescue for dogs.

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 bill 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 the bill's effective date remains valid until its expiration date as if the license is a dog broker license. If the licensee applies to renew the license after the

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

¹⁵ R.C. 956.08(C) and 956.01.



bill's effective date, the Director must renew the license as a dog broker license if the person is eligible for such renewal.¹⁶

HISTORY

ACTION	DATE
Introduced	02-13-18
Reported, H. Gov't Accountability & Oversight	03-15-18
Passed House (75-22)	03-21-18
Reported, S. Agriculture	---

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

