

# Legislative Analysis

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## **PET SHOP LAW: ADMINISTRATIVE RULES FOR DOG BREEDING OPERATIONS, ANIMAL WELFARE COMMISSION**

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**Senate Bill 339 (S-2) as passed by the Senate**  
**Sponsor: Senator Steve Bieda**  
**Senate Committee: Agriculture**  
**House Committee: Appropriations**

**House Bill 4898 (S-2) as passed by the Senate**  
**Sponsor: Rep. Michael D. McCready**  
**House Committee: Appropriations**  
**Senate Committee: Agriculture**

**Complete to 12-7-16**

### **BRIEF SUMMARY:**

Senate Bill 339 (S-2) would amend the Pet Shop Law (1969 PA 287) to require the Michigan Department of Agriculture and Rural Development (MDARD) to promulgate administrative rules to establish minimum standards for dog breeding operations. The bill also would establish a new Animal Welfare Commission within MDARD.

House Bill 4898 (S-2) would amend the Pet Shop Law to add definitions for “animal welfare” and “commission.”

### **FISCAL IMPACT:**

Senate Bill 339 would require MDARD to promulgate administrative rules to establish minimum standards for dog breeding operations. The bill indicates that the rules may require licensing and inspection of dog breeding operations. Department costs of a potential dog breeding operations licensing and inspection program cannot be reasonably estimated at this time. Costs would depend, in part, on the scope of the program as defined in the administrative rules.

The bill does indicate that if licensing is required, the administrative rules shall provide for licensing fees that do not exceed the reasonable cost of administering the department’s dog breeding operation program.

The bill would also establish a new 14-member Animal Welfare Commission within MDARD. The bill directs the Legislature to set per diem compensation for commission members and directs that expenses – presumably travel expenses – of commissioners be reimbursed “as provided by state law for state employees.” The bill requires the department to provide adequate office space and administrative staff support to the commission.

Two comparable commissions are currently housed within MDARD: the Grape and Wine Commission, which currently costs approximately \$8,000 per year, and the Commission for Agriculture and Rural Development, which currently costs approximately \$15,000 per year. Both the current commissions are permanent statutory commissions. The Animal Welfare Commission would exist for a limited term; the bill indicates the commission would dissolve 30 days after the effective date of the administrative rules required by the bill.

The actual cost of the commission would be a factor of how often the commission met, the distance members had to travel, and the number of members.

The department does not currently actively regulate pet shops. A notice on the department's website ([http://www.michigan.gov/mdard/0,4610,7-125-1569\\_16979\\_21259---,00.html](http://www.michigan.gov/mdard/0,4610,7-125-1569_16979_21259---,00.html)), states:

*Since 1969 the Michigan Department of Agriculture & Rural Development (MDARD) has licensed and regulated pet shops offering mammals other than livestock or rodents for sale. Due to state financial constraints, MDARD can no longer operate the pet shop program. Therefore, effective August 1, 2009, the department is suspending the pet shop program. In addition, MDARD will no longer accept new applications for a pet shop license. Although MDARD will no longer be regulating pet shops, all pet shop operators are advised to use the laws and regulations concerning pet shops as guidelines for animal care in their facilities. As the department is suspending the program, MDARD will also no longer be supplying pet shop health certificates effective August 1, 2009. Complainants wishing to file complaints against pet shops will be directed to local law enforcement agencies.*

The department estimates that re-establishing the pet shop inspection program would cost approximately \$200,000 annually. Regulatory fees would generate only \$30,000 to support program costs.

## **DETAILED SUMMARY:**

### **Senate Bill 339**

#### MDARD Program Responsibility/Administrative Rules

The Pet Shop Law currently establishes a registration and licensing requirement for pet shops, animal control shelters, and animal protection shelters, as defined in the act. The act gives authority for administration of the pet shop licensing and regulatory program to the Michigan Department of Agriculture and Rural Development (MDARD).

Section 2(1) of the act currently directs the department to issue rules to accomplish the purposes of the act and to establish minimum standards for housing, care, and handling of animals to insure the humane care and handling of animals. Senate Bill 339 would amend Section 2(1) to indicate that the department *may* promulgate rules, subject to new subsection 2.

Within 18 months after the bill took effect, the department would have to promulgate rules to establish minimum standards for dog breeding operations consistent with accepted animal welfare standards. Further, the rules:

- Could not conflict with recommendations of the Animal Welfare Commission established under new Section 11.
- Could prohibit certain activities by dog breeding operations, including but not limited to, activities described in Section 5a. (Section 5a lists several activities that are prohibited of persons who operate pet shops.)
- Could require licensing of dog breeding operations. The bill indicates that if licensing of dog breeding operations is required, the rules shall provide for licensing fees that do not exceed the reasonable costs of administering the department's dog breeding operations program.

Until the administrative rules governing dog breeding operations were promulgated, dog breeding operations would be explicitly required to comply with Sections 3.1 to 3.19 of the Title 9 of the Code of Federal Regulations (9 CFR). Those sections establish specific animal welfare standards for dogs and cats, and can be accessed at <https://www.law.cornell.edu/cfr/text/9/part-3/subpart-A>

The bill also makes a technical correction to update the citation to the Administrative Procedures Act of 1969.

Current rules governing pet shops, dog pounds, and animal shelters (R 285.151 - R 285.41, Michigan Department of Agriculture and Rural Development, Animal Industry Division, Regulation 151) can be accessed at [http://w3.lara.state.mi.us/orr/Files/AdminCode/164\\_10154\\_AdminCode.pdf](http://w3.lara.state.mi.us/orr/Files/AdminCode/164_10154_AdminCode.pdf)

#### Section 11, New Commission on Animal Welfare

Senate Bill 339 would establish a new Animal Welfare Commission within MDARD. The Commission would exercise its powers and duties independently of the department, except that budgeting, procurement, and related management functions would be performed under the direction and supervision of the MDARD director.

The Commission would consist of 14 Michigan residents appointed by the MDARD director with the advice and consent of the Senate. The bill establishes the Commission membership as follows:

- Three employees or board members of a tax-exempt animal protection shelter registered under Section 6 of the Pet Shop Act, and which annually cares for more than 2,000 dogs.
- One member of a tax-exempt animal rescue organization.
- One licensed veterinarian accredited by the U. S. Department of Agriculture with experience in animal population health.
- Two animal control individuals from two different local units of government who are members of an association of animal control officers.
- One person from academia who specializes in animal welfare.

- One breeder who specializes in breeds of dogs specific to hunting.
- One person representing a statewide hunting organization.
- One member of the general public.
- Two dog breeders who are members of a national organization of dog breeders and owners.
- The MDARD director.

The MDARD director would be a non-voting member of the Commission.

Commission members would have to be appointed within 90 days after the bill took effect. Commission vacancies would be filled and Commission members could be removed for cause as provided by the bill. The Commission would elect officers at its first meeting, and would meet at least quarterly. A special meeting would be held if called by the chair or requested by at least five members.

A majority of members would constitute a quorum for the transaction of business. A majority of the members elected and serving would be required for official Commission action. Voting by proxy would not be allowed. The Commission would be subject to the Open Meetings Act and the Freedom of Information Act. Within 45 days of appointment and confirmation of all members the commission would have to adopt bylaws governing voting procedures and attendance.

The Legislature would set per diem compensation for Commission members. Members also would be reimbursed for expenses as provided by state law for state employees. The department would have to provide adequate office space and administrative staff support for the commission.

Within nine months after the bill took effect, the Commission would have to submit to the department recommendations for [administrative] rules defining and regulating dog breeders. The Commission would have to submit copies of the recommendations to the Senate and House standing committees on Agriculture.

The Commission would dissolve 30 days after the effective date of the administrative rules promulgated under Section 2(2).

Section 11, which would be added by the bill, would be repealed two years after the bill took effect.

## **House Bill 4898 (S-2)**

### Section 1, Definitions

House Bill 4898 (S-2) would amend Section 1, the definitions section, the Pet Shop Law to include new definitions of “Animal Welfare” and “Commission.” Specifically:

“Animal Welfare” would mean: “the standards of care and treatment for animals, including, but not limited to, husbandry, housing, sanitation, nutrition, and veterinary care, to insure their physical health and psychological well-being.”

“Commission” would mean: “The Animal Welfare Commission created in Section 11 [of Senate Bill 339].”

Other changes to the definitions of this section appear to be technical in nature.

Differences from the Bill as Introduced

Provisions in House Bill 4898 as introduced dealing with the operation of *large-scale dog breeding kennels*, and the related appropriation of \$10,000 are not included in the S-2 substitute.

Senate Bill 339 (S-2) and House Bill 4898 (S-2) are tie-barred to each other.

MCL 287.331, et. seq.

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