MODEL BILL AND REGULATIONS TO ASSURE APPROPRIATE CARE FOR DOGS INTENDED FOR USE AS PETS

MODEL BILL

Section 1 – Title and Purpose
This Act shall be known as the [name of state and Act]

Section 2 – Definitions
When used in this Act, these words and phrases shall be defined as follows:
1. “Board/Agency” means [insert appropriate regulatory board, agency or department].
2. “Director” means the director of the Board/Agency or his or her designated employee(s).
3. “Dog” means any member of Canis lupus familiaris
4. “High-volume dog breeder” means any person who, during any calendar year whelps more than six (6) litters of dogs. A veterinarian who provides whelping services within a veterinarian-client-patient relationship, and has no ownership interest in the bitch, is not included in this definition.
5. “High-volume dog retailer” means any person who sells, resells or transfers ownership of more than fifty (50) dogs during any calendar year, including sale, resale and transfer of dogs to pet stores, breeders, kennels and dealers, and sale, resale, and transfer that occur via the Internet.
6. “Facility or operation” means any land, premises, shed, barn, building, trailer, vehicle or designated area used or intended for use as part of the high-volume dog breeder’s or high-volume dog retailer’s business; including but not limited to the breeding, housing, exercise, care, or sale of dogs.
7. “Inspector” means any person who is employed by and has been trained by the Board/Agency to perform inspections pursuant to this Act.
8. “Licensee” means a high-volume dog breeder or a high-volume dog retailer who has received a license from the Board/Agency pursuant to this Act.
9. “Person” means any individual, corporation, company, partnership, shelter, pound, rescue, firm, estate, trust or other legal entity.
10. “Regulations” means rules or regulations adopted by the Board/Agency to implement this Act.
11. “Veterinarian” means an individual licensed as a veterinarian under [insert appropriate state law.]

Section 3 – Exemptions
This Act does not apply to:
1. Any person licensed or subject to inspection by the United States Department of Agriculture pursuant to the federal Animal Welfare Act (Title 7 U.S.C. Sec. 2131 et seq.) and its regulations (Title 9, C.F.R.).
2. Any evacuation or management activity associated with any State or Federally declared emergency.

Section 4 – License
A. High-volume dog breeders and high-volume dog retailers shall obtain a license issued by the Board/Agency and display the license in a place clearly visible to the public. An applicant for a license shall submit an application on a form prescribed by the Board/Agency, together with an annual license fee in an amount to be determined by the Board/Agency, but no higher than $____ per year. Such fee is nonrefundable.
B. The Board/Agency shall conduct a qualifying inspection for an initial license requested by the applicant to determine whether the applicant qualifies to hold a license pursuant to this Act. The Board/Agency shall issue the license upon receipt of the application and annual license fee and upon satisfactory completion of a qualifying inspection.

C. A license will not be issued to any applicant who has pled no contest or has been found to have violated any Federal, State or local laws or regulations pertaining to animal cruelty within one (1) year of application, or more than one (1) year if the Board/Agency determines the circumstances render the applicant unfit to be licensed.

D. An applicant who does not receive a license shall be afforded the opportunity for a hearing before the Director of the Board/Agency to present evidence that the applicant is qualified to hold a license.

E. A license to operate as a high-volume dog breeder or high-volume dog retailer shall be renewed by filing with the Board/Agency annually a renewal application and a license fee. The Board/Agency shall consider income and volume related to dog breeding and retailing activities in setting the annual license fee.

F. A license is not transferrable to another person or location. When there is transfer of ownership, management or operation of an enterprise, the new owner, manager or operator, whether an individual, firm, partnership, corporation or other legal entity, shall have [insert time period] from such sale/transfer to secure a new license from the Board/Agency to operate.

G. A licensee may be put on probation requiring him or her to comply with the conditions set out in an order of probation issued by the Director, may be ordered to cease and desist due to a failure to comply, may be ordered to pay a civil penalty or may have his/her license suspended after:
   1. The Director determines the licensee has not complied with the provisions in the Act or its regulations; and
   2. The licensee is given written notice to comply and written notice of the right to a hearing to show cause why an order should not be issued or his/her license suspended; and
   3. The Director finds that issuing an order or suspending the license is appropriate based on the hearing record or on the available information if the hearing is waived in writing by the licensee.

H. A license may be revoked after:
   1. The Director determines the licensee has committed serious, repeated, or multiple violations of any of the provisions in the Act or its regulations; and
   2. The licensee is given written notice to comply and written notice of the right to a hearing to show cause why the license should not be revoked; and
   3. The Director finds that issuing an order revoking the license is appropriate based on the hearing record or on the available information if the hearing is waived in writing by the licensee.

I. The facility or operation of any licensee that has been suspended shall close and remain closed until the license is reinstated. Any facility or operation for which the license has been revoked shall close and remain closed until a new license is issued. Any licensee whose license is revoked under the provisions of this Section shall not be eligible to apply for a new license until one (1) year has elapsed from the date of the order revoking the license or, if the revocation is appealed, one (1) year from the date of the order sustaining the revocation. Any person who has been an officer, agent or employee of a licensee whose license has been suspended or revoked, and who is responsible for or participated in the violation(s) upon which the suspension or revocation was based, shall not be licensed within the period during which the order of suspension or revocation is in effect.

J. The Director may terminate proceedings undertaken pursuant to this section at any time if the reasons for such proceedings no longer exist. A license which has been suspended may be reinstated, a person with a revoked license may be issued a new license, and a license may no longer be subject to an order of probation if the Director determines the conditions which prompted the suspension, revocation, or probation no longer exist.

K. A licensee shall have the right to appeal adverse decisions by the Director in accordance with the [insert state Administrative Procedure Act].
L. Any hearings or other proceedings conducted pursuant to this section shall be conducted in accordance with the [insert state Administrative Procedure Act].

Section 5 - Inspections
A. The Board/Agency shall inspect all licensees at least once in a twelve (12)-month period to determine whether the licensee is in compliance with the Act, and may conduct additional inspections upon receipt of a complaint or its own motion to ensure compliance with the Act. When an inspection produces evidence of a violation of the Act or its regulations, a copy of a written report of the inspection, including alleged violations, prepared by the inspector, shall be provided to the applicant or licensee, together with written notice to comply within the time limit established by the Board/Agency.
B. If deemed necessary under the Act or its regulations, the Board/Agency may, for purposes of inspection, enter the premises of any applicant or licensee during normal business hours and in a reasonable manner, including all premises in or upon which dogs are housed, sold, exchanged, or leased; or are suspected of being housed, sold, exchanged, or leased. An applicant or licensee shall, upon request by the Board/Agency, provide assistance in making any inspection authorized under the Act and its regulations.
C. For purposes of this section, the private residence of any applicant or licensee shall be available for purposes of inspection only if dogs are housed in a primary enclosure as defined in 9 C.F.R. 1.1 within the residence, including a room in such residence, and only the portion of the residence that is used as a primary enclosure shall be open to an inspection pursuant to this section.
D. The Board/Agency shall have authority to investigate violations of this Act and regulations, including failure to obtain a license as a high-volume dog breeder or high-volume dog retailer, as required under this Act.

Section 6 - Standards
A. The Board/Agency shall adopt regulations to carry out this Act no later than [insert time frame] from the date of enactment of the Act.
B. Licensees shall ensure that appropriate preventive and therapeutic veterinary care is provided as part of a veterinarian-client-patient relationship. A dog shall not be bred if a veterinarian determines the dog is unfit for breeding purposes. Justification for a recommendation not to breed must be provided in the dog’s medical record.
C. Each licensee/facility must have a written plan for disaster response and recovery, including but not limited to, structural damage, electrical outages and other critical system failures.

Section 7 - Records
A. Licensees shall maintain accurate records for at least five (5) years including:
   1. The date on which a dog enters the facility or operation;
   2. The person from whom each dog was purchased or obtained, including the name, address and phone number of such person, and license or registration number if applicable;
   3. A description of each dog, including the color, breed, sex, date of birth (if not known, the approximate age) and weight;
   4. Any tattoo, microchip, or other identification number carried by or appearing on the dog;
   5. For breeding females:
      a. Breeding dates;
      b. Whelping dates;
      c. Number of puppies per litter; and
      d. Sire for each litter.
   6. All preventive and therapeutic veterinary care provided for each dog; and
   7. The disposition of each dog and the date.
B. A copy of a dog’s record, as required in this section, shall be provided at the time of transfer of ownership. Registration of any tattoo, microchip, or other identification number shall also be transferred.
C. Licensees shall provide copies of records listed in this section to the Board/Agency as requested to enforce provisions of this Act and its regulations.

Section 8 – Enforcement and penalties

A. In enforcing this Act, the Director may:
1. Issue an order of probation pursuant to Section 4;
2. Issue a cease and desist order pursuant to Section 4;
3. Suspend or revoke a license pursuant to Section 4;
4. Seek other injunctive relief as may be necessary to enforce the Act and its regulations, including impounding and seizing dogs where the Director determines there is a significant threat to the health or safety of the dogs harbored or owned by an applicant or licensee, and upon a hearing conducted in accordance with the [insert state Administrative Procedure Act]. Costs incurred for the care of animals impounded or seized under this Section shall be recoverable from the owner of the animal if he or she is found to have violated provisions of this Act pursuant to the hearing.
5. Impose a civil penalty of not more than $_____ for a violation of the Act.

B. Each act committed against an individual animal in violation of the Act or its regulations, and each day during which a violation continues, shall constitute a separate offense for purposes of this section.

C. A failure to obtain a license pursuant to this Act shall constitute a ______ misdemeanor. The attorney general may bring an action to collect unpaid license fees and/or unpaid civil penalties.

D. It shall be a violation of the Act for any person to:
1. Deny access to any officer, agent, employee, or appointee of the Board/Agency or offer any resistance to, thwart, or hinder such persons by misrepresentation or concealment;
2. Interfere with, threaten, verbally or physically abuse, or harass any officer, agent, employee, or appointee of the Board/Agency in the course of carrying out his or her duties;
3. Fail to disclose all locations housing dogs owned or controlled by such person;
4. Violate an injunction order or order of compliance issued under this section; or
5. Fail to pay any administrative fine levied pursuant to this Act.

E. Proceedings undertaken under this section shall not preclude the Board/Agency from seeking other civil or criminal actions. This section does not prohibit the Board/Agency from assisting a law enforcement agency in a criminal investigation. Nothing in this act shall be construed to prohibit prosecution under [state’s animal cruelty law].

Section 9 – Funding

A. The Dog Welfare Fund (hereafter Fund) is established for the purpose of funding:
1. Inspection of licensees and applicants by the Board/Agency under the Act; and
2. Enforcement by the Board/Agency of laws and regulations pertaining to high-volume dog breeders and high-volume dog retailers.

B. The Fund shall be administered by the Board/Agency. The Fund consists of license fees collected from high-volume dog breeders and high-volume dog retailers and civil penalties collected under the Act.

C. Money in the Fund is continually appropriated to carry out the purposes of the fund. Money in the Fund at the end of a state fiscal year does not revert to the state general fund.
MODEL REGULATIONS

The following are regulations pertaining to the humane care and housing of dogs under the Act.

Any high-volume dog breeder or high-volume dog retailer, in order to qualify for, retain, or renew a license under the Act, shall adhere to the following minimum standards of care.

I. Definitions
   b. High volume dog breeder – means any person who, during any calendar year, whelps more than six (6) litters of dogs.
   c. High volume dog retailer - means any person who, during any calendar year, sells, resells or transfers ownership of more than fifty (50) dogs, including sale, resale and transfer of dogs to pet stores, breeders, kennels and dealers, and sale, resale, and transfer that occur via the Internet.
   d. Infectious Disease – means any disease that may be contagious between dogs and/or humans, including bacterial, viral, fungal, and parasitic contagions.
   e. Licensed veterinarian – means an individual licensed as a veterinarian under [insert appropriate state law].
   f. Positive Physical Contact – means petting, stroking, or other touching, which is beneficial to the well-being of the dog.
   g. Person – means any individual, corporation, company, partnership, shelter, pound, rescue, firm, estate, trust, or other legal entity.
   h. Primary Enclosure – any structure used to restrict a dog or dogs to a limited amount of space. This may include, but is not necessarily limited to, a room, pen, run, cage, compartment, or hutch. If a dog or dogs are housed on the premise of a house or building without restriction, than the premises shall also constitute a primary enclosure.
   i. Staff – means a person appropriately trained to perform the duties required.
   j. Whelping Box – means a primary enclosure provided to a bitch prior to parturition, designed so that a bitch may lie fully recumbent, stand, turn around, and have some freedom of posture and movement. The whelping box shall function to securely house the bitch and her litter, prevent dissipation of their body heat, and allow for daily positive physical contact with people.

II. Housing
   a. Housing – Shall provide for sanitary and safe housing for dogs, and shall provide adequate space appropriate to the age, size, weight, and breed of the dog, and that allows the dog to engage in normal body movements, including the ability to sit, stand up, turn about freely, or lie fully recumbent in a natural position. The primary enclosure shall provide at least partial solid flooring. Nonsolid flooring must be safe for the breed, size, and age of the dog; be free from protruding sharp edges; and be designed to that the paw of the dog is unable to extend through or become caught in the flooring.
   b. Each dog, if housed in a primary enclosure, whether housed alone or with other compatible dogs, shall be provided a minimum amount of space, calculated as:
      i. Find the mathematical square of the sum of the length of the dog in inches as measured from the tip of the nose to the base of its tail, plus 6 inches. Divide this product by 144 to calculate the minimum required floor space, in square footage, that must be provided by a primary enclosure.
      ii. For nonbreeding dogs housed together, the primary enclosure shall provide 100 percent of the required space for each dog, if maintained separately.
      iii. Each bitch with nursing puppies must be provided with an additional amount of floor space, based on her breed and behavioral characteristics, and in accord with generally accepted husbandry practices as determined by the attending veterinarian. If the additional amount of floor space for each nursing puppy is less than five (5) percent of the minimum requirement for the bitch, such housing must be approved by the Board/Agency.
      iv. The interior height of a primary enclosure must be at least 6 inches higher than the head of the tallest dog in the enclosure when it is in a normal standing position.
v. Innovative primary enclosures not precisely meeting the floor area requirements provided in paragraphs b(i), b(ii), b(iii), and b(iv) of this section, but that provide the dogs with a sufficient volume of space and the behavioral needs stated in section IV may be used at an operation when approved by the Board/Agency.

c. Shelter – Shall provide protection from harmful extremes of temperature, air movement, moisture, light and other climatic elements to ensure proper health and well-being of the dog.

d. Storage Facilities – Shall be designed and maintained as to provide adequate storage to protect food, medicines, supplies, and bedding from deterioration, contamination, and vermin infestation. Any potentially toxic substance should be stored in a manner to avoid contamination and potential for harm to the dogs.

e. Structure – Shall be structurally sound, in good repair, have no sharp edges or points that could injure the dog(s), and shall securely contain the dogs while precluding access by other animals. Structural surfaces should be sanitizable or replaceable.

f. Waste Disposal – All excreta, feces, debriss, and food wastes must be removed from enclosures, at least once daily, and from under primary enclosures as often as necessary, to prevent an excessive accumulation of feces and food waste, to prevent soiling of dogs contained in the enclosure, and to reduce disease hazards, insects, pests and odors. Premises must be kept free of accumulations of trash, junk, waste products, and discarded matter. Waste must be handled and disposed of in a manner that poses minimal hazards to dogs and personnel, and reduces the likelihood of contamination of the soil or ground water with chemicals and/or microorganisms.

g. Cleaning and Sanitation – Hard surfaces with which the dogs come in contact must be spot-cleaned daily and sanitized at least once every 2 weeks and more often if necessary to prevent accumulation of dirt, debris, food waste, excreta, and other disease hazards. When steam or water is used to clean the primary enclosure, whether by hosing, flushing or other methods, dogs must be removed, unless the enclosure is large enough to ensure the dogs will not be harmed, wetted, or distressed in the process. Standing water must be removed from the primary enclosure and dogs in other primary enclosures must be protected from being contaminated with water and other wastes during cleaning.

h. Lighting – The facility shall have sufficient lighting by natural and/or artificial means as to allow observation of the physical condition of the dogs being housed, and to permit inspection and cleaning of the facility. A diurnal lighting cycle should be provided.

i. Environment – Dogs shall be protected from extreme temperatures so as to maintain their health and render their environment comfortable. When climatic conditions pose a threat to a dog’s health or well-being, taking into consideration such factors as the dog’s age, breed, overall health status and acclimation, appropriate measures must be taken to alleviate the impact of those conditions. Adequate ventilation shall be provided to minimize odors, drafts, ammonia levels, and to prevent the condensation of moisture.

j. Pest Control – An effective program for the control of insects, external parasites affecting dogs, and birds and mammals that are pests, must be established and maintained so as to promote the health and well-being of the dogs and reduce contamination by pests in dog areas.

k. Retreat Area – Dogs shall also be provided in their primary enclosure some form of a den, which shall comprise at least a solid floor and visual barrier, as to allow rest and retreat.

l. Whelping box – All bitches with litters shall be provided an appropriate whelping box, which shall provide means to contain the puppies during whelping, and provide some form of substrate, insulation or heat source so as to prevent dissipation of heat so that all puppies are able to maintain appropriate body temperature. If a heat source is provided, care must be taken to protect the bitch and puppies from thermal injury.

III. Nutrition and Hydration

a. Adequate food – A dog shall be fed at least once daily, or as otherwise required on the advice of a veterinarian. The food should be free from contaminants and be of sufficient nutritive value and quantity to maintain the normal condition and weight of the dog as germane to its age, sex, breed, and reproductive status.

b. Potable water – Shall be provided at all times, unless otherwise directed by a veterinarian.
c. Food and water receptacles – Shall be readily accessible to all dogs and shall be located to minimize contamination and to protect them from precipitation. Any non-disposable receptacles shall be durable, cleaned daily, and sanitized at least once per week; disposable receptacles shall be replaced daily, and automatic feeders shall be cleaned and sanitized regularly to prevent the growth of mold and deterioration or caking of feed. Automatic watering devices shall be kept clean, be properly and regularly sanitized, and be tested daily to ensure they are functioning correctly.

IV. Behavioral Requirements

a. General
   i. The following behavioral needs shall be met at least daily, except as stated otherwise. All persons should have a documented protocol regarding how to meet the following necessary behavioral needs, and sufficient facilities and/or staff to meet them.
   ii. The goal shall be to allow dogs the opportunity to partake in species-specific behaviors. Dogs shall not be housed for extended periods of time in a manner devoid of any enrichment and/or activity and/or social contact.

b. Conspecific socialization – Dogs shall be provided with full-body physical contact with other compatible dogs daily, except as necessary for reasons such as veterinary treatment or quarantine, or prior to parturition for a bitch. Prior to weaning, a bitch and her litter shall fulfill all conspecific socialization needs among the group.

c. Human socialization – Dogs shall be provided with daily positive human contact and socialization. Contact during feeding time alone is not sufficient to meet this requirement.

d. Enrichment
   i. Dogs shall be provided in their primary enclosure some form of effective inanimate enrichment. For example, an object that allows the dogs to chew or to play.
   ii. Every effort should be made to provide dogs that are housed singly with visual enrichment, such as visual contact with conspecifics or humans, except as necessary for veterinary care, quarantine, or prior to parturition for a bitch.

e. Locomotion
   i. Persons shall ensure that each dog that is weaned has access to “locomotory activity”; this activity should allow for an animal to move sufficiently to develop and/or maintain normal muscle tone and mass as pertinent for the age, breed, sex and reproductive status of the dog. Provisions for locomotory activity should also allow the dog an opportunity to achieve a running stride.
   ii. The provided area for locomotion should be separate from the primary enclosure if the primary enclosure does not allow for fulfillment of adequate locomotion enrichment and social activities. The area must be kept clean, free of infestation by pests or vermin, and prevent escape of the dogs.
   iii. Forced activity, other than for veterinary treatment, is neither sufficient nor appropriate for fulfilling these needs. Physical activity that is repetitive, restrictive of other activities, solitary, and not goal-oriented is neither sufficient nor appropriate for fulfilling all activity needs.

V. Grouping

a. Dogs having locomotory activity in groups and/or social interaction must be compatible and free of infectious disease.

b. Females in heat shall not be housed in the same primary enclosure with males, except for breeding purposes.

c. Any dog exhibiting a vicious or aggressive behavior shall be housed separately, as needed to prevent injury to other dogs. As with quarantine, separation of dogs due to aggression should be accompanied by a program to resolve the underlying causes of this disorder.

d. Puppies four months of age or younger shall not be housed together in the same primary enclosure with adult dogs other than their dam or foster dam.

e. Isolation of any dog with an infectious disease or condition – If a dog is infected with a contagious disease or condition as determined by a licensed veterinarian, one must house the dog separately from healthy animals, and shall handle the dog in a manner that will minimize the likelihood of contagion. Handlers must wash their hands before and after handling each infected or contagious dog.
VI. **Staff**  
a. An adequate number of trained staff must be provided to ensure appropriate upkeep of the facility and that all minimum care requirements for the dogs can be met.  
b. The licensee shall not hire individuals who have pled no contest or have been found to have violated any Federal, State or local laws or regulations pertaining to animal cruelty within one (1) year of application for employment, or more than one (1) year if the Board/Agency determines the circumstances render the applicant unfit for employment.  
c. The licensee shall report to the Board/Agency any no contest pleas or convictions pertaining to animal cruelty involving any of his/her employees that occur during the time they are employed by licensee.

VII. **Handling**  
Handling of all dogs should be done as carefully as possible in a manner that does not cause trauma, overheating, excessive cooling, behavioral stress, physical harm or unnecessary discomfort.

VIII. **Health and Veterinary Care**  
All persons shall  
a. Ensure that necessary routine and preventive veterinary care is provided under the direction of a licensed veterinarian, and maintain a written health care management protocol addressing routine veterinary care. At a minimum, regular preventive care should include examination at least once yearly by a licensed veterinarian for breeding dogs.  
b. Assess each dog’s health and welfare daily; this should include observation of body condition (e.g., appropriate weight, skin/coat/nail condition), behavior, and whether the dog is eating, drinking, urinating, and defecating normally.  
c. Provide prompt treatment of illness or injury under the direction of a licensed veterinarian.  
d. Maintain records of any veterinary care, including records of regular preventive veterinary care.  
e. Ensure that humane euthanasia is performed when necessary and only by a licensed veterinarian, or other certified personnel pursuant to state regulations, using methods cited in the *American Veterinary Medical Association’s Guidelines on Euthanasia* and in accordance with applicable federal and state laws.  
f. Upon written approval by a licensed veterinarian or the Board/Agency, any dog may be exempted from any of the standards of care mentioned in sections II - V. A reasonable expiration date must be provided for such exemptions at which time the exemption shall be re-evaluated to determine whether it is still appropriate.  
g. All veterinary care provided pursuant to the requirements in this Act shall be provided within a veterinarian-client-patient relationship, and in accord with the state veterinary practice act, with provisions for both routine and emergency care.

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1. The American Veterinary Medical Association does not support the keeping of canine (wolf) hybrids as pets (see policy at [http://www.avma.org/issues/policy/canine_hybrids.asp](http://www.avma.org/issues/policy/canine_hybrids.asp)) and, therefore, has not included them within this model. Those using the model may wish to consider whether the incorporation of canine (wolf) hybrids is appropriate for their application.  
2. Egregious offenses may also be prosecutable under anti-cruelty statutes, which may provide for civil and/or criminal penalties.  
3. The Board/Agency may adopt the standards set out in the model regulations accompanying this model bill, or use as a guideline for the humane handling, care, treatment, and transportation of dogs the standards of Animal and Plant Health Inspection Service of the United States Department of Agriculture as set out in 9 CFR 3.1 et seq.  
4. Valid justifications for a recommendation not to breed may include concerns about physical and/or behavioral health, the perpetuation of genetic defects, and frequency.  
5. To avoid setting licensing fees prohibitively high, monies in addition to those generated from licensing fees and civil penalties may need to be appropriated for effective implementation of the Act.  