

Amendment No. 1 to HB2496

**Stewart
Signature of Sponsor**

AMEND Senate Bill No. 2594

House Bill No. 2496*

by inserting the following new section immediately preceding the last section and renumbering the subsequent section accordingly:

SECTION _____. Tennessee Code Annotated, Title 62, is amended by adding the following language as a new chapter:

62-12-101. As used in this chapter:

(1) "Adult dog" means a Canis familiaris or Canis familiaris hybrid six (6) months of age or older;

(2) "Business hours" means between nine o'clock a.m. (9:00 a.m.) prevailing time and five o'clock p.m. (5:00 p.m.), Monday through Friday, except for legal federal holidays;

(3) "Chief law enforcement officer" means the duly elected sheriff or appointed police chief of a municipality;

(4) "Commercial dog breeder" means any person who possesses or maintains, under the person's immediate control, fifteen (15) or more intact female adult dogs in this state at one (1) time for the primary purpose of breeding or selling dogs, or who sells forty (40) or more dogs within a calendar year;

(5) "Commissioner" means the commissioner of commerce and insurance; the commissioner's designee, who shall be an employee of the state; or, in the absence of the commissioner's designee or a vacancy in the office of commissioner, a deputy commissioner;

(6) "Consumer" means:

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(A) Any natural person purchasing a dog from a commercial dog breeder;

and

(B) Does not include a business or corporation engaged in sales or services;

(7) "Department" means the department of commerce and insurance;

(8) "Euthanasia" means a method of humanely terminating the life of a dog that may be performed only by a licensed veterinarian or certified euthanasia technician;

(9) "Housing facility" means any land, premises, shed, barn, building, trailer, or other structure or area, housing, or intended to house, dogs;

(10) "Intact" means a female dog that has not been altered by surgical, chemical, or physical means and still has the capability of breeding;

(11) "Owner" means any person who has a property right in a dog;

(12) "Person" means an individual, corporation, limited liability company, firm, company, association, or other legal entity;

(13) "Releasing agency" means:

(A) A public animal shelter; or

(B) A private animal shelter, humane society, animal welfare organization, society for the prevention of cruelty to dogs, or other similar entity or home-based rescue that releases companion dogs for adoption; and

(14) "Veterinarian" means a person who is licensed and in good standing to practice veterinary medicine pursuant to the Tennessee Veterinary Practice Act of 1967, compiled in title 63, chapter 12.

62-12-102. No person shall operate, attempt to operate, or offer to operate as a commercial dog breeder without first registering with the department in accordance with this chapter. All registrations under this chapter shall expire two (2) years from the date of the registration or the renewal of the registration. An individual shall be at least eighteen (18) years of age to register.

62-12-103.

(a) A person seeking to register as a commercial dog breeder shall apply on a form furnished by the department, which shall include such information as the commissioner may require. An application form, implementing rules, and other necessary forms shall be maintained on the department's web site.

(b) No person seeking to register as a commercial dog breeder, nor any person who has a substantial interest, financial or otherwise, in such applicant, shall exercise control over, or maintain an interest in, any releasing agency.

(c) Each application shall contain proof that each person seeking to register as a commercial dog breeder provides a program of veterinary care signed by a veterinarian that includes such information as the commissioner may require.

(d) Prior to the department registering the applicant as a commercial dog breeder, the department may perform an on-site inspection to confirm that the premises of any location used to conduct the business of commercial dog breeding by the applicant conforms to this chapter and the rules promulgated pursuant to this chapter prior to the issuance of a registration. Inspections shall only be conducted by an employee of the state or a person acting on behalf of the commissioner.

(e)

(1) On each registration and renewal form, each registrant or applicant shall declare, under oath, whether the registrant has ever been convicted of a violation of this chapter, or has a conviction or pled nolo contendere for animal cruelty or neglect.

(2) A person who has been convicted of a violation of this chapter or has a conviction or pled nolo contendere to animal cruelty or neglect or domestic assault shall be prohibited from registering under this chapter.

62-12-104. The commissioner, by rule, shall establish a fee schedule pursuant to this chapter. The fee schedule may include, but is not limited to, the following fees:

- (1) An initial registration fee, not to exceed two hundred dollars (\$200);
- (2) An initial inspection fee, not to exceed two hundred dollars (\$200);
- (3) An inspection fee pursuant to § 62-12-107, not to exceed two hundred dollars (\$200);
- (4) A registration renewal fee, not to exceed one hundred dollars (\$100);
- (5) A returned check fee;
- (6) A duplicate registration fee, not to exceed fifty dollars (\$50.00);
- (7) A change of address fee, not to exceed fifty dollars (\$50.00); and
- (8) A new location fee, not to exceed fifty dollars (\$50.00);

62-12-105.

(a) The department is authorized to enforce violations of this chapter in the same manner as the department enforces other regulatory programs within its jurisdiction.

(b) Inspections shall:

- (1) Be conducted during business hours or another time mutually agreed upon with the registrant at the location being inspected; and

(2) Be limited in scope to items in an inspection checklist that shall be published on the department's web site; provided, that violations of other items that are plainly visible may be documented.

(c) Failure to cooperate with an authorized representative of the department acting in accordance with this section shall be considered a violation of this chapter.

(d) If an inspection reveals a violation of this chapter or rules promulgated pursuant to this chapter, the department shall give the commercial dog breeder a detailed list of the violations found during the inspection within a reasonable time after the inspection.

(e) If an inspection is performed upon a registrant, the registrant shall pay an inspection fee as set by the commissioner for each inspection.

62-12-106. The commissioner may revoke or refuse to issue or renew a commercial dog breeder registration of any person for any of the following reasons:

(1) Any violation of this chapter or the rules promulgated pursuant to this chapter;

(2) Conviction or entering a plea of guilty to animal cruelty or neglect; or

(3) Conviction or entering a plea of guilty to domestic assault.

62-12-107. A registration issued under this chapter shall be renewable biennially upon application and payment of the renewal fee by the registrant, if the registrant has complied with this chapter and any renewal requirements established by the commissioner. The commissioner may charge a late fee as set by rule per month or part of a month that a registration renewal is late; provided, however, that failure to file a renewal within sixty (60) days of the expiration of a registration shall result in the registration becoming invalid and the registrant shall be required to obtain a new registration.

62-12-108. Any person whose registration was previously revoked shall not operate as a commercial dog breeder.

62-12-109.

(a) The commissioner, in consultation with commercial breeders and veterinarians who practice small animal care, is authorized to promulgate rules to effectuate this chapter. The rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(b) The rules may include, but are not limited to, the following:

(1) A fee schedule as described in § 62-12-104;

(2) Operating standards and facility requirements for commercial dog breeders; and

(3) Requirements for:

(A) Facilities and housing;

(B) Mobile or traveling housing facilities;

(C) Primary enclosures;

(D) Compatible grouping of dogs;

(E) Adequate veterinary care;

(F) Exercising, feeding, and watering for dogs;

(G) Cleaning, sanitization, housekeeping, and pest control; and

(H) Commercial dog breeder employees.

(c) Rules containing standards and requirements established by the commissioner shall assist in the development and promotion of best practices for commercial dog breeders; provided, however, no rule shall prevent a registrant from maintaining dogs in a residence if the registrant is otherwise in compliance with this chapter and the rules promulgated to implement this chapter. In establishing the rules, the commissioner may consider, without limitation:

(1) Corresponding standards established by the American Veterinary Medical Association (AVMA) in its Model Bill and Regulations to Assure

Appropriate Care for Dogs Intended to Use as Pets as published April 9, 2010, and any subsequent updates;

(2) Corresponding standards established by the American Kennel Club (AKC) in its Care and Conditions of Dogs policy as updated June 1, 2012, and any subsequent updates; and

(3) Corresponding rules, regulations, policies, forms, and materials developed in other states.

62-12-110. Nothing in this chapter shall preempt or limit the powers of any county, municipality, or other unit of local government from adopting ordinances that are more stringent than this chapter.

62-12-111. No registrant shall use any location for the purpose of commercial dog breeding, except for use that is de minimis, without first notifying the commissioner that the location will be used for such purpose.

62-12-112.

(a) It is a Class A misdemeanor, punishable only by fine, for a person to engage in the business of commercial dog breeding without obtaining a commercial dog breeder registration from the department.

(b) Except as otherwise provided in this chapter, any knowing violation of this chapter is a Class C misdemeanor.

(c) Nothing in this chapter shall preclude a person violating this chapter from also being prosecuted for any applicable criminal offense.