**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 3 TO CHAPTER 69, TITLE 40 SO AS TO PROVIDE FOR THE REGULATION OF COMMERCIAL KENNEL OPERATORS AND CERTIFIED ANIMAL CARETAKERS, TO PROVIDE THE PURPOSE OF THE ACT, TO PROVIDE NECESSARY DEFINITIONS, TO CREATE THE COMMERCIAL KENNEL AND CERTIFIED ANIMAL CARETAKERS EXAMINERS BOARD AND PROVIDE FOR ITS MEMBERS, TERMS, POWERS, AND DUTIES; TO PROVIDE FOR REGISTRATION, EXAMINATION, AND CERTIFICATION OF CERTIFIED ANIMAL CARETAKERS; TO PROVIDE FOR SUSPENSION OR REVOCATION OF CERTIFICATES OF CERTIFIED ANIMAL CARETAKERS; TO PROVIDE FOR PUBLICATION OF A ROSTER OF CERTIFIED ANIMAL CARETAKERS; TO PROVIDE THAT IT IS UNLAWFUL FOR A PERSON TO WORK AS A CERTIFIED ANIMAL CARETAKER WITHOUT COMPLYING WITH THE CERTIFICATION REQUIREMENTS OF THIS ACT OR TO KNOWINGLY PRESENT FALSE INFORMATION FOR THE PURPOSE OF OBTAINING A CERTIFICATE; TO PROVIDE THAT IT IS UNLAWFUL FOR A PERSON WHO IS NOT A CERTIFIED ANIMAL CARETAKER TO OPERATE A COMMERCIAL BOARDING KENNEL IN THIS STATE UNLESS THE ACTUAL OPERATION OF THE BOARDING KENNEL IS UNDER THE DIRECT SUPERVISION OF A CERTIFIED ANIMAL CARETAKER; TO PROVIDE THAT IT IS UNLAWFUL FOR A KENNEL OWNER OR OPERATOR, A CERTIFIED ANIMAL CARETAKER, OR ANOTHER PERSON TO OPERATE A COMMERCIAL BOARDING KENNEL THAT DOES NOT PROVIDE PROPER CARE AND TREATMENT, INCLUDING EMERGENCY VETERINARY CARE WHEN NECESSARY, ADEQUATE WATER, ADEQUATE FEED, PROPER AMBIENT TEMPERATURE, SANITIZED BEDDING, SANITIZED PRIMARY ENCLOSURES, AND SANITIZED HOUSING FACILITIES FOR ALL ANIMALS AND PETS BOARDED WITHIN THE KENNEL AT ALL TIMES; TO PROVIDE FOR THE ENFORCEMENT OF THIS ACT BY THE DIRECTOR OF THE DEPARTMENT OF LABOR, LICENSING AND REGULATION, AND FOR INVESTIGATIONS INTO REPORTS OF VIOLATIONS OF THIS ACT, AND TO PROVIDE PENALTIES FOR VIOLATIONS OF THIS ACT, AMONG OTHER THINGS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 69, Title 40 of the 1976 Code is amended by adding:

“Article 3

Commercial Kennel Operators and Certified Animal Caretakers

Section 40‑69‑310. The purposes of this article are to protect the owners of dogs, cats, and domestic animals owned as pets from abuse and neglect of their pets when they are boarded in a commercial kennel or boarding facility, and to ensure that persons caring for animals boarded in a commercial kennel or boarding facility are competent to provide humane care and treatment when transporting, housing, boarding, handling, and providing requisite exercise, care, and maintenance for these animals. Accordingly, and notwithstanding another provision of law, a person other than a licensed veterinarian or animal health technician who holds himself out as a handler, trainer, or keeper of dogs, cats, pets, or domestic animals of any kind on a commercial basis, or who undertakes to house, board, or provide food, shelter, care, maintenance, or the necessities of life for dogs, cats, pets, or domestic animals on a commercial basis, must meet the education, training, or experience requirements of this article, undergo a criminal background check, and be licensed and bonded in accordance with the provisions of this article.

Section 40‑69‑320. For purposes of this article:

(1) ‘Adequate feed’ means the provision at suitable intervals, not to exceed twenty‑four hours, of a quantity of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition in each animal. Such foodstuff must be served in a sanitized receptacle, dish, or container.

(2) ‘Adequate water’ means a constant access to a supply of clean, fresh, potable water provided in a sanitary manner or provided at suitable intervals for the species and not to exceed twenty‑four hours at any interval.

(3) ‘Ambient temperature’ means the temperature surrounding the animal.

(4) ‘Animal’ means a domestic dog (canis familiaris), domestic cat (felis domestica), or an animal as defined in Section 40‑69‑20(1) that is owned, fed, sheltered, or cared for as a pet.

(5) ‘Animal shelter’ means a facility which is used to house or contain animals and which is owned, operated, or maintained by a duly incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection, and humane treatment of animals.

(6) ‘Board’ means the Commercial Kennel and Certified Animal Caretakers Examiners Board.

(7) ‘Boarding kennel’ or ‘kennel’ means a facility or establishment which regularly offers to the public the service of boarding dogs or cats or both for a fee. ‘Kennel’ includes a facility or establishment that, in addition to providing shelter, food, and water, offer grooming or other services for dogs or cats but does not include a facility or establishment that offers grooming services for dogs or cats only.

(8) ‘Certificate’ means a written statement issued by the board acknowledging successful completion of the certified animal caretaker examination and other requirements needed for certification as a certified animal caretaker.

(9) ‘Certified animal caretaker’ means a person certified as eligible to own, operate, or be employed by an animal shelter or commercial kennel for the purpose of feeding and caring for pets and animals placed or boarded in a commercial kennel.

(10) ‘Direct supervision’ means the guidance of the activities of the certified animal caretaker within the scope of the instructions of the licensed veterinarian in charge of the care of the animal.

(11) ‘Director’ means the Director of the Department of Labor, Licensing and Regulation or the director’s official designee.

(12) ‘Employee’ means a person employed to perform tasks related to feeding and caring for pets and animals placed or boarded in a commercial kennel under the direct supervision of a certified animal caretaker.

(13) ‘Housing facility’ means any room, building, or area used to contain a primary enclosure or enclosures.

(14) ‘Kennel owner or operator’ means a person who owns or operates a commercial kennel or boarding facility.

(15) ‘Person’ means any individual, partnership, firm, joint‑stock company, corporation, association, trust, estate, or other legal entity.

(16) ‘Pet’ means a dog, cat, or domestic animal placed in a kennel or boarding facility by its owner or another person having possession of the dog, cat, or domestic animal.

(17) ‘Pet owner’ means a person owning or having possession of a dog, cat, or domestic animal placed in a kennel or boarding facility.

(18) ‘Primary enclosure’ means any structure used to immediately restrict an animal or animals to a limited amount of space, such as a room, pen, cage, compartment, or hutch.

(19) ‘Sanitize’ means to make physically clean and to remove and destroy to a practical minimum, agents injurious to health.

Section 40‑69‑330. (A) There is created the Commercial Kennel and Certified Animal Caretakers Examiners Board composed of nine members appointed by the Governor for a term of three years. Of the nine members, six must be licensed veterinarians who own or operate a kennel or boarding facility as part of their practice of veterinary medicine. Of these six licensed veterinarians, one must be appointed from each congressional district in the State. The two remaining members must be pet owners appointed at large from the general public and must not be associated with, or financially interested in, a commercial kennel or boarding facility in this State. The membership must be representative of race, ethnicity, and gender.

(B) Members appointed to the board are eligible for reappointment. Vacancies on the board must be filled in the same manner as the original appointment for the unexpired portion of the term.

(C) Each member shall receive per diem, subsistence, and mileage as allowed by law for members of state boards, commissions, and committees for each day actually engaged in the duties of the office, including a reasonable number of days, as determined by board regulation, for preparation and reviewing of applications and examinations in addition to time actually spent in conducting examinations.

Section 40‑69‑340. (A) The powers and duties of the board shall include but are not limited to:

(1) establishing the standards a certified animal caretaker must meet to be certified and promulgate regulations governing the certified animal caretaker as necessary to enable it to carry out and make effective the purpose and intent of this article;

(2) adopting rules of professional conduct appropriate to establish and maintain a high standard of integrity and skills relating to the certified animal caretaker;

(3) printing its regulations and distribute them to all certified animal caretakers;

(4) establishing qualifications for persons wishing to be certified as a certified animal caretaker including, but not limited to, knowledge and skill levels relating to adequate feed, water, and ambient temperature requirements for animals, knowledge relating to adequate housing facilities, primary enclosures, and sanitization requirements for kennels and animals boarded in kennels;

(5) passing upon the qualifications of applicants for a certificate to work as a certified animal caretaker in this State;

(6) prescribing the subject, character, manner, time, and place of holding examinations and the filing of applications for examinations and to conduct the examinations;

(7) issuing temporary certificates to duly qualified applicants;

(8) providing for, regulating, and requiring all persons certified in accordance with the provisions of this article to renew their certificate annually, to issue annual renewal certificates to such persons, and to suspend or revoke the certificates to such persons who fail, refuse, or neglect to renew such certificate; and

(9) inspecting certificate.

(B) The powers and duties of the board include the powers enumerated in Section 40‑69‑70 which must also apply to kennel owners and operators and certified animal caretakers or as necessary for the proper administration of this article.

Section 40‑69‑350. (A) A person wishing to work as a certified animal caretaker in this State must register and obtain a certificate from the board. Unless a person registers and obtains a certificate, it is unlawful to work as a certified animal caretaker as defined in this article.

(B) The board shall conduct examinations of all applicants and the board may examine an applicant who submits satisfactory evidence that the applicant:

(1) is at least eighteen years of age;

(2) is a graduate of an American Veterinary Medical Association accredited school of animal technology, or has demonstrated the he possesses the requisite knowledge concerning the care and maintenance of dogs, cats, and domestic animals to meet the requirements for certification as a certified animal caretaker established by the board;

(3) has not engaged in any act of animal cruelty, abuse, or neglect as determined by a criminal history and background check;

(4) is bonded for not less than ten thousand dollars; and

(5) has paid the required fee.

Section 40‑69‑360. (A) The board may issue a temporary certificate if the applicant:

(1) meets all the qualifications and requirements of Section 40‑69‑380;

(2) has filed an application to take the examination;

(3) pays a temporary certificate fee which must be set by the board in regulation promulgated pursuant to the Administrative Procedures Act. This fee is in addition to the examination fee.

(B) A temporary certificate shall permit the applicant holder to work as a certified animal caretaker until the next regularly scheduled examination. Temporary certificates may not be renewed. However, a person who is unable to attend the examination because of illness, accident, or other reasonable condition beyond the person’s control, in the discretion of the board, may have the temporary certificate renewed until the board is able to act on the application after the person completes the required examination.

Section 40‑69‑370. (A) A person desiring to take the examination for certification shall apply in writing to the board on forms prescribed by the board at least fourteen days before the examination. The fee accompanying an application must be set by the board in regulation promulgated pursuant to the Administrative Procedures Act.

(B) Fees may not be returned under any circumstances, regardless of whether the applicant is accepted for examination, fails the examination, withdraws the application, or is issued or denied a certificate. If an applicant fails to take the examination for a legitimate reason, the board may allow the applicant to take the examination at a later date without having to pay another fee.

(C) After the board accepts an application and finds that the applicant is qualified to meet the requirements necessary to work as a certified animal caretaker, the applicant may be examined by the board at its next meeting, or by the board’s designee at a time and place to be determined by the board. The board shall give notice to the applicant of the exact time and place of the examination.

Section 40‑69‑380. (A) The examination of an applicant for certification must be conducted under the regulations adopted by the board. The board shall require the applicant to take a written examination designed to determine whether the applicant possesses the knowledge and experience necessary or required for the proper care, feeding, and maintenance of a dog, cat, or another animal when placed in a kennel or boarding facility for animals as the board may require. The board shall establish a minimum passing grade for each examination given and shall hold at least one examination annually.

(B) If the applicant makes the minimum passing grade on the examination established by the board and the board finds that the applicant is qualified, it shall issue the applicant a certificate. An applicant who fails to meet the minimum passing grade or fails to maintain a current certificate may submit to reexamination at the discretion of the board. Each applicant is entitled to at least one reexamination.

Section 40‑69‑390. (A) The holder of a certificate must apply on January first of each year for renewal of certification. Renewal applications must be provided by the board thirty days before January first of each year. A completed application must be accompanied by an annual fee, the amount of which must be set by the board in regulation promulgated pursuant to the Administrative Procedures Act, and made payable to the secretary‑treasurer of the board. If the completed application and fee is not submitted by February fifteenth of each year, a late renewal fee penalty set by the board in regulation will be added to the annual fee. If the completed application and renewal fee is not received by March fifteenth of each year, certification of the holder will be revoked and the holder shall file for reexamination for certification. The application for renewal must be endorsed by a licensed veterinarian of this State and must include sufficient proof of continuing education as required by the board in the regulations.

(B) The board may issue a duplicate certificate to replace one that has been lost or destroyed upon payment of an amount to be set by the board in regulation. A duplicate certificate must have the word ‘DUPLICATE’ typed or printed across the face of the certificate.

Section 40‑69‑400. The board may revoke suspend, deny, or place on probation the certificate of a certified animal caretaker, or impose any reasonable disciplinary action toward the certified animal caretaker, who, in the opinion of the board, has committed one or more of the following:

(1) gross incompetence in connection with the performance of the duties or tasks of the certified animal caretaker;

(2) fraud or deceit in procuring certification as a certified animal caretaker;

(3) performing tasks otherwise than under the direct supervision of a licensed veterinarian;

(4) conviction in any court, state or federal, of any felony;

(5) representing himself or permitting another to represent him as a doctor of veterinary medicine or an animal health technician;

(6) conviction on a charge of cruelty to animals;

(7) violation of the code of conduct as adopted by the board; or

(8) any conduct in violation of this article.

Section 40‑69‑410. No action to deny, revoke, or suspend a certificate of a certified animal caretaker may be taken until the person has been furnished a statement of the charges against him by the board. Preferring of charges, hearings, appeals, and reinstatements must be conducted by the board as stated in the same manner as provided in Section 40‑69‑150.

Section 40‑69‑420. A complete roster that shows all the names and places of employment of certified animal caretakers in this State must be prepared annually by the board by April fifteenth of each year. This list is a matter of public record and must be posted on an official bulletin board or an Internet website maintained by the department. All persons certified as a certified animal caretaker must display in their places of employment at all times their current certificates issued by the board.

Section 40‑69‑430. It is unlawful for a person to work as a certified animal caretaker without first having complied with the certification requirements as provided in this article, or to knowingly present to or file false information with the board for the purpose of obtaining a certificate. A person who works as a certified animal caretaker without first having complied with the certification provisions of this article, or who knowingly presents to or files false information with the board for the purpose of obtaining a certificate, is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than thirty days.

Section 40‑69‑440. (A) It is unlawful for a kennel owner or operator or another person who is not a certified animal caretaker to operate a commercial boarding kennel in this State unless the actual operation of the boarding kennel is under the direct supervision of a certified animal caretaker at all times.

(B) It is unlawful for a kennel owner or operator, a certified animal caretaker, or another person to operate a commercial boarding kennel that does not provide proper care and treatment, including emergency veterinary care when necessary, adequate water, adequate feed, proper ambient temperature, sanitized bedding, sanitized primary enclosures, and sanitized housing facilities for all animals and pets boarded within the kennel at all times.

(C) A person who owns a boarding kennel who allows the kennel to be operated in violation of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than five thousand dollars or imprisoned for not less than one year, or both.

Section 40‑69‑450. (A) A person owning or operating a boarding kennel in this State on or before the effective date of this article must comply with this article within ninety days after the effective date of this article.

(B) A person who is an employee of an animal shelter or commercial kennel who is performing tasks or acts relating to the care and maintenance of an animal in the animal shelter or commercial kennel under the direct supervision of a certified animal caretaker is not working as a certified animal caretaker in violation of this article.

Section 40‑69‑460. (A) For the enforcement of the provisions of this article, the director is authorized, subject to the approval of the Budget and Control Board to appoint employees as are necessary in order to carry out and enforce the provisions of this article, and to assign them interchangeably with other employees of the department.

(B) The director shall cause the investigation of all reports of violations of the provisions of this article and the rules adopted pursuant to the provisions of this article.

(C) If any person denies the director or his representative admittance to his property, the director or his representative is entitled to secure from a court of competent jurisdiction a court order granting admittance to the property for purposes of carrying out the provisions of this article.

(D) The director or his authorized representative may share information, cooperate with, and enter into agreements relating to the inspection of boarding kennels or the investigation of reports of violations of this article with the governing body of a county or municipality as may be necessary for the proper enforcement of this article.”

SECTION 2. This act takes effect upon approval by the Governor.

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