



## **ISAR's Model Statute Regulating Dog Breeding, Facilitation and Sales.**

### **Preamble.**

Whereas, Congress finds that the dogs and dog-related activities regulated under this Act occur in interstate and foreign commerce, and substantially affect such commerce and the free flow thereof, and that regulation of the dogs and activities as provided in this Act is necessary to prevent and eliminate burdens upon such commerce and to effectively regulate such commerce; and

Whereas, there have been and there are within the United States countless unwanted dogs lacking permanent homes, who are a major cause of canine overpopulation; and

Whereas, a major source of such dogs are commercial dog breeders who operate puppy mills, and other breeders; and

Whereas, many of the dogs used by breeders to produce puppies, and the puppies themselves, as well as the products used for their production and ultimate sale, are transported in, and affect, interstate and foreign commerce; and

Whereas, only approximately half of the states of the United States regulate breeders, facilitators or commercial retail sales outlets to any significant extent, and such regulation is inconsistent and mostly ineffective; and

Whereas, the Animal Welfare Act offers inadequate protection to dogs used for breeding, provides insufficient regulation of facilitators, and is inapplicable to those sold by commercial retail sales outlets; and

Whereas, the treatment of dogs and their physical conditions at breeders, puppy mills, facilitators and commercial retail sales outlets, are a matter of national concern affecting the public, health, safety, welfare, and environment; and

Whereas, although some of the dogs produced by breeders, puppy mills, and elsewhere, and sold by facilitators and commercial retail sales outlets are healthy, many are not; and

Whereas, many of the dogs produced by breeders, puppy mills, and elsewhere, and sold by facilitators and commercial retail sales outlets have an adverse impact on the public health, safety, welfare, and environment; and

Whereas, the social impact of these dogs includes, but is not limited to, the transmission of disease, the injury and sometimes death of humans and other animals and the drain on public finances; and

Whereas, many of these animals are eventually euthanized by shelters, humane societies, and similar organizations; and

Whereas, euthanizing dogs except for *bona fide* medical reasons is inhumane and abhorrent to the people of the United States; and

Whereas, euthanizing dogs except for *bona fide* medical reasons is not an effective, economical, humane, or ethical solution to the problem of dog overpopulation; and

Whereas, one of the most effective, economical, humane, and ethical solutions to the problem of dog overpopulation is to substantially reduce, if not entirely eliminate, their breeding, facilitation and commercial retail sale; and

Whereas, by such reduction or elimination the Congress seeks to promote the public health, safety, welfare, and environmental interests of its citizens;

## **Part I** **Definitions**

Section 1. Commercial. For purposes of this statute, the term “commercial” is defined as “relating to the buying or selling of goods, including animals generally and dogs in particular, or services in return for a monetary or non-monetary benefit.”

Section 2. Retail. For purposes of this statute, the term “retail” is defined as “the selling of goods, including animals, or services directly to purchasers.”

Section 3. Sale. For purposes of this statute, the term “sale” is defined as “the transfer of property to the ownership to someone else with or without consideration.”

Section 4. Seller. For purposes of this statute, the term “seller” is defined as “any person or legal entity that makes a “sale” as defined herein.

Section 5. Outlet. For purposes of this statute, the term “outlet” is defined “as the place where a “retail sale,” as defined herein, occurs.

Section 6. Purchaser. For purposes of this statute, the term “purchaser” is defined as “any person or legal entity who is the recipient of a sale.”

Section 7. Breeder. For purposes of this statute, the term “breeder” is defined as “any person or legal entity that intentionally, recklessly or negligently causes or allows a female dog to be inseminated by a male canine.”

Section 8. Puppy mill. For purposes of this statute “puppy mill” is defined as “a place where at the same time at least three female dogs are kept whose sole or major purpose is producing puppies for sale.”

Section 9. Facilitator. For purposes of this statute, the term “facilitator” is defined as “any person or legal entity, not a breeder, seller, sales outlet or purchaser as defined herein, who acts as a broker, dealer, wholesaler, agent, bundler, middleman or in any similar role in the sale, purchase, trade, auction, or other transfer of the ownership, custody or control of dogs, whether or not such animals are in the custody or control of the facilitator at the time of transfer.”

## **Part II** **Breeders**

### Section 1. Definitions.

(a) Part I of this statute is incorporated by reference herein.

### Section 2. Breeding licensees

(a) Breeding license. Other than as expressly provided below, no male dog may be used for insemination or female dog for breeding except by a person or entity holding a currently valid breeding license as provided in this Act.

(b) Licensing discretion. Licenses shall be issued by the licensing authority in its absolute discretion, pursuant to rules and regulations it shall promulgate.

(c) Violation. Violation of subsection (a) of this Section shall be a misdemeanor.

(d) Issuance of licenses. No breeding license shall be issued until the applicant shall have demonstrated that the proposed licensed facilities comply with the requirements of this Act and regulations promulgated by the Secretary.

(e) Limitations on licensees. While a breeding license is valid, no subsequent breeding license shall be issued to any individual related to the first licensee by blood or marriage,

to any entity related to the original licensee by common officers, directors, stockholders, partners, or trustees, or to any entity controlled by the original licensee or any person related to him or her by blood or marriage. Any license issued in violation of this subsection shall be void *ab initio*.

### Section 3. Powers of the licensing authority

(a) Licensing authority's powers. In order to perform its statutory duty hereunder, including enforcement of this Act, the licensing authority shall have the following powers and those additional powers which by rule or regulation it shall deem necessary:

- (i) To make unannounced inspections of breeding facilities at least twice annually, and at such other times and under such circumstances as the licensing authority shall, in its sole discretion, deem necessary.
- (ii) To commence civil actions for violation of this Act, including but not limited to seeking relief in the form of administrative costs, injunctions, and cease and desist orders.
- (iii) To apply for search and seizure warrants upon a showing consistent with the civil nature of the actions the licensing authority is empowered to commence.
- (iv) To seize dogs from breeders which the licensing authority deems are being treated or confined in violation of this statute and to place them elsewhere and in a manner, temporarily or permanently, a court shall direct, following notice to, and an opportunity to be heard by, the licensee.
- (v) To provide a process for encouraging and processing information from other government agencies and the public concerning the conduct of breeders, including complaints of non-compliant licensee conduct and operations by non-licensees.
- (vi) To enter upon breeder premises, without consent but with probable cause, for the purpose of making an administrative determination whether the operators of such premises are in compliance with the provisions of this statute.

### Section 4. License and other fees

(a) License and other fees. The licensing authority may establish fees as shall be necessary to implement its statutory duties.

### Section 5. Identification of dogs

(a) Identification of dogs. Each breeder licensee shall identify each dog in its control or custody in a manner to be prescribed by the licensing authority.

(b) Violation. Violation of subsection (a) of this Section shall be an offense.

## Section 6. Numbers of dogs

(a) Limitation on number of dogs. No breeder licensee shall possess at anyone one time in any calendar year more than three unneutered male dogs and three unspayed female dogs, except for unweaned litters which may be kept for no more than three months at which time the provisions of this statute will apply to them.

(b) Violation. Violation of subsection (a) of this Section shall be a felony.

## Section 7. Veterinary examination and care

(a) Quality of care. Veterinary care shall be provided at a level consistent with that of privately owned pet dogs.

(b) Veterinary examination. All dogs in the custody or control of a breeder licensee must be examined by a licensed veterinarian within five days of its receipt by the licensee, and every thirty days thereafter. All dogs sold by a breeder licensee must be free of disease, injuries, or abnormalities. If a dog is determined by a licensed veterinarian to be unfit to be bred, it must immediately be treated or relinquished to a shelter, breed-specific rescue group, or humane animal shelter.

(c) Violation. Violation of subsections (a) and (b) of this Section shall be a misdemeanor.

## Section 8. Standards of care and treatment

(a) Standards of care and treatment. The licensing authority shall promulgate and enforce standards of care and treatment for all dogs in possession of control of breeder licensees, which shall include, but need not be limited to, the following:

(i) Consistent with the dogs' breed, size, gender, and age, they shall be provided with adequate nutrition, wholesome food, and fresh potable water which shall be available twenty-four hours each day. All food and water must be free from contamination, and of sufficient quality and nutritive value to meet normal daily requirements. Food and water containers shall be easily accessible, while reducing to a minimum any contamination from excreta, and kept clean to prevent molding, deterioration, food caking, and other unwholesome conditions.

(ii) Shelter shall be provided which will protect the dogs from the elements. The degrees of cold and heat shall not be excessive or otherwise dangerous to the dogs' health and well-being. Floors and walls of interior facilities shall be impervious to moisture. If the dog is housed in a structure with a suspended floor, the floor shall not bend or sag beneath structural supports. Outdoor facilities must include a windbreak and protection from rain and snow. Indoor housing facilities shall be

sufficiently heated and cooled when necessary to protect the dogs from temperature extremes and to provide for their health and well-being, to wit: not less than 55 degrees Fahrenheit and not more than 80 degrees Fahrenheit. Dogs shall be exposed to regular diurnal lighting cycle of either natural or artificial light. Enclosures shall be placed so as to protect the dogs from excessive light.

(iii) Dogs shall not be confined with other animals, except for same-species breeding purposes, unless they are of the same breed and approximately the same size. Dogs shall be confined only with other dogs of approximately compatible temperaments. Dogs with vicious temperaments shall not be placed with other dogs under any circumstances. A female dog is not to be placed with an intact dog during periods of estrus, except for the limited period of breeding. An immature dog is not to be placed with an adult dog, except with its dam.

(iv) Puppies shall remain alone with their dams for at least 8-weeks, except in case of serious illness of either or both.

(v) All dogs shall be provided with sufficient space, plus twelve inches, to stand to their normal height, lie down fully extended to their normal length, and turn around. If multiple dogs are confined together, each must be provided with such space. Sufficient additional space shall be provided for nursing dogs.

(vi) Cages and other confinement spaces shall be clean and regularly disinfected using non-toxic substances. The dogs' housing shall be maintained in sanitary condition, including but not limited to the regular collection, removal and disposal of dog waste, spoiled food and water, soiled litter and bedding, other debris, and dead animals, in a manner that minimizes contamination and disease. Insects, ectoparasites and avian, mammalian and reptilian pests shall be eliminated immediately upon their discovery. Supplies of food, water, litter, and bedding material are to be stored in containers that afford protection from infestation or contamination by vermin. Excreta must be removed from enclosures at least twice daily. Toilet, washroom, and related facilities shall be provided for the use of persons responsible for care of the dogs.

(vii) Adequate daylight and fresh air must be consistently provided.

(viii) Flooring of cages and other confinement spaces shall consist of a solid surface or solid/slatted combination with no more than ¼-inch of space between slats. Wire flooring shall not be used as the base for any of the dog's housing.

(ix) Cages and other confinement spaces shall not be placed lower than 6-inches or higher than 42-inches above the floor.

(x) Cages and other confinement spaces shall not be stacked on top of each other.

(xi) An opportunity for exercise shall be provided each dog at least twice each day for not less than sixty minutes each time. Such exercise shall include removing the dog from its cage or other confinement space and allowing it to walk restrained, but freely, for the entire exercise period. Such exercise shall not include use of a treadmill, jenny mill, slat mill, or similar device.

(xii) A licensed veterinarian shall certify in writing before an animal is bred that it is in suitable health for breeding.

(xiii) Dogs suffering from painful injuries or life-threatening illnesses shall not be bred while such conditions exist. Dogs shall be observed daily by a person or persons directly responsible for their care. Dogs shall be provided with medical care when necessary, and without delay.

(ix) Dogs shall be transported within or from a breeding facility subject to all the requirements of this subsection.

(xv) All dogs in a breeding facility shall be given a reasonable opportunity for safe interaction with other dogs of similar breed and size, and with humans, including but not limited to adequate socialization with other dogs and humans, and regular exercise as recommended by a licensed veterinarian.

(xvi) Noise levels in a breeding facility shall not be at a level to cause the dogs to experience discomfort, anxiety or fear.

(xvii) On all premises where dogs are confined there shall be maintained in good working order a water sprinkler system and fire sensors, which semi-annually shall be tested and certified as functional.

(xviii) All dogs entering or born in the breeding facility shall promptly and thereafter receive all inoculations necessary to maintain their optimal health. All inoculations shall be administered by a licensed veterinarian.

(b) Violation. Violation of subsection (a) of this Section shall be a misdemeanor.

#### Section 9. Age considerations

(a) Insemination and breeding. The dogs covered by this Section regarding insemination and breeding shall be at least twenty-four months old, and no older than thirty-six months.

(b) Violation. Violation of subsection (a) of this section shall be a misdemeanor.

#### Section 10. Sterilization responsibilities

(a) Sterilization of female dogs. Bred female dogs shall be sterilized promptly by a licensed veterinarian using customary medical procedures after delivery of the dogs' final litters.

(b) Sterilization of male dogs. Male dogs shall be sterilized promptly by a licensed veterinarian using customary medical procedures after they have twice inseminated females.

(c) Medical exceptions to neutering.

(i) No dog need be neutered if a licensed veterinarian, exercising appropriate professional judgment, shall certify in writing and under oath that such dog is medically unfit for the neutering procedure because of a physical condition which would be substantially aggravated by such procedure or would likely cause the dog's death.

(ii) The dog's age shall not *per se* constitute medical unfitness.

(iii) As soon as the disqualifying medical condition ceases to exist, it shall be the duty of the person having custody or control of the dog to promptly comply with all provisions of this statute.

(iv) Possession of the certificate referred to in subsection (a) of this Act shall constitute a defense to liability under the penalty provisions of this statute.

(v) If during the disqualification period the dog breeds, the person or entity in control of the animal shall be punished as a felony.

(d) Mandatory spay/neuter. No licensee shall release from its custody any live dog that has not been sterilized, except to provide temporary veterinary care or pursuant to the medical exemption provided in subsection (c) of this Section.

(e) Violation. Violation of subsections (a), (b), (c) and (d) shall be a misdemeanor.

#### Section 11. Recordkeeping and reports

(a) Recordkeeping and reports. The licensing authority shall promulgate recordkeeping and reporting requirements for all breeding licensees as shall be necessary to implement its statutory duties, including but not limited to the following:

(i) As to all dogs in the custody or under the control of a breeding licensee, an annual report shall be filed with the licensing authority which shall contain, but not be limited to, the following information:

(aa) The number, breed, gender, age, and identifying information of each dog as of 12:01 a.m. on January 1 of the reported year.

(bb) As to each dog received for breeding purposes between that time and date and 11:59 p.m. on December 31 of the reported year, its age, gender, breed and complete information as to whether and when it had been previously used for insemination or bred.

(cc) As to each dog bred during that period, identification of the sire and dam, the date that puppies were born, the number of puppies in the litter, and their identifying information.

(dd) The number breed, gender, age and identifying information of each dog as of 11:59 p.m. on December 31 of the reported year.

(ee) As to all dogs in the custody or under the control of a breeding licensee during a reported year which were no longer as of 11:59 p.m., complete information as to how, when, to whom, under what circumstances, in what manner, and for what consideration they were disposed of, including but not limited to those which were euthanized.

(ii) Together with the annual report shall be filed a financial statement of the breeding licensee's assets, liabilities, profits and losses for the reported year certified by a public accountant.

(b) Retention. All records and reports shall be retained for five years.

(c) Violation. Violation of subsection (a) and (b) of this Section shall be a misdemeanor.

#### Section 12. Required disclosures

(a) Breeder licensees' duty to disclose. As to each dog offered for sale, prior to sale licensees shall provide the following information which shall be posted on the dog's housing and provided to the purchaser in writing at the time of sale:

(i) The dog's date of birth, gender, breed, and weight.

(ii) The dog's color markings.

(iii) A complete record of vaccinations and veterinary care, including a record of sterilization certified by a veterinarian.

(iv) The name, address and telephone number of the breeder of the dog.

(v) Whether the dog was bred in a puppy mill, as defined herein, and, if so, its name, address and telephone number.

(vi) The name and contact information of any other person or entity who had custody, control of, or who owned the dog between its birth and purchase from the breeder licensee.

(b) Proof of disclosure. After the aforesaid required written information is provided to the purchaser, the purchaser must acknowledge receipt of such information in writing.

(c) Violation. Violation of subsection (a) of this section shall be an offense.

### Section 13. Other laws

(a) Compliance with other laws. Breeding licensees shall be required to comply with all other federal and state statutes relating to the care and treatment of dogs, including but not limited to those relating to cruelty; provided, however, that no dog subject to this statute shall be surrendered to any laboratory or similar facility which conducts experiments of any kind on animals, and provided, further, that in case of conflict between or among laws of this or any other jurisdiction this statute shall prevail.

### Section 14. Breeding limitations

(a) Male dogs. A breeding licensee may use a male dog only twice to inseminate a female, which second insemination must occur within a twelve month period from the first. No further insemination by the male dog is allowed thereafter.

(b) Female dogs. A breeding licensee may breed a female dog only twice, which must occur within a twelve month period, but no sooner than her first delivery. No further breeding is allowed thereafter.

(c) Puppies. The offspring of breeder licensee's dogs may be retained by the breeding licensee, but they shall be subject to the same restrictions as their sires and dams, as shall be succeeding generations.

(d) Placement of male and female dogs. Promptly after a male dog has twice inseminated a female, and promptly after a female dog has delivered her final litter, the breeder licensee shall either:

(i) Relinquish such animal to a shelter, humane society, rescue group, or similar organization for adoption only, or

(ii) Directly arrange for adoption, pursuant to the rules and regulations of the nearest shelter, humane society, rescue group, or similar organization; provided, however, that the breeder licensee shall under no circumstances transfer custody of a dog to any individual or entity as to whom the breeder licensee knows, has reason to know, or should know, that the animal will be used for insemination, breeding or experimental purposes of any kind.

(e) Violation. Violation of subsections (a), (b), and (c) of this Section shall be a felony.

### Section 15. Devocalization

(a) Devocalization. No person or legal entity regulated by this Act shall cause or allow any dog in their possession, custody, or under their control to undergo the procedure known as devocalization.

(b) Violation. Violation of subsection (a) of this section shall be a misdemeanor.

### **Part III** **Facilitators**

#### Section 1. Definitions.

(a) Part I of this statute is incorporated by reference herein.

#### Section 2. Facilitator licensees

(a) Breeding license. Other than as expressly provided below, any person or entity acting as a facilitator, as defined herein, must possess a currently valid license as provided in this Act. No person or entity may act as a facilitator unless licensed under this Act.

(b) Licensing discretion. Licenses shall be issued by the licensing authority in its absolute discretion, pursuant to rules and regulations it shall promulgate.

(c) Violation. Violation of subsection (a) of this section shall be a misdemeanor.

(d) Issuance of licenses. No breeding license shall be issued until the applicant shall have demonstrated that the proposed licensed facilities comply with the requirements of this Act and regulations promulgated by the Secretary.

(e) Limitations on licensees. While a facilitator license is valid, no subsequent facilitator license shall be issued to any individual related to the first licensee by blood or marriage, to any entity related to the original licensee by common officers, directors, stockholders, partners, or trustees, or to any entity controlled by the original licensee or any person related to him or her by blood or marriage. Any license issued in violation of this subsection shall be void *ab initio*.

#### Section 3. Powers of the licensing authority

(a) Licensing authority's powers. In order to perform its statutory duty hereunder, including enforcement of this Act, the licensing authority shall have the following powers and those additional powers which by rule or regulation it shall deem necessary:

(i) To make unannounced inspections of facilitator facilities at least twice annually, and at such other times and under such circumstances as the licensing authority shall, in its sole discretion, deem necessary.

(ii) To commence civil actions for violation of this Act, including but not limited to seeking relief in the form of administrative costs, injunctions, and cease and desist orders.

(iii) To apply for search and seizure warrants upon a showing consistent with the civil nature of the actions the licensing authority is empowered to commence.

(iv) To seize dogs from facilitators which the licensing authority deems are being treated or confined in violation of this statute and to place them elsewhere and in a manner, temporarily or permanently, a court shall direct, following notice to, and an opportunity to be heard by, the licensee.

(v) To provide a process for encouraging and processing information from other government agencies and the public concerning the conduct of facilitators, including complaints of non-compliant licensee conduct and operations by non-licensees.

(vi) To enter upon facilitator premises, without consent but with probable cause, for the purpose of making an administrative determination whether the operators of such premises are in compliance with the provisions of this statute.

#### Section 4. License and other fees

(a) License and other fees. The licensing authority may establish fees as shall be necessary to implement its statutory duties.

#### Section 5. Identification of dogs

(a) Identification of dogs. Each facilitator licensee shall identify each dog in its control or custody in a manner to be prescribed by the licensing authority.

(b) Violation of this section shall be an offense.

#### Section 6. Number of dogs

(a) Limitation on number of dogs. No facilitator licensee shall possess at any one time in any calendar year more than ten dogs, which shall have been spayed and neutered, except for unweaned litters which may be kept for no more than three months at which time the provisions of this Act will apply to them.

(b) Violation. Violation of subsection (a) of this Section shall be a felony.

#### Section 7. Veterinary examination and care

(a) Quality of care. Veterinary care shall be provided at a level consistent with that of privately owned pet dogs.

(b) Veterinary examination. All dogs in the custody or control of a facilitator licensee must be examined by a licensed veterinarian within five days of its receipt by the licensee, and every thirty days thereafter. All dogs sold by a facilitator licensee must be kept free of disease, injuries, or abnormalities. If a dog is determined by a licensed veterinarian to be unfit to be sold, purchased, traded, auctioned or otherwise transferred, it must immediately be treated by a licensed veterinarian or relinquished to a shelter, breed-specific rescue group, or humane animal shelter.

(c) Violation of this subsection (a) and (b) of this Section shall be a misdemeanor.

#### Section 8. Standards of care and treatment

(a) Standards of care and treatment. The licensing authority shall promulgate and enforce standards of care and treatment for all dogs in possession or control of facilitator licensees which shall include, but need not be limited to, the following:

(i) Consistent with the dogs' breed, size, gender, and age, they shall be provided with adequate nutrition, wholesome food, and fresh potable water which shall be available twenty-four hours each day. All food and water must be free from contamination, and of sufficient quality and nutritive value to meet normal daily requirements. Food and water containers shall be easily accessible, while reducing to a minimum any contamination from excreta, and kept clean to prevent molding, deterioration, food caking, and other unwholesome conditions.

(ii) Shelter shall be provided which will protect the dogs from the elements. The degrees of cold and heat shall not be excessive or otherwise dangerous to the dogs' health and wellbeing. Floors and walls of interior facilities shall be impervious to moisture. If the dog is housed in a structure with a suspended floor, the floor shall not bend or sag beneath structural supports. Outdoor facilities must include a windbreak and protection from rain and snow. Indoor housing facilities shall be sufficiently heated and cooled when necessary to protect the dogs from temperature extremes and to provide for their health and wellbeing, to wit: not less than 55 degrees Fahrenheit and not more than 80 degrees Fahrenheit. Dogs shall be exposed to regular diurnal lighting cycle of either natural or artificial light. Enclosures shall be placed so as to protect the dogs from excessive light.

(iii) Dogs shall not be confined with other animals, except for same-species breeding purposes, unless they are of the same breed and approximately the same size. Dogs shall be confined only with other dogs of approximately compatible temperaments. Dogs with vicious temperaments shall not be placed with other dogs under any circumstances. A female dog is not to be placed with an intact dog during periods of estrus, except for the limited period of breeding. An immature dog is not to be placed with an adult dog, except with its dam.

(iv) Puppies shall remain alone with their dams for at least 8-weeks, except in case of serious illness of either or both.

(v) All dogs shall be provided with sufficient space, plus twelve inches, to stand to their normal height, lie down fully extended to their normal length, and turn around. If multiple dogs are confined together, each must be provided with such space. Sufficient additional space shall be provided for nursing dogs.

(vi) Cages and other confinement spaces shall be clean and regularly disinfected using non-toxic substances. The dogs' housing shall be maintained in sanitary condition, including but not limited to the regular collection, removal and disposal of dog waste, spoiled food and water, soiled litter and bedding, other debris, and dead animals, in a manner that minimizes contamination and disease. Insects, ectoparasites and avian, mammalian and reptilian pests shall be eliminated immediately upon their discovery. Supplies of food, water, litter, and bedding material are to be stored in containers that afford protection from infestation or contamination by vermin. Excreta must be removed from enclosures at least twice daily. Toilet, washroom, and related facilities shall be provided for the use of persons responsible for care of the dogs.

(vii) Adequate daylight and fresh air must be consistently provided.

(viii) Flooring of cages and other confinement spaces shall consist of a solid surface or solid/slatted combination with no more than ¼-inch of space between slats. Wire flooring shall not be used as the base for any of the dog's housing.

(ix) Cages and other confinement spaces shall not be placed lower than 6-inches or higher than 42-inches above the floor.

(x) Cages and other confinement spaces shall not be stacked on top of each other.

(xi) An opportunity for exercise shall be provided each dog at least twice each day for not less than sixty minutes each time. Such exercise shall include removing the dog from its cage or other confinement space and allowing it to walk restrained, but freely, for the entire exercise period. Such exercise shall not include use of a treadmill, jenny mill, slat mill, or similar device.

(xii) A licensed veterinarian shall certify in writing before an animal is bred that it is in suitable health for breeding.

(xiii) Dogs suffering from painful injuries or life-threatening illnesses shall not be bred while such conditions exist. Dogs shall be observed daily by a person or persons directly responsible for their care. Dogs shall be provided with medical care when necessary, and without delay.

(ix) Dogs shall be transported subject to all the requirements of this subsection.

(xv) All dogs in the custody or control of a facilitator shall be given a reasonable opportunity for safe interaction with other dogs of similar breed and size, and with humans, including but not limited to adequate socialization with other dogs and humans, and regular exercise as recommended by a veterinarian.

(xvi) Noise levels in a facilitator's facility shall not be at a level to cause the dogs to experience discomfort, anxiety or fear.

(xvii) On all premises where dogs are confined there shall be maintained in good working order a water sprinkler system and fire sensors, which semi-annually shall be tested and certified as functional.

(xviii) All dogs entering or born in the breeding facility shall promptly and thereafter receive all inoculations necessary to maintain their optimal health. All inoculations shall be administered by a licensed veterinarian.

(b) Violation. Violation of subsection (a) of this section shall be a misdemeanor.

#### Section 9. Age considerations

(a) Insemination and breeding. No dog less than eight weeks old may be in the custody or control of a facilitator.

(b) Violation. Violation of subsections (a) and (b) of this Section shall be a misdemeanor.

#### Section 10. Sterilization responsibilities

(a) Un-sterilized dogs. Upon coming into possession of an un-sterilized dog, the facilitator licensee shall immediately present the animal to a licensed veterinarian who shall sterilize it; provided, however, that the animal need not be sterilized if it is, or reasonably appears to be, less than three months old.

(b) Mandatory spay/neuter. No licensee shall release from its possession any dog that has not been sterilized, except to provide temporary veterinary care.

(c) Medical exceptions to neutering.

(i) No dog need be neutered if a licensed veterinarian, exercising appropriate professional judgment, shall certify in writing and under oath that such dog is medically unfit for the neutering procedure because of a physical condition which would be substantially aggravated by such procedure or would likely cause the dog's death.

(ii) The dog's age shall not *per se* constitute medical unfitness.

(iii) As soon as the disqualifying medical condition ceases to exist, it shall be the duty of the person having custody or control of the dog to promptly comply with all provisions of this statute.

(iv) Possession of the certificate referred to in subsection (a) of this Section shall constitute a defense to liability under the penalty provisions of this Act.

(v) If during the disqualification period the dog or cat breeds, the individual or entity in control of the animal shall be punished for a felony.

(d) Violation. Violation of subsections (a) and (b) of this Section shall be a felony.

#### Section 11. Recordkeeping and reports

(a) Recordkeeping and reports. The licensing authority shall promulgate recordkeeping and reporting requirements for all facilitator licensees as shall be necessary to implement its statutory duties, including but not limited to the following:

(i) As to all dogs in the custody or under the control of a facilitator licensee, an annual report shall be filed with the licensing authority which shall contain, but not be limited to, the following information:

(aa) The number, breed, gender, age, and identifying information of each dog as of 12:01 a.m. on January 1 of the reported year.

(bb) As to each dog received between that time and date and 11:59 p.m. on December 31 of the reported year, its age, gender, breed and complete information as to whether and when it had been previously used for insemination or bred.

(cc) As to each dog bred during that period, identification of the sire and dam, the date that puppies were born, the number of puppies in the litter, and their identifying information.

(dd) The number breed, gender, age and identifying information of each dog as of 11:59 p.m. on December 31 of the reported year.

(ee) As to all dogs in the custody or under the control of a facilitator licensee during a reported year which were no longer as of 11:59 p.m., complete information as to how, when, to whom, under what circumstances, in what manner, and for what consideration they were disposed of, including but not limited to those which were euthanized.

(ii) Together with the annual report shall be filed a financial statement of the breeding licensee's assets, liabilities, profits and losses for the reported year certified by a public accountant.

(b) All records and reports shall be retained for five years.

(c) Violation. Violation of subsections (a) and (b) of this Section shall be a misdemeanor.

#### Section 12. Compliance with other laws

(a) Compliance with other laws. Facilitator licensees shall be required to comply with all other federal and state statutes relating to the care and treatment of dogs, including but not limited to those relating to cruelty; provided, however, that no dog subject to this Act shall be surrendered to any laboratory or similar facility which conducts experiments of any kind on animals, and provided, further, that in case of conflict between or among laws this statute shall prevail.

#### Section 13. Breeding limitations

(a) No facilitator shall under any circumstances allow or cause a male dog to inseminate a female dog or a female dog to be inseminated.

(b) Violation of subsection (a) of this Section shall be a felony.

#### Section 14. Devocalization.

(a) Devocalization. No person or legal entity regulated by this Act shall cause or allow any dog in their possession, custody, or under their control to undergo the procedure known as devocalization.

(b) Violation. Violation of subsection (a) of this section shall be a misdemeanor.

### **Part IV**

#### **Commercial retail sales outlets**

As noted, the Animal Welfare Act exempts commercial retail sale outlets from the operation of that Act. Accordingly, ISAR's model statute plugs that loophole.

#### Section 1. Definitions

(a) Part I of this statute is incorporated by reference herein.

#### Section 2. Licensees

(a) Commercial retail sales outlet license. Other than as expressly provided below, no person or entity doing business as a commercial retail sales outlet shall sell any dog unless such person or entity holds a currently valid commercial retail sales outlet license as provided in this Act.

- (b) Licensing discretion. Licenses shall be issued by the licensing authority in its absolute discretion, pursuant to rules and regulations it shall promulgate.
- (c) Violation. Violation of subsection (a) of this Section shall be a misdemeanor.
- (d) Issuance of licenses. No commercial retail sales outlet license shall be issued until the applicant shall have demonstrated that the proposed licensed facilities comply with the requirements of this Act and regulations promulgated by the Secretary.
- (e) Limitations on licenses. While a commercial retail sales outlet license is valid, no subsequent license shall be issued to any individual related to the first licensee by blood or marriage, to any entity related to the original licensee by common officers, directors, stockholders, partners, or trustees, or to any entity controlled by the original licensee or any person related to him or her by blood or marriage. Any license issued in violation of this subsection shall be void *ab initio*.

### Section 3. Powers of the licensing authority

- (a) Licensing authority's powers. In order to perform its statutory duty hereunder, including enforcement of this statute, the licensing authority shall have the following powers and those additional powers which by rule or regulation it shall deem necessary:
- (i) To make unannounced inspections of commercial retail sales outlets at least twice annually, and at such other times and under such circumstances as the licensing authority shall, in its sole discretion, deem necessary.
  - (ii) To commence civil actions for violation of this statute, including but not limited to seeking relief in the form of administrative costs, injunctions, and cease and desist orders.
  - (iii) To apply for search and seizure warrants upon a showing consistent with the civil nature of the actions the licensing authority is empowered to commence.
  - (iv) To seize dogs from commercial retail sales outlets which the licensing authority deems are being treated or confined in violation of this statute and to place them elsewhere, temporarily or permanently, and in a manner a court shall direct, following notice to, and an opportunity to be heard by, the licensee.
  - (v) To provide a process for encouraging and processing information from other government agencies and the public concerning the conduct of commercial retail sales outlets, including complaints of non-compliant licensee conduct and operations by non-licensees.
  - (vi) To enter upon commercial retail sales outlet premises, without consent but with probable cause, for the purpose of making an administrative determination whether the operators of such premises are in compliance with the provisions of this statute.

#### Section 4. License and other fees

(a) License fees. The licensing authority may establish license fees as shall be necessary to implement its statutory duties.

(b) Other fees. The licensing authority may establish fees other than those to obtain a license as shall be necessary to implement its statutory duties.

#### Section 5. Identification of dogs

(a) Identification of dogs. Each licensee shall identify each dog in its control or custody in a manner to be prescribed by the licensing authority.

(b) Violation. Violation of subsection (a) of this Section shall be an offense.

#### Section 6. Number of dogs

(a) Limitation on number of dogs. No commercial retail outlet licensee shall possess at one time in any calendar year more than ten dogs, except for unweaned litters which may be kept for no more than four months at which time the provisions of this statute shall apply to them.

(b) Violation. Violation of subsection (a) of this section shall be a felony.

#### Section 7. Veterinary examination and care

(a) Quality of care. Veterinary care shall be provided at a level consistent with that of privately owned pet dogs.

(b) Veterinary examination. All dogs in the custody or control of a commercial retail sales outlet licensee must be examined by a licensed veterinarian within five days of its receipt by the licensee, and every thirty days thereafter. All dogs sold must be free of disease, injuries, or abnormalities. If a dog is determined by a licensed veterinarian to be unfit to be sold, it must immediately be treated or relinquished to a shelter, breed-specific rescue group, or humane animal shelter. The licensee shall refund the dog's purchase price if it dies through normal causes within six months of being sold. If any dog is returned to the licensee due to disease, injury, or abnormality, the licensee shall immediately seek veterinary care prior to taking any other action.

(c) Violation. Violation of subsections (a) and (b) shall be a misdemeanor.

#### Section 8. Standards of care and treatment

(a) The licensing authority shall promulgate and enforce standards of care and treatment which shall include, but need not be limited to, the following:

(i) Consistent with the dogs' breed, size, gender, and age, they shall be provided with adequate nutrition, wholesome food, and fresh potable water which shall be available twenty-four hours each day. All food and water must be free from contamination, and of sufficient quality and nutritive value to meet normal daily requirements. Food and water containers shall be easily accessible, while reducing to a minimum any contamination from excreta, and kept clean to prevent molding, deterioration, food caking, and other unwholesome conditions.

(ii) Shelter shall be provided which will protect the dogs from the elements. The degrees of cold and heat shall not be excessive or otherwise dangerous to the dogs' health and wellbeing. Floors and walls of interior facilities shall be impervious to moisture. If the dog is housed in a structure with a suspended floor, the floor shall not bend or sag beneath structural supports. Outdoor facilities must include a windbreak and protection from rain and snow. Indoor housing facilities shall be sufficiently heated and cooled when necessary to protect the dogs from temperature extremes and to provide for their health and well-being, to wit: not less than 55 degrees Fahrenheit and not more than 80 degrees Fahrenheit. Dogs shall be exposed to regular diurnal lighting cycle of either natural or artificial light. Enclosures shall be placed so as to protect the dogs from excessive light.

(iii) Dogs shall not be confined with other animals unless they are of the same breed and approximately the same size. Dogs shall be confined only with other dogs of approximately compatible temperaments. Dogs with vicious temperaments shall not be placed with other dogs under any circumstances. A female dog is not to be placed with an intact dog during periods of estrus, under any circumstances. An immature dog is not to be placed with an adult dog, except with its dam.

(iv) Puppies shall remain alone with their dams for at least 8-weeks, except in case of serious illness of either or both.

(v) All dogs shall be provided with sufficient space, plus twelve inches, to stand to their normal height, lie down fully extended to their normal length, and turn around. If multiple dogs are confined together, each must be provided with such space. Sufficient additional space shall be provided for nursing dogs.

(vi) Cages and other confinement spaces shall be clean and regularly disinfected using non-toxic substances. The dogs' housing shall be maintained in sanitary condition, including but not limited to the regular collection, removal and disposal of dog waste, spoiled food and water, soiled litter and bedding, other debris, and dead animals, in a manner that minimizes contamination and disease. Insects, ectoparasites and avian, mammalian and reptilian pests shall be eliminated immediately upon their discovery. Supplies of food, water, litter, and bedding material are to be stored in containers that afford protection from infestation or contamination by vermin. Excreta must be removed from enclosures at least twice daily. Toilet, washroom, and related facilities shall be provided for the use of persons responsible for care of the dogs.

(vii) Adequate daylight and fresh air must be consistently provided.

(viii) Flooring of cages and other confinement spaces shall consist of a solid surface or solid/slatted combination with no more than ¼-inch of space between slats. Wire flooring shall not be used as the base for any of the dog's housing.

(ix) Cages and other confinement spaces shall not be placed lower than 6-inches or higher than 42-inches above the floor.

(x) Cages and other confinement spaces shall not be stacked on top of each other.

(xi) An opportunity for exercise shall be provided each dog at least twice each day for not less than sixty-minutes each time. Such exercise shall include removing the dog from its cage or other confinement space and allowing it to walk restrained, but freely, for the entire exercise period. Such exercise shall not include use of a treadmill, jenny mill, slat mill, or similar device.

(xii) A licensed veterinarian shall be on call and readily accessible during business hours.

(xiii) Dogs suffering from painful injuries or life-threatening illnesses shall not be sold while such conditions exist. Dogs shall be observed daily by a person or persons directly responsible for their care. Dogs shall be provided with medical care by a licensed veterinarian when necessary, and without delay.

(ix) Dogs shall be transported within or from a commercial retail sales outlet subject to all the requirements of this subsection.

(xv) All dogs in a commercial retail sale outlet shall be given a reasonable opportunity for safe interaction with other dogs of similar breed and size, and with humans, including but not limited to adequate socialization with other dogs and humans, and regular exercise as recommended by a licensed veterinarian.

(xvi) Noise levels in a commercial retail sales outlet shall not be at a level to cause the dogs to experience discomfort, anxiety or fear.

(xvii) On all premises where dogs are confined there shall be maintained in good working order a water sprinkler system and fire sensors, which semi-annually shall be tested and certified as functional.

(xviii) All dogs entering or born in the breeding facility shall promptly and thereafter receive all inoculations necessary to maintain their optimal health. All inoculations shall be administered by a licensed veterinarian.

(b) Violation. Violation of subsection (a) of this Section shall be a misdemeanor.

### Section 9. Age considerations

- (a) Age at time of sale. Dogs less than eight weeks old may not be sold under any circumstances, nor transported elsewhere for sale.
- (b) Status at time of sale. No dog shall be sold or transported for sale unless it has been fully weaned.
- (c) Violation. Violations of subsections (a) and (b) shall be a misdemeanor.

### Section 10. Sterilization responsibilities

(a) Un-sterilized dogs. Upon coming into the possession of an un-sterilized dog, the licensee shall immediately present the animal to a licensed veterinarian who shall sterilize it; provided, however, that the animal need not be sterilized if it is, or reasonably appears to be, less than three months old.

(b) Medical exceptions to neutering.

(i) No dog need be neutered if a licensed veterinarian, exercising appropriate professional judgment, shall certify in writing and under oath that such dog is medically unfit for the neutering procedure because of a physical condition which would be substantially aggravated by such procedure or would likely cause the dog's death.

(ii) The dog's age shall not *per se* constitute medical unfitness.

(iii) As soon as the disqualifying medical condition ceases to exist, it shall be the duty of the person having custody or control of the dog to promptly comply with all provisions of this statute.

(iv) Possession of the certificate referred to in subsection (a) of this section shall constitute a defense to liability under the penalty provisions of this statute.

(v) If during the disqualification period the dog or cat breeds, the individual or entity in control of the animal shall be punished as a felony.

(c) Violation. Violation of subsections (a) and (b) of this Section shall be a felony.

### Section 11. Recordkeeping and reports

(a) Required records and reports. The licensing authority shall promulgate recordkeeping and reporting requirements for all licensees as shall be necessary to implement its statutory duties, including but not limited to the following:

(i) As to all dogs in the custody or under the control of a licensee, an annual report shall be filed with the licensing authority which shall contain, but not be limited to, the following information:

(aa) The number, breed, gender, age, and identifying information of each dog as of 12:01 a.m. on January 1 of the reported year.

(bb) The number breed, gender, age and identifying information of each dog as of 11:59 p.m. on December 31 of the reported year.

(cc) As to all dogs in the custody or under the control of a breeding licensee during a reported year which were no longer under such custody or control as of 11:59 p.m., complete information as to how, when, to whom, under what circumstances, in what manner, and for what consideration they were disposed of, including but not limited to those which were euthanized.

(ii) Together with the annual report shall be filed a financial statement of the breeding licensee's assets, liabilities, profits and losses for the reported year certified by a public accountant.

(iii) The records required to be kept by this subsection shall be retained by the licensee for not less than three calendar years, and may be inspected by the licensing authority upon two days written notice.

(b) Violation. Violation of subsection (a) of this Section shall be a misdemeanor.

#### Section 12. Required disclosures

(a) Licensee's duty to disclose. As to each dog offered for sale, prior to sale licensees shall provide the following information which shall be posted on the dog's housing and provided to the purchaser in writing at the time of sale:

(i) The dog's date of birth, gender, breed, and weight.

(ii) The dog's color markings.

(iii) A complete record of vaccinations and veterinary care, including a record of sterilization certified by a licensed veterinarian.

(iv) The name and address of the breeder of the dog.

(v) Whether the dog was bred in a puppy mill and, if so, its name and contact information.

(vi) The name and contact information of any other person or entity who had custody, control of, or who owned the dog between its birth and purchase from the licensee.

(b) Proof of disclosure. After the required written information is provided to the purchaser, the purchaser must acknowledge receipt in writing.

(c) Consumer rights. A consumer rights notice which shall be prepared by the licensing authority shall be posted in close proximity to the dogs' housing, and a written copy shall be provided to the purchaser at the time of time of sale, which the purchaser shall acknowledge receipt of in writing. The licensee shall also provide written recommendations for the dog's future care and treatment. The purchaser shall be provided with a writing recommending regular veterinarian wellness visits, and emphasizing the legal necessity to comply with dog registration laws.

### Section 13. Other laws

(a) Compliance with other laws. Licensees shall be required to comply with all other federal and state statutes relating to the care and treatment of dogs, including but not limited to those relating to cruelty; provided, however, that no dog subject to this statute shall be surrendered to any laboratory or similar facility which conducts experiments of any kind on animals, and provided, further, that in case of conflict between or among laws of this or any other jurisdiction, this statute shall prevail.

### Section 14. Breeding limitations.

(a) No commercial retail sales outlet shall under any circumstances allow or cause a male dog to inseminate a female dog or a female dog to be inseminated.

(b) Violation of subsection (a) of this Section shall be a felony.

### Section 15. Complaints.

(a) Informational signs, creation. The licensing authority shall design and make available to licensees a sign informing the public of this statute's existence and who they can contact in connection with it.

(b) Informational signs, display. At least two such signs shall be posted prominently at all commercial retail sales outlets.

(c) Violation. Violation of subsections (a) and (b) of this Section shall be an offense.

### Section 16. Devocalization.

(a) Devocalization. No person or legal entity regulated by this Act shall cause or allow any dog in their possession, custody, or under their control to undergo the procedure known as devocalization.

(b) Violation. Violation of subsection (a) of this section shall be a misdemeanor.

**Part V**  
**Miscellaneous provisions**

Section 1. Enforcement

(a) Administration and enforcement of this statute shall be the responsibility of the Department of Agriculture of the United States.

Section 2. Transition

(a) Notification. Immediately upon the effective date of this statute, the licensing authority shall make reasonable efforts to inform the public of its enactment and major provisions, including but not limited to the creation of an Internet website.

(b) Issuance of licenses. Initial regulations contemplated by this statute shall be issued by the licensing authority within 90 days of its effective date.

(c) Applications for licenses. Applications for licenses shall be made to the licensing authority within 120 days of regulations becoming final.

(d) Granting of licenses. The licensing authority shall promptly process license applications.

(e) Pending license applications. The filing of an application for a license under this statute shall not suspend the applicant's duty to comply with its requirements, which compliance shall be completed within 90 days from this statute's enactment.

Section 3. Private Attorney General; standing to sue

(a) Definition. As used in this statute, the term "person" shall be defined to mean any individual, private legal entity, government or government agency, including but not limited to an entity concerned with the humane treatment of animals.

(b) Purpose of section. The purpose of this section is to confer legal standing to sue for violation of this statute upon any person.

(c) Jurisdiction and venue. All actions brought under this section shall be commenced in the United States District Court for the district and division, if any, in which the alleged violation of this statute occurred.

(d) Not exclusive remedy. The civil action provided in this section shall not be in lieu of, but in addition to applicable criminal and other civil proceedings provided elsewhere in this statute.

(e) Causes of action. The person bringing an action for violation of this statute may combine causes of action against one or more defendants.

(f) Civil procedure. The civil action provided in this section shall be governed by the Federal Rules of Civil Procedure.

(g) Available remedies. The court shall have the power to grant a temporary restraining order, a preliminary injunction, and a permanent injunction.

(i) Upon the filing of a civil action under this statute, the plaintiff or plaintiffs may, upon satisfactory proof by affidavit or testimony demonstrating by a preponderance of evidence that a temporary restraining order is necessary to prevent continued violation of this statute, obtain from the court *ex parte* a temporary restraining order not to exceed ten days in duration, ordering the defendant or defendants not to remove the animals and immediately cease such acts which are alleged in the complaint.

(ii) The temporary restraining order may also, if appropriate, give the plaintiff or plaintiffs the power, acting themselves and through their agents, to temporarily correct the statutory violations alleged in the complaint. This power may include plaintiff or plaintiffs entering on the premises where the alleged statutory violation has occurred, or is occurring, and, upon satisfactory proof that such violation is continuing and removal of dogs is necessary allowing plaintiff or plaintiffs to take temporary possession of such dogs subject to conditions of the order and subsequent ones which may be made.

(iii) After due notice, opportunity to be heard, and hearing, the court may issue a preliminary injunction containing the same terms ordered under subparagraphs (i) and (ii) above, and such other terms as shall be necessary under the circumstances.

(iv) The court shall decide the merits of the complaint's allegations sitting as the fact-finder.

(v) The plaintiff or plaintiffs must prove the complaint's allegations by a preponderance of the evidence.

(vi) The court's final order may:

(aa) Dismiss the case and dissolve any preliminary injunction.

(bb) Enter a permanent injunction with appropriate mandatory and preventative terms.

(cc) Upon a finding that even with the issuance of a permanent injunction there would exist a substantial risk that a dog would be subjected to cruelty, as defined by the law of the state where the action was commenced, if it remained in the custody or control of the defendant or defendants, terminate the dogs ownership, custody, and control and transfer it to the plaintiff, plaintiffs, or such other person as the court shall direct.

(dd) In an action where a temporary restraining order or temporary injunction vested temporary possession of a dog in someone other than the owner, regardless of the outcome of the action order that the animal's maintenance be paid by the defendant or defendants to such person for the period of such temporary possession.

(ee) Make such other order or orders which shall be just and proper under the circumstances, including but not limited to retaining jurisdiction to make such subsequent orders as may be necessary.

#### Section 4. Penalties

(a) License suspension. The licensing authority in its discretion shall have the power to suspend any license issued under this statute for violation of any of its provisions.

(b) License revocation. The licensing authority shall have the power in its discretion to revoke any license issued under this statute for violation of any of its provisions.

(c) Future license prohibition. The licensing authority shall have the power in its discretion to permanently prohibit any licensee from receiving a license under this statute in the future.

(d) Permanent bar. Conviction of a criminal violation of this statute shall constitute a permanent bar to receiving a license under it.

(e) Offenses. Each offense shall be punished by a fine of \$500.00.

(f) Misdemeanors. Each misdemeanor shall be punished by a fine of \$1,000, 6 months in jail, or both.

(g) Felonies. Each felony shall be punished by a fine of \$10,000, 3 years in prison, or both.

#### Section 5. Further powers of the Secretary.

(a) Further powers of the Secretary. In addition to, but not in limitation of, the powers elsewhere granted in this Act to the Secretary of Agriculture, he shall have the following powers:

(i) Investigations and inspections. The Secretary shall make such investigations or inspections as he deems necessary to determine whether any person or entity subject to this Act, has violated or is violating, any provision of this Act, or any regulation or standard issued hereunder.

(ii) For such purposes, the Secretary shall, at all reasonable times, have access to the places of business and the facilities of such persons or entities, and to those records and reports required to be maintained hereunder.

(iii) The Secretary shall inspect each breeding and facilitator facility at least once each year each commercial retail sales outlet at least every two years, and, in the case of deficiencies or deviations from the standards promulgated under this Act, shall conduct such follow-up inspections as may be necessary until all deficiencies or deviations from such standards are corrected.

(iv) The Secretary shall promulgate such rules and regulations as he deems necessary to permit inspectors, after notice and a prompt opportunity to be heard, to confiscate or destroy in a humane manner any dog found to be suffering as a result of a failure to comply with any provision of this Act or any regulation or standard issued hereunder.

(b) Penalties for interfering with official duties. Any person who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person while engaged in or on account of the performance of his official duties under this Act shall be fined not more than \$5,000, or imprisoned not more than three years, or both.

(i) Whoever, in the commission of such acts, uses a deadly or dangerous weapon shall be fined not more than \$10,000, or imprisoned not more than ten years, or both.

(ii) Whoever kills any person while engaged in or on account of the performance of his official duties under this Act shall be punished as provided under sections 1111 and 1114 of Title 18, United States Code.

(c) Procedures. For the efficient administration and enforcement of this Act and the regulations and standards promulgated under this Act the provisions, including penalties, of sections 6, 8, 9, and 10 of the Act entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914 and the provisions of Title II of the "Organized Crime Control Act of 1970" are made applicable to the jurisdiction, powers, and duties of the Secretary in administering and enforcing the provisions of this Act and to any person, firm, or corporation with respect to whom such authority is exercised.

(i) The Secretary may prosecute any inquiry necessary to his duties under this Act in any part of the United States, including any territory, or possession thereof, the District of Columbia, or the Commonwealth of Puerto Rico.

(d) Temporary license suspension; notice and hearing; revocation. If the Secretary has reason to believe that any person or entity licensed under this Act has violated or is violating any provision of this Act, or any of the rules or regulations or standards promulgated by the Secretary hereunder, he may suspend such person's license temporarily, but not to exceed 21 days, and after notice and prompt opportunity for hearing, may suspend for such additional period as he may specify, or revoke such license, if such violation is determined to have occurred.

(e) Civil penalties for violation of any section, etc.; separate offenses; notice and hearing; appeal; considerations in assessing penalty; compromise of penalty; civil action by Attorney General for failure to pay penalty; district court jurisdiction; failure to obey cease and desist order. Any person or entity that violates any provision of this Act, or any rule, regulation, or standard promulgated by the Secretary hereunder, may be assessed a civil penalty by the Secretary of not less than \$2,500, nor more than \$5,000, for each such violation, and the Secretary may also make an order that such person shall cease and desist from continuing such violation.

(i) Each violation and each day during which a violation continues shall be a separate offense.

(ii) No penalty shall be assessed, or cease and desist order issued, unless such person or entity is given notice and prompt opportunity for a hearing with respect to the alleged violation, and the order of the Secretary assessing a penalty and making a cease and desist order shall be final and conclusive unless the affected person files an appeal from the Secretary's order with the appropriate United States Court of Appeals.

(iii) Upon any failure to pay the penalty assessed by a final order under this section, the Secretary shall request the Attorney General to institute a civil action in a district court of the United States or other United States court for any district in which such person or entity is found or resides or transacts business, to collect the penalty, and such court shall have jurisdiction to hear and decide any such action.

(iv) Any person or entity who knowingly fails to obey a cease and desist order made by the Secretary under this section shall be subject to a civil penalty of \$1,500 for each offense, and each day during which such failure continues shall be deemed a separate offense.

(v) Appeal of final order by aggrieved person; limitations; exclusive jurisdiction of United States Courts of Appeals. Any dealer . . . intermediate handler, carrier, or operator of an auction sale subject to section 12 of this Act, aggrieved by a

final order of the Secretary issued pursuant to this section may, within 60 days after entry of such an order, seek review of such order in the appropriate United States Court of Appeals in accordance with the provisions of section 2341, 2343 through 2350 of title 28, United States Code, and such court shall have exclusive jurisdiction to enjoin, set aside, suspend (in whole or in part), or to determine the validity of the Secretary's order.

(f) Criminal penalties for violation; initial prosecution brought before United States magistrates; conduct of prosecution by attorneys of United States Department of Agriculture. Any person or entity subject to this Act who knowingly violates any provision of this Act shall, on conviction thereof, be subject to the penalty provided above.

(i) Prosecution of such crimes shall, to the maximum extent practicable, be brought initially before United States magistrates . . . as provided in section 636 of title 28, United States Code, and sections 3401 and 3402 of title 18, United States Code, and, with the consent of the Attorney General, may be conducted, at both trial and upon appeal to district court, by attorneys of the United States Department of Agriculture.

(g) Temporary restraining order; injunction. Whenever the Secretary has reason to believe that any person or entity is placing the life or health of any dog in serious danger in violation of this Act or the regulations or standards promulgated hereunder, the Secretary shall notify the Attorney General of the United States, who may apply to the United States district court in which such person or entity resides or conducts business for a temporary restraining order or injunction to prevent any such person from operating in violation of this Act or the regulations and standards prescribed under this Act.

(i) Issuance. The court shall, upon a proper showing, issue a temporary restraining order or injunction which shall remain in effect until the court shall otherwise direct.

(h) Attorneys of the Department of Agriculture may, with the approval of the Attorney General, appear in the United States district court representing the Secretary in any action brought under this section.

#### Section 6. Multiple licenses.

(a) No person or legal entity shall hold at the same time more than one license under this statute.

#### Section 7. Preemption.

(a) It is the express intention of the legislature that to the extent any of the provisions of this statute shall be, or shall construed to be, incompatible or inconsistent with provisions

of the Animal Welfare Act or regulations promulgated thereunder, the former shall be deemed to preempt the latter.

Section 8. Severability.

(a) If any provision of this statute shall be held unconstitutional, illegal, or unenforceable for any reason, the remaining provisions shall remain as if the offending provision had not existed.

Section 9. Effective date

This statute will be effective when it is approved according to law.