ENGROSSED SENATE
BILL NO. 1712

By: Anderson of the Senate

and

Denney of the House

[professions and occupations - Commercial Pet Breeders Act - defining terms - establishing procedure - establishing fees - codification - effective date - emergency]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5000 of Title 59, unless there is created a duplication in numbering, reads as follows:
This act shall be known and may be cited as the “Commercial Pet Breeders Act”.
SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5001 of Title 59, unless there is created a duplication in numbering, reads as follows:
As used in the Commercial Pet Breeders Act:
1. “Adult animal” means an animal six (6) months of age or older;
2. “Animal” means a dog or a cat;
3. “Cat” means a mammal that is wholly or partly of the species Felis domesticus;
4. “Commercial breeder” and “commercial pet breeder” means any individual, entity, association, trust, or corporation who possesses eleven or more adult intact female animals and is engaged in the business of breeding or dealing in animals for direct or indirect sale or for exchange in return for consideration;
5. “Person” means any individual, association, trust, corporation, limited liability company, partnership, or

other entity;
6. “Board” means the Board of Commercial Pet Breeders;
7. “Commercial Pet Breeders license” means a license issued to any person that qualifies and is licensed as a commercial pet breeder;

8. “Controlling person” means an individual who:

a. is a partner, manager, director, officer, or member of a commercial breeder,

b. possesses the authority to set governing policy or direct management of a commercial breeder, or

c. possesses a direct or indirect ownership or voting control of twenty-five percent (25%) or more of a commercial breeder;

9. “Dog” means a mammal that is wholly or partly of the species Canis familiaris;

10. “Executive director” means the executive director of the Board;

11. “Facility” means the premises used by a commercial breeder for keeping, housing, or breeding animals. The term includes all buildings, property, and confinement areas used to conduct the commercial breeding business;

12. “Family member” means the parent, spouse, child, or sibling of an individual;

13. “Humane society” means a nonprofit organization exempt from federal income taxation as an organization described in Section 501(c)(3), Internal Revenue Code of

1986, as amended, that has as a principal purpose the prevention of animal cruelty or the sheltering of, caring for, and providing of homes for lost, stray, and abandoned animals;

14. “Intact female animal” means a female animal that has not been spayed and is capable of sexual reproduction;

15. “Kitten" means a cat less than six (6) months old;

16. “Local animal control authority” means a municipal or county animal control office with authority over the premises in which an animal is kept or, in an area that does not have an animal control office, the county sheriff;

17. “Pet” means a dog or cat, including a puppy or kitten;

18. “Possess” means to have custody of or control over;

19. “Puppy” means a dog less than six (6) months old;

20. “Registered breeder inspector” means an individual certified by the Board to conduct investigations and inspections of facilities; and

21. “Veterinarian” means a person currently licensed to practice veterinary medicine in Oklahoma.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5002 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Commercial Pet Breeders Act does not affect the applicability of any other law, rule, order, ordinance, or other legal requirement of the federal government, this state, or a political subdivision of this state.

B. The Commercial Pet Breeders Act does not prevent a municipality or county from prohibiting or further

regulating by order or ordinance, the possession, breeding, or selling of dogs or cats.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5003 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Board of Commercial Pet Breeders is hereby created, to continue until July 1, 2014, in accordance with the provisions of the Oklahoma Sunset Law. The Board shall administer the provisions of the Commercial Pet Breeders Act.

B. 1. The Board shall consist of eight (8) members as follows:

a. one member who represents the dog or cat breeding industry appointed by the Governor for an initial term of office of one (1) year,

b. one member who represents an animal welfare association appointed by the Governor for an initial term of office of two (2) years,

c. one member who represents the Oklahoma Veterinary Medical Association appointed by the Governor for an initial term of office of two (2) years,

d. one member at large appointed by the Governor for an initial term of office of three (3) years,

e. the Dean of the Oklahoma State University Center for Veterinary Health Sciences or designee,

f. the Dean of the Oklahoma State University Division of Agricultural Sciences and Natural

Resources Administration or designee,

g. the Chair of the Oklahoma Tax Commission or designee, and

h. the executive director who shall be appointed by the Governor upon the recommendation of the other seven members of the Board, and shall be nonvoting.

2. After the expiration of the initial terms of office, the term of office of appointed members, except for the executive director, shall be three (3) years.

C. Each member of the Board shall file with the Secretary of State a written oath or affirmation for the faithful discharge of official duties.

D. The Governor may remove any appointed member of the Board for misconduct, incompetence, neglect of duty, or any sufficient cause, in the manner prescribed by law for removal of state officials. Vacancies in the membership of the Board shall be filled for the balance of an unexpired term in the same manner as the original appointment.

E. Members of the Board, except for the executive director, shall serve without compensation, but shall be reimbursed for necessary travel expenses incurred in the performance of duties pursuant to the provisions of the State Travel Reimbursement Act.

F. The Board shall meet within one (1) month of its

formation and thereafter when it deems necessary, and during normal business hours. Special meetings may be held at the request of the executive director or by request from any two members of the Board.

G. The Board, annually, shall elect a chair, vice-chair, and secretary. A quorum of the Board shall consist of a majority of the full Board.

H. In order to effectively facilitate work, fulfill duties, and exercise powers, the Board may establish standing or ad hoc committees. The chair of the Board:

1. Shall appoint members and chairpersons of the committees and may determine the length of service; and

2. May appoint individuals to serve on a standing or ad hoc committee for a term not to exceed one (1) year.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5004 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Board of Commercial Pet Breeders shall enforce and administer the provisions of the Commercial Pet Breeders Act.

B. The Board shall adopt the rules necessary to enforce and administer the Commercial Pet Breeders Act, including but not limited to rules that:

1. Establish application procedures and requirements;
2. Establish procedures for renewing licenses;
3. Establish conditions under which licenses are revoked, denied, or denied renewal;
4. Establish qualifications and training for registered breeder inspectors.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5005 of Title 59, unless there is created a duplication in numbering, reads as follows:

The Board of Commercial Pet Breeders shall establish reasonable and necessary fees in amounts sufficient to cover

the costs of enforcing and administering the Commercial Pet Breeders Act.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5006 of Title 59, unless there is created a duplication in numbering, reads as follows:

The executive director may employ personnel necessary to carry out the functions and duties of the Board of Commercial Pet Breeders under the Commercial Pet Breeders Act.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5007 of Title 59, unless there is created a duplication in numbering, reads as follows:

The executive director may authorize disbursements necessary to implement the Commercial Pet Breeders Act, including disbursements for office expenses, equipment costs, and other necessary resources.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5008 of Title 59, unless there is created a duplication in numbering, reads as follows:

The Board of Commercial Pet Breeders shall maintain and post on its website the directory of commercial pet breeders licensed pursuant to the Commercial Pet Breeders Act.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5009 of Title 59, unless there is created a duplication in numbering, reads as follows:

The Board of Commercial Pet Breeders may contract with another state agency, a political subdivision of this state, a local animal control authority, or a registered breeder inspector to enforce the Commercial Pet Breeders Act and the rules adopted under the Commercial Pet Breeders Act.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5010 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Board of Commercial Pet Breeders, at least annually, shall arrange for the inspection of each facility of a licensed commercial breeder. The inspection must be conducted during the normal business hours of the facility and the commercial breeder or a representative of the commercial breeder may be present during the inspection. The Board is not required to provide advance notice to the commercial breeder before arriving at the facility, but must contact the commercial breeder or representative on arrival at the facility for the inspection.

B. The inspector shall submit an inspection report to the Board not later than ten (10) days after the date of the

inspection on a form prescribed by the Board and provide a copy of the report to the commercial breeder or the representative. If there is a deficiency, the Board will follow the procedures set out in its rules, which shall include opportunities for the breeder to correct deficiencies, object to the report, and to request a hearing.

C. The Board, a local animal control authority, or a registered breeder inspector may access the facility of a commercial breeder whose license has been suspended, revoked, or denied to verify that the facility is not operating as a commercial pet breeding facility.

D. On receipt of a written complaint alleging a violation of the Commercial Pet Breeders Act, the Board, a local animal control authority, or a registered breeder inspector designated by the Board shall investigate the alleged violation.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5011 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. A person may not act, offer to act, or hold himself or herself out as a commercial breeder in this state unless the person holds a Commercial Pet Breeder License obtained pursuant to the Commercial Pet Breeders Act for each facility that the person owns or operates in this state.

B. It shall be unlawful for any person to act as a Commercial Pet Breeder licensee, or to hold himself or herself out as such, unless the person shall have been licensed to do so under the Commercial Pet Breeders Act.

C. An applicant must possess a Sales Tax Permit, issued by the Oklahoma Tax Commission, and provide proof thereof in its application for a license.

D. An applicant must meet the criteria as established by the Board of Commercial Pet Breeders through its rules and procedures.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5012 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Board of Commercial Pet Breeders shall inspect a facility before an initial commercial pet breeder license is issued for that facility.

B. The Board may contract with a local animal control authority or a registered breeder inspector to conduct or assist in an initial prelicense inspection.

C. The Board may not issue a commercial pet breeder license until the Board receives an initial prelicense inspection report from the inspector in a format approved by the Board certifying that the facility meets the requirements of the

Commercial Pet Breeders Act.
D. Before the initial prelicense inspection may be conducted, each applicant shall pay to the Board a nonrefundable inspection fee.
SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5013 of Title 59, unless there is created a duplication in numbering, reads as follows:
The Board of Commercial Pet Breeders shall issue a commercial pet breeder license to each commercial breeder who:
1. Meets the requirements of the Commercial Pet Breeders Act;
2. Applies to the Board on the form prescribed by the Board; and
3. Pays the required fee.
SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5014 of Title 59, unless there is created a duplication in numbering, reads as follows:
A license issued under the Commercial Pet Breeders Act is valid until the first anniversary of the date of issuance and is nontransferable. The Board of Commercial Pet Breeders shall include the expiration date on each license issued under the Commercial Pet Breeders Act.
SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5015 of Title 59, unless there is created a duplication in numbering, reads as follows:
The Board of Commercial Pet Breeders may deny a license, or renewal thereof, or revoke a license to an applicant who fails to meet the standards of care adopted by the Board, or if the person is:
1. Convicted of a crime involving animal cruelty; or
2. Convicted of violating the act more than three (3) times.
SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5016 of Title 59, unless there is created a duplication in numbering, reads as follows:
A. A license holder who is not in violation of the Commercial Pet Breeders Act or any rule adopted under the Commercial Pet Breeders Act may renew the license of the person by:
1. Submitting a renewal application to the Board of Commercial Pet Breeders on the form prescribed by the Board;
2. Complying with any other renewal requirements adopted by the Board; and
3. Paying the required fee.
B. A person whose license has expired may not engage in

activities that require a license until the license has been renewed.
C. Not later than sixty (60) days before the expiration of the license, the Board shall send written notice of the impending license expiration to the person at the last known address of the person according to the records of the Board.
SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5017 of Title 59, unless there is created a duplication in numbering, reads as follows:
A commercial pet breeder shall:
1. Prominently display a copy of the commercial pet breeder license at the facility of the commercial pet breeder;
2. Include the commercial pet breeder license number in each advertisement for the sale or transfer of an animal by the commercial pet breeder; and
3. Include in each contract for the sale or transfer of an animal by the commercial pet breeder the commercial pet breeder license number.
SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5018 of Title 59, unless there is created a duplication in numbering, reads as follows:
A commercial pet breeder shall notify the Board of Commercial Pet Breeders in a manner prescribed by the Board not later than ten (10) days after the date any change occurs in the address, name, management, substantial control, or ownership of the business or operation.
SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5019 of Title 59, unless there is created a duplication in numbering, reads as follows:
A. Not later than February 1 of each year, a commercial pet breeder shall submit to the Board of Commercial Pet Breeders an annual report on a form prescribed by the Board setting forth the number of adult intact animals held at the facility at the end of the prior year and such other information regarding the commercial pet breeder’s prior year’s operations as required by the Board.
B. The commercial pet breeder shall keep a copy of the annual report at the facility of the commercial breeder and, on request, make the report available to the Board, a local animal control authority, or a registered breeder inspector designated by the Board.
C. A license holder that has more than one facility must keep separate records and file a separate report for each facility.
D. The Board shall provide the report to the Oklahoma Tax Commission.
SECTION 21. NEW LAW A new section of law to be

codified in the Oklahoma Statutes as Section 5020 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. A commercial pet breeder shall maintain a separate health record for each animal in the facility of the commercial breeder documenting the healthcare of the animal.

B. The health record must include:

1. The breed, sex, color, and identifying marks of the animal; and

2. A record of all inoculations, medications, and other veterinary medical treatment received by the animal while in the possession of the commercial breeder.

C. The commercial pet breeder shall make the health records available on request to the Board of Commercial Pet Breeders, a local animal control authority, or a registered breeder inspector designated by the Board.

SECTION 22. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5021 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Board of Commercial Pet Breeders, by rule, shall establish minimum standards for the proper care, including veterinary care, treatment, feeding and watering, shelter and confinement, grooming, exercise, socialization, transportation, and disposition of dogs and cats by a commercial pet breeder to ensure the overall health, safety, well being and humane environment for each animal in the facility of the commercial breeder.

B. The standards adopted under this section must at a minimum meet USDA standards:

SECTION 23. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5022 of Title 59, unless there is created a duplication in numbering, reads as follows:

The Board of Commercial Pet Breeders may establish any additional standards considered necessary to protect the public health and the health and welfare of animals covered under the Commercial Pet Breeders Act.

SECTION 24. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5023 of Title 59, unless there is created a duplication in numbering, reads as follows:

In adopting standards under the Commercial Pet Breeders Act, the Board of Commercial Pet Breeders shall consider relevant state, federal, and nationally recognized standards for animal health and welfare.

SECTION 25. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5024 of Title 59, unless there is created a duplication in numbering, reads as follows:

A person is subject to the administrative penalties as provided in Section 5 of this act if the person violates the Commercial Pet Breeders Act or a rule adopted under the Commercial Pet Breeders Act.

SECTION 26. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5025 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. A person commits an offense if the person violates the Commercial Pet Breeders Act or any rule adopted under the Commercial Pet Breeders Act. Each animal to which a violation applies and each day that violation continues constitutes a separate offense. An offense under this subsection is a misdemeanor punishable as provided in subsection E of this section.

B. A person commits an offense if the person knowingly falsifies information in a license application, annual report, or record required under the Commercial Pet Breeders Act. An offense under this subsection is a misdemeanor punishable as provided in subsection E of this section.

C. An unlicensed commercial pet breeder commits an offense if the breeder advertises animals for sale. An offense under this subsection is a misdemeanor punishable as provided in subsection E of this section.

D. A commercial pet breeder commits an offense if the commercial breeder interferes with, hinders, or thwarts any inspection or investigation under the Commercial Pet Breeders Act or refuses to allow an inspector full access to all areas of the facility where animals are kept or cared for and all records required to be kept under the Commercial Pet Breeders Act or any rule adopted under the Commercial Pet Breeders Act. An offense under this subsection is a misdemeanor punishable as provided in subsection E of this section.

E. 1. Any violation of subsections A, B, or C of this section shall be punishable by a fine not to exceed Five Hundred Dollars ($500.00) or imprisonment in the county jail for not to exceed one (1) year, or by both such fine and imprisonment.

2. Any violation of subsection D of this section shall be punishable by a fine not to exceed One Thousand Dollars ($1,000.00) or by imprisonment in the county jail for not to exceed two (2) years, or by both such fine and imprisonment.

F. In addition to the above, the Board should have authority to obtain injunctions against anyone who violates the act, and shall have authority to obtain or impose civil monetary penalties to anyone who violates the act.

SECTION 27. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5026 of Title 59, unless there is created a duplication in numbering,

reads as follows:
Not later than November 1, 2010, the Board of Commercial Pet Breeders shall adopt the rules, standards, procedures, and fees necessary to implement the Commercial Pet Breeders Act.
SECTION 28. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5027 of Title 59, unless there is created a duplication in numbering, reads as follows:
Notwithstanding anything herein to the contrary, a commercial pet breeder is not required to:
1. Hold a license under the Commercial Pet Breeders Act to act as a commercial pet breeder before January 1, 2011; or
2. Comply with the standards adopted under the Commercial Pet Breeders Act, before January 1, 2011.
SECTION 29. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5028 of Title 59, unless there is created a duplication in numbering, reads as follows:
A. The change in law made by the Commercial Pet Breeders Act applies only to an offense committed on or after July 1, 2010. For purposes of this section, an offense is committed before July 1, 2010, if any element of the offense occurs before that date.
B. An offense committed before July 1, 2010, is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.
SECTION 30. This act shall become effective July 1, 2010.
SECTION 31. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 1st day of March, 2010.

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Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____, 2010.

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Presiding Officer of the House

of Representatives