

ENGROSSED HOUSE
BILL NO. 1154

BY: COTNER, HUDSON, BASTIN,
BOECKMAN, DAVIS and
KOUBA of the HOUSE

and

BROWN of the SENATE

(ANIMALS - LEGISLATIVE INTENT - AUTHORIZING
RETURN, EXCHANGE OR RETENTION OF CERTAIN
ANIMALS AND RECOVERY OF CERTAIN COSTS - PET
SELLERS TO GIVE NOTICE AND INFORMATION TO
CONSUMERS - REQUIRING CERTAIN LICENSES -
EFFECTIVE DATE)

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 521 of Title 4, unless there is
created a duplication in numbering, reads as follows:

It is the intent of the Legislature to safeguard the health,
safety and welfare of the public and to provide certain recourses to
buyers of unhealthy or physically defective animals.

SECTION 2. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 522 of Title 4, unless there is
created a duplication in numbering, reads as follows:

As used in Sections 1 through Section 5 of this act:

1. "Animal" means a dog, puppy, cat or kitten;

2. "Consumer" means any individual purchasing an animal from a
pet seller;

3. "Pet seller" means any person, firm, partnership, corporation or other association which sells an animal with intent to make a profit. The term "pet seller" shall not include a person who sells less than four litters per year or a duly incorporated humane society dedicated to the care of unwanted animals or city or county animal shelter which:

- a. makes animals available for adoption whether or not a fee for the adoption is charged, and
- b. provides as part of their adoption program a procedure allowing the exchange of or refund of any fees paid for an animal that has been certified to have a visible and detectable congenital malformation or injury that adversely affects the health of the animal or has the presence of symptoms of a contagious or infectious disease pursuant to Section 3 of this act;

4. "Board" means the State Board of Agriculture; and

5. "Pedigreed animal" means a puppy, dog, cat or kitten whose ancestral lineage has been recorded with any club, association, society or company to ensure the purity of the breed and which is registered or is capable of being registered with such club, association, society or company.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 523 of Title 4, unless there is created a duplication in numbering, reads as follows:

A. Except as otherwise provided by subsection I of this section, if within ten (10) days following the sale of an animal, a veterinarian designated by the consumer and licensed by the state certifies in writing that the animal, at the time of the examination, has a visible and detectable congenital malformation or injury which adversely affects the health of the animal, or has the presence of symptoms of a contagious or infectious disease, the pet

seller shall afford the consumer the right to choose one of the following remedies:

1. The right to return the animal and to receive a refund of the purchase price including any sales tax paid;

2. The right to return the animal and to receive an exchange animal of the consumer's choice of equivalent value; or

3. The right to retain the animal and to receive reimbursement from the pet seller for the veterinary services of a licensed veterinarian who was designated by the consumer, rendered for the purpose of curing or attempting to cure the animal. The reasonable value of reimbursable services rendered to cure or attempting to cure the animal shall not exceed the purchase price of the animal including any sales tax paid. The value of the veterinary services is reasonable if comparable to the value of similar veterinary services rendered by other licensed veterinarians who are located in proximity to the treating veterinarian. Reimbursement pursuant to this paragraph shall not include any examination or diagnostic fees incurred for the initial diagnosis and examination of an animal or pedigreed animal.

B. The signature of a veterinarian on a certificate or the failure or refusal of a veterinarian to sign any certificate pursuant to the provisions of this section shall not be construed as a warranty as to the health or condition of the animal.

C. 1. The Board, by regulation, shall prescribe the content of and shall develop a form for the certification by a licensed veterinarian that an animal has a visible and detectable congenital malformation or injury which adversely affects the health of the animal or has the presence of symptoms of a contagious or infectious disease. The certification shall include, but shall not be limited to:

- a. information which identifies the animal,
- b. the name of the pet dealer,

- c. the date, diagnosis of the animal, and the treatment recommended if any,
- d. the name of the examining veterinarian, and
- e. an estimate or the actual cost of the diagnosis and treatment.

2. The certificate shall contain a statement providing that the signature of the veterinarian on the certificate shall not be construed as a warranty of the health or condition of the animal.

3. The Board shall provide for the distribution of such forms to veterinarians.

D. A pet seller is not required to comply with the provisions of paragraph 1, 2 or 3 of subsection A of this section if the animal has sustained an injury or contracted a contagious or infectious disease subsequent to the consumer taking possession of such animal.

E. The refund, exchange or reimbursement required by subsection A of this section shall be made by the pet seller no later than ten (10) business days following receipt of a certificate signed by the veterinarian. The certificate shall be presented to the pet seller no later than three (3) business days, excluding federal holidays, following receipt of the certificate by the consumer. If a consumer is prevented from presenting the certificate to the pet seller within three (3) days because the pet seller cannot be located or refuses the presentation, the presentation shall be considered complete if the consumer attempts to present the certification to the pet seller by certified mail within the three-day period.

F. If a pet seller wishes to contest a demand for refund, exchange or reimbursement made by a consumer pursuant to this section, the seller shall have the right to require the consumer to produce the animal for examination by a licensed veterinarian designated by the seller. The cost of the examination shall be paid by the pet seller.

G. The remedies provided by this section shall not limit any rights or remedies which are otherwise available to a consumer or seller under any other law. Unless otherwise provided by law, court costs and attorney fees shall be paid by the nonprevailing party in a civil suit in a court of competent jurisdiction.

H. A veterinary finding of intestinal parasites shall not be grounds for certifying that the animal has a congenital malformation, injury or the presence of symptoms of a contagious or infectious disease unless the animal is clinically ill due to the condition.

I. The pet seller and the consumer may by written contract alter the provisions of subsection A of this section. Any contract which provides remedies to a consumer which are different from the remedies provided in subsection A of this section shall make reference to the consumer's remedies provided by this section and shall provide a place within the contract for the consumer to waive his right to the remedies provided by subsection A of this section.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 524 of Title 4, unless there is created a duplication in numbering, reads as follows:

A. 1. Every pet seller who sells a pedigreed animal shall provide at the time of sale to the consumer the following information in writing to the consumer:

- a. a physical description of the animal;
- b. the breed of the animal;
- c. the date and amount of purchase;
- d. the name, address, and telephone number of the pet seller;
- e. whether the animal has received any vaccinations and if so, the type of vaccinations given and by whom; and
- f. a listing of the rights provided to a consumer pursuant to Section 3 of this act.

2. The pet seller and the consumer shall sign and date the document.

B. The State Board of Agriculture, by regulation, shall prescribe the content of and develop a form for the information required by subsection A of this section.

C. 1. It shall be a violation of the Oklahoma Consumer Protection Act for a pet seller to include in the information required to be given to a consumer pursuant to this section, any false or misleading statement regarding the information contained therein.

2. Failure by a pet seller to provide the information to a consumer as required by the provisions of this section may constitute a breach of the sales contract by the pet seller which entitles a consumer to return any animal so purchased and to a refund from the pet seller of the purchase price of the animal at any time.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 525 of Title 4, unless there is created a duplication in numbering, reads as follows:

Any person who by any false pretense shall obtain from any club, association, society or company, for improving the breed of any puppy, dog, kitten, or cat, the registration of any such animal, or transfer any such registration, and every person who shall knowingly give a false pedigree of any animal, shall be deemed guilty of a misdemeanor.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-310 of Title 2, unless there is created a duplication in numbering, reads as follows:

As used in this section and Sections 7 through 10 of this act:

1. "Animal" means a puppy, dog or a kitten or a cat;

2. "Pet dealer" means any person, firm, partnership, corporation or other association which engages in the sale,

breeding, or distribution of animals in this state for consideration and who owns four or more sexually intact female animals of at least one species, all of which are over two (2) years old. The term "pet dealer" shall not include:

- a. any duly incorporated humane societies dedicated to the care of unwanted animals or city or county animal shelters which make animals available for adoption whether or not a fee for the adoption is charged, and
- b. a person, firm, partnership, corporation or other association which in the ordinary course of business engages in the sale or distribution of animals which are registered with a national association which provides for the inspection of such registered animals and facilities of member breeders. The Board shall determine which national organizations meet the requirement of providing for such inspections; and

3. "Board" means the State Board of Agriculture.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-311 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. No pet dealer shall sell, breed or distribute animals in this state without a registration on file with the Board pursuant to the provisions of this section.

B. Until June 30, 1992, the Board shall provide for the registration of pet dealers.

C. The registration shall include:

1. the name and address of the pet dealer;
2. the type and number of animals maintained by the pet dealer;
3. the names of persons supplying animal stock to the pet

dealer; or

4. such other information determined to be necessary by the Board.

D. A registration fee of Five Dollars (\$5.00) shall accompany the registration.

E. The Board shall have the power and duty to promulgate rules necessary to implement the provisions of this section.

F. No pet dealer shall purchase an animal from or sell an animal to another pet dealer unless both pet dealers are registered with the Board.

G. 1. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine not to exceed Five Hundred Dollars (\$500.00) or by imprisonment in the county jail or by both such fine and imprisonment.

2. Any person violating the provisions of this section or any rules promulgated by the Board pursuant thereto may be assessed administrative penalties in accordance with Section 11-1 of Title 2 of the Oklahoma Statutes.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-312 of Title 2, unless there is created a duplication in numbering, reads as follows:

Beginning July 1, 1992, the State Board of Agriculture shall:

1. administer and enforce the provisions of Section 9 of this act;

2. issue, renew, deny, modify or revoke licenses issued pursuant to the provisions of Section 9 of this act;

3. enter upon any public or private property for the purpose of inspecting and investigating conditions of animals or for the purpose of investigating any place animals are kept by a pet dealer for compliance with the provisions of Section 9 of this act;

4. report to the district attorney having jurisdiction or the Attorney General any act committed by a pet seller which may constitute a misdemeanor pursuant to Section 9 of this act;

5. establish administrative penalties for violations of the provisions of Section 9 of this act or any rule promulgated pursuant thereto;

6. institute and maintain or intervene in any action or proceeding where deemed necessary by the Board to protect the health and safety of the public;

7. adopt regulations and standards for the breeding, raising, and sale of animals by pet dealers in this state;

8. require certain sales records to be kept by pet dealers;

9. provide for notice and hearing; and

10. exercise all incidental powers as necessary and proper for the administration of Section 9 of this act.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-313 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. Beginning July 1, 1992, each pet dealer shall make application and secure a pet dealer's license from the State Board of Agriculture authorizing the transaction of such business. The license shall be required of every pet dealer selling, breeding or distributing animals in this state whether the dealer is a resident or a nonresident of the state.

B. Upon receipt of the application and payment of required application fees, the Board shall cause a sanitation and safety inspection to be made of all animals, together with all the grounds, fields, buildings, appurtenances and other facilities connected to or used for purposes of breeding, housing or selling such animals. If the Board finds, upon investigation, that the statements made in the application are true and that the premises and animals so inspected equal or exceed standards promulgated by the Board, the Board shall issue to the pet dealer a pet dealer's license, which unless renewed, shall expire one (1) year from the date of issuance. The pet dealer shall pay a Fifty Dollar (\$50.00) application fee.

C. Licenses may be renewed for a period of one (1) year upon proper application to the Board and the payment of a Fifty Dollar (\$50.00) renewal fee for the license and annual inspection. The Board shall cause an inspection to be made of the premises and animals of each pet dealer receiving a renewal license, within the one-year renewal period.

D. The revenues derived from the payment of application fees, annual license fees, and renewal fees shall be used by the Board for the administration and enforcement of this section.

E. The pet dealer's license required by this section shall specify the premises or place to which the license applies. All persons who are pet dealers shall apply for and be issued a separate license for each place of business within the state, and each license shall apply only to the place and address for which the license is issued. Pet dealers who have received a pet dealer's license shall post the license upon the premises so licensed.

F. Any person, firm, partnership, corporation or other association who fails, refuses or neglects to obtain a license to operate or to do business as a pet dealer and who is operating as a pet dealer in this state without first obtaining a license and paying any required fees, shall be civilly liable to the State Board of Agriculture for all such fees and charges. Any person violating the provisions of this section or any regulation promulgated by the Board pursuant to this section shall be assessed administrative penalties in accordance with Section 11-1 of Title 2 of the Oklahoma Statutes. The Board shall be authorized to recover the costs of inspections required by this section from any pet dealer after a third consecutive inspection reveals violations of this section.

G. Pet dealers who have been issued a pet dealer's license pursuant to this section shall also acquire a permit to do business pursuant to Section 1364 of Title 68 of the Oklahoma Statutes.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-314 of Title 2, unless there is created a duplication in numbering, reads as follows:

Every person who violates any of the provisions of Section 9 of this act shall upon conviction, be guilty of a misdemeanor which shall be punishable by imprisonment in the county jail not to exceed one (1) year or by a fine not exceeding One Thousand Dollars (\$1,000.00) or both such fine and imprisonment.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-315 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. 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 Five Thousand Dollars (\$5,000.00) or imprisoned not more than three (3) years, or both such fine and imprisonment.

B. Whoever, in the commission of any such acts, uses a deadly or dangerous weapon shall be fined not more than Ten Thousand Dollars (\$10,000.00), or imprisoned not more than ten (10) years, or both such fine and imprisonment.

C. 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 Section 691 of Title 21 of the Oklahoma Statutes.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-316 of Title 2, unless there is created a duplication in numbering, reads as follows:

The provisions of this act shall not apply to the buying, selling, raising, breeding or kenneling of dogs used for hunting or working livestock.

SECTION 13. This act shall become effective September 1, 1991.

Passed the House of Representatives the 27th day of February,
1991.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 1991.

President of the Senate