

EHB 1332

THE STATE SENATE
Monday, April 6, 2009

ENGROSSED

House Bill No. 1332

As Amended

ENGROSSED HOUSE BILL NO. 1332 - By: Denney, Williams, Renegar,
Nations, McDaniel (Jeannie) and Kiesel of the House and Branam and
Coates of the Senate.

[animals - Oklahoma Pet Quality Assurance and Protection
Act - Pet Quality Assurance Enforcement Fund - codification
- noncodification - 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 21-1 of Title 2, unless there is
created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Pet
Quality Assurance and Protection Act" and shall be administered by
the Oklahoma Department of Agriculture, Food, and Forestry subject
to available funds.

SECTION 2. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 21-2 of Title 2, unless there is
created a duplication in numbering, reads as follows:

As used in the Oklahoma Pet Quality Assurance and Protection
Act:

- 1 1. "Cat" means the genus and species known as Felis catus, a
2 domestic cat;
- 3 2. "Department" means the Oklahoma Department of Agriculture,
4 Food, and Forestry;
- 5 3. "Dog" means the genus and species known as Canis familiaris;
- 6 4. "Person" means the state, any municipality, political
7 subdivision, institution, individual, public or private corporation,
8 partnership, association, firm, company, public trust, joint-stock
9 company, trust, estate, state or federal agency, other governmental
10 entity, or any other legal entity or an agent, employee,
11 representative, assignee or successor thereof;
- 12 5. "Pet Quality Assurance license" means a certificate issued
13 to any person that qualifies and obtains a license pursuant to the
14 Oklahoma Pet Quality Assurance and Protection Act;
- 15 6. "United States Department of Agriculture (USDA) Licensed
16 facility" means a facility that is governed by the Animal Welfare
17 Act, has passed a current inspection and provided written
18 verification of licensure or certification of inspection for pet
19 quality assurance licensure; and
- 20 7. "Veterinarian" means a person currently licensed to practice
21 veterinary medicine.

1 SECTION 3. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 21-3 of Title 2, unless there is
3 created a duplication in numbering, reads as follows:

4 The State Veterinarian shall appoint a rule advisory committee
5 who, without compensation, shall act as advisors to the State Board
6 of Agriculture in the formulation of the rules promulgated pursuant
7 to the Oklahoma Pet Quality Assurance and Protection Act. The
8 committee shall consist of:

9 1. Four (4) members who shall represent the dog or cat breeding
10 industry;

11 2. One (1) member who is an Oklahoma licensed accredited
12 veterinary practitioner;

13 3. One (1) member who shall represent the Oklahoma Veterinary
14 Medical Association;

15 4. One (1) member who shall represent the Oklahoma State
16 University School of Veterinary Medicine;

17 5. One (1) member who shall represent the United States
18 Department of Agriculture, Animal Care;

19 6. One (1) member who shall represent the Oklahoma State
20 University, Oklahoma Cooperative Extension Service; and

21 7. One (1) member who shall represent an Oklahoma animal
22 welfare association.

1 SECTION 4. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 21-4 of Title 2, unless there is
3 created a duplication in numbering, reads as follows:

4 A. It shall be unlawful for a person to sell, give away, or
5 transfer a cumulative total of thirty-five or more dogs or cats, or
6 any combination thereof, of any age in any calendar year directly to
7 any person without first obtaining a Pet Quality Assurance license,
8 including but not limited to:

9 1. Any person located in the State of Oklahoma who performs
10 such acts within or outside the state;

11 2. Any person located outside the State of Oklahoma who
12 performs such acts within the State of Oklahoma; and

13 3. Any person who performs such acts and owns dogs or cats that
14 are not in the possession of that person.

15 B. 1. Any person may voluntarily obtain a Pet Quality
16 Assurance license, so long as the person complies with all
17 requirements of the Oklahoma Pet Quality Assurance and Protection
18 Act and rules promulgated pursuant thereto.

19 2. Municipal and county animal shelters shall be exempt from
20 the licensing provisions of the Oklahoma Pet Quality Assurance and
21 Protection Act, but may voluntarily obtain a Pet Quality Assurance
22 license.

1 C. The Oklahoma Department of Agriculture, Food, and Forestry
2 shall prepare forms for application for a Pet Quality Assurance
3 license. In addition to the forms, the application for a Pet
4 Quality Assurance license shall contain veterinary health care
5 protocol prepared pursuant to rules promulgated by the State Board
6 of Agriculture.

7 D. The Oklahoma Department of Agriculture, Food, and Forestry
8 shall issue only one Pet Quality Assurance license per physical
9 location. A separate Pet Quality Assurance license shall be issued
10 for each physical location. Licenses shall not be transferable due
11 to a change of ownership of an individual location and shall not be
12 transferable to any other location.

13 E. The Department shall not approve a license or renewal until
14 the following have occurred:

15 1. The premises, facility, equipment, dogs or cats, and
16 breeding operation, if applicable, are inspected by the Department
17 and are determined to be in compliance with the Oklahoma Pet Quality
18 Assurance and Protection Act and rules promulgated pursuant thereto;
19 and

20 2. The husbandry and breeding protocol, if applicable,
21 veterinary health care protocol, and signed veterinarian of record
22 affidavit, as required in the Oklahoma Pet Quality Assurance and
23 Protection Act and rules promulgated pursuant thereto, have been

1 reviewed by the Department and are found to be in compliance with
2 the Oklahoma Pet Quality Assurance and Protection Act.

3 F. Each Pet Quality Assurance license shall be renewed
4 annually. Renewals postmarked or received within thirty (30) days
5 after the renewal date shall be subject to a late penalty not to
6 exceed One Hundred Dollars (\$100.00). Each thirty-day period
7 thereafter in which the renewal is late shall result in an
8 additional late penalty of One Hundred Dollars (\$100.00) per thirty-
9 day period, and may result in administrative fines not to exceed One
10 Hundred Dollars (\$100.00) per day.

11 G. The State Board of Agriculture is authorized to establish
12 fees charged for the purpose of implementing and enforcing the
13 Oklahoma Pet Quality Assurance and Protection Act, not to exceed
14 Five Hundred Dollars (\$500.00), by rules promulgated by the State
15 Board of Agriculture. The nonrefundable fee shall accompany each
16 application and each renewal application for a Pet Quality Assurance
17 license.

18 SECTION 5. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 21-5 of Title 2, unless there is
20 created a duplication in numbering, reads as follows:

21 A. Any person holding a Pet Quality Assurance license shall
22 conspicuously display the license on the premises where the dogs or

1 cats are kept and sold in a manner readily visible to the Department
2 and to the public.

3 B. Any person holding a Pet Quality Assurance license shall
4 display the Pet Quality Assurance license number and the USDA permit
5 number, if applicable, on all correspondence, advertisements, web
6 pages, e-mails, or any other form of dissemination of information
7 printed or posted on any media.

8 C. Any person holding a Pet Quality Assurance license shall
9 provide a copy of the license in any transaction involving the sale,
10 giveaway, or transfer of a dog or cat to the person obtaining the
11 dog or cat.

12 SECTION 6. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 21-6 of Title 2, unless there is
14 created a duplication in numbering, reads as follows:

15 The State Board of Agriculture shall promulgate rules that at a
16 minimum are consistent with USDA Standards pursuant to the Animal
17 Welfare Act including, but not limited to:

- 18 1. Minimum standards for breeding criteria and restrictions;
- 19 2. Housing and sanitation;
- 20 3. Nutrition and hydration;
- 21 4. Operating standards;
- 22 5. Management and staff operating plan;
- 23 6. Veterinarian of record and veterinary care;

1 7. Record keeping; and

2 8. Transportation of dogs or cats within a vehicle.

3 SECTION 7. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 21-7 of Title 2, unless there is
5 created a duplication in numbering, reads as follows:

6 A. The State Board of Agriculture or its authorized agents
7 shall have the authority to enter any premises or form of
8 transportation during reasonable hours for the purpose of
9 implementing the Oklahoma Pet Quality Assurance and Protection Act
10 or rules promulgated pursuant thereto.

11 B. The Board or its authorized agents shall have the authority
12 to carry out all necessary and proper actions to determine
13 compliance with the Oklahoma Pet Quality Assurance and Protection
14 Act including, but not limited to, conducting investigations,
15 inspecting facilities for compliance, responding to complaints,
16 examining and making photocopies of records or documents, and
17 collecting and submitting samples for analysis.

18 C. Nothing in the Oklahoma Pet Quality Assurance and Protection
19 Act shall preclude any peace or animal control officer from
20 enforcing cruelty laws and the provisions of the Oklahoma Pet
21 Quality Assurance and Protection Act. Any such officer shall within
22 forty-eight (48) hours of any investigation regarding cruelty action
23 taken or contact made with an individual or facility covered under

1 the Oklahoma Pet Quality Assurance and Protection Act, report the
2 action or contact in writing to the Oklahoma Department of
3 Agriculture, Food, and Forestry.

4 SECTION 8. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 21-8 of Title 2, unless there is
6 created a duplication in numbering, reads as follows:

7 All records received by the Oklahoma Department of Agriculture,
8 Food, and Forestry pursuant to the Oklahoma Pet Quality Assurance
9 and Protection Act shall be considered open records and available
10 for public inspection pursuant to the Oklahoma Open Records Act.

11 SECTION 9. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 21-9 of Title 2, unless there is
13 created a duplication in numbering, reads as follows:

14 A. 1. In no event shall a Pet Quality Assurance license be
15 issued to any person or to anyone in the household of that person
16 who held or applied for a United States Department of Agriculture
17 license pursuant to the Animal Welfare Act licensed in this state or
18 any other state whose license was suspended, revoked, or whose
19 application was refused due to the improper care of animals.

20 2. In no event shall a Pet Quality Assurance license be issued
21 to any person or to anyone in the household of that person who has
22 been convicted of or pled guilty or nolo contendere to a violation

1 of any federal, state, or local law or regulation involving an
2 animal health or welfare component, including but not limited to:
3 a. the humane treatment of animals,
4 b. cruelty to animals,
5 c. endangering the life or health of an animal,
6 d. the care, treatment, sale, possession, or handling of
7 animals,
8 e. animal fighting,
9 f. the Oklahoma Veterinary Practice Act, or
10 g. prescription drugs or controlled or dangerous
11 substances that can be utilized in the medical or
12 surgical treatment of animals.

13 B. In addition to the applicable administrative and criminal
14 penalties contained in the Oklahoma Agricultural Code, any violation
15 of this section shall constitute a civil offense punishable by a
16 fine of not less than Fifty Dollars (\$50.00) nor more than Two
17 Thousand Five Hundred Dollars (\$2,500.00).

18 SECTION 10. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 21-10 of Title 2, unless there
20 is created a duplication in numbering, reads as follows:

21 There is established in the State Treasury a revolving fund to
22 be known as the "Pet Quality Assurance Enforcement Fund". The fund
23 shall:

1 1. Be a continuing fund, not subject to fiscal year
2 limitations, and shall consist of all fees, fines, penalties, and
3 other monies paid, donated, received, recovered, or collected under
4 the provisions of the Oklahoma Pet Quality Assurance and Protection
5 Act; and

6 2. Be available to the Department solely for the payment of all
7 expenses incurred in issuing, processing, investigating, or
8 supervising the issuance of Pet Quality Assurance licenses, and
9 enforcement of the act. Expenditures from the fund shall be made
10 upon warrants issued by the State Treasurer against claims filed as
11 prescribed by law with the Director of State Finance for approval
12 and payment.

13 SECTION 11. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 21-11 of Title 2, unless there
15 is created a duplication in numbering, reads as follows:

16 A. The failure of any person to comply with the requirements of
17 the Oklahoma Pet Quality Assurance and Protection Act, or any rules
18 promulgated pursuant thereto, shall constitute grounds for the
19 denial of a license or license renewal, imposition of a fine, or for
20 license suspension or revocation by the Department, as provided for
21 in the Oklahoma Pet Quality Assurance and Protection Act.

22 B. The Oklahoma Department of Agriculture, Food, and Forestry
23 or designated agent may refuse to grant or renew, and may suspend or

1 revoke a Pet Quality Assurance license on any one of the following
2 grounds:

3 1. Material misstatement, misrepresentation, or falsification
4 in the license application or renewal, or in any matter relevant to
5 the license;

6 2. Material misstatement, misrepresentation, or falsification
7 in the records required to be kept herein, or under any rule
8 promulgated pursuant thereto; or

9 3. Refusal to allow an authorized agent of the Board to inspect
10 the premises, facility, equipment, dogs or cats within the
11 operation, protocols, or records.

12 C. The Department may refuse to renew, and may suspend a Pet
13 Quality Assurance license, for a violation of the Oklahoma Pet
14 Quality Assurance and Protection Act or for failure to comply with
15 any rule promulgated pursuant thereto.

16 D. The Department may revoke a quality assurance license if the
17 applicant for the license or a licensee:

18 1. Has been convicted of or pleaded guilty or nolo contendere
19 to any violation of any local, state, or federal law relating to the
20 items listed in Section 9 of this act; or

21 2. Is currently on supervised probation by any state or federal
22 department of corrections relating to the items listed in Section 9
23 of this act.

1 E. The Department shall provide written notice to the Pet
2 Quality Assurance license holder of any decision to fine, deny
3 issuance or renewal of a license, or suspend or revoke the license
4 pursuant to the Board's promulgation of rules for individual
5 proceedings.

6 SECTION 12. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 21-12 of Title 2, unless there
8 is created a duplication in numbering, reads as follows:

9 Whenever a Pet Quality Assurance license is revoked, suspended,
10 or not renewed, a district court order may be obtained to seize and
11 impound dogs or cats in the possession, custody, or care of that
12 quality assurance licensee if there is reason to believe that the
13 health, safety, or welfare of the dogs or cats is endangered, or the
14 dogs or cats are in imminent danger. The reasonable costs of
15 transportation, care, and feeding of seized and impounded dogs or
16 cats shall be paid by the quality assurance licensee from whom the
17 dogs or cats were seized and impounded.

18 SECTION 13. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 21-13 of Title 2, unless there
20 is created a duplication in numbering, reads as follows:

21 A. No person holding a Pet Quality Assurance license shall
22 sell, give away, or transfer ownership of any dog or cat, unless the
23 dog or cat is at least six (6) weeks of age.

1 B. Each dog or cat shall be accompanied by a health record.

2 C. If moving interstate, each dog or cat shall be accompanied
3 by a certificate of veterinary inspection and shall be implanted
4 with a microchip or marked by a tattoo or other permanent marking,
5 for identification purposes only, that is able to be read with a
6 universal reader or identified with any other form of official
7 identification.

8 D. A person shall be entitled to review the information
9 contained in the health record prior to purchase of the dog or cat
10 from a quality assurance licensee.

11 E. No person shall sell, offer to sell, promote, advertise, or
12 otherwise market or represent a dog or cat as a Pet Quality
13 Assurance animal unless the breeding and rearing of the dogs or cats
14 is in compliance with the Oklahoma Pet Quality Assurance and
15 Protection Act.

16 SECTION 14. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 21-14 of Title 2, unless there
18 is created a duplication in numbering, reads as follows:

19 Each person holding a Pet Quality Assurance license described in
20 the Oklahoma Pet Quality Assurance and Protection Act shall be
21 required to keep the following records:

22 1. A copy of a bill of sale and individual identification for
23 each dog or cat purchased which shall be presented upon delivery.

1 Any bill of sale which is fraudulent or indicates the theft of any
2 dog or cat shall be prima facie evidence for the immediate
3 revocation of a license by the Oklahoma Department of Agriculture,
4 Food, and Forestry. The bill of sale shall contain information
5 required by the Oklahoma Pet Quality Assurance and Protection Act;

6 2. A Certificate of Veterinary Inspection signed by an
7 accredited veterinarian for each dog or cat sold, given away, or
8 otherwise transferred in interstate commerce that shall comply with
9 state and federal regulations; and

10 3. Any other records required by the Department.

11 SECTION 15. NEW LAW A new section of law not to be
12 codified in the Oklahoma Statutes reads as follows:

13 The State Board of Agriculture may promulgate emergency rules to
14 implement the provisions of this act including, but not limited to,
15 fees, license requirements, and standards for welfare.

16 SECTION 16. This act shall become effective November 1, 2009.

17 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 4-1-09 - DO
18 PASS, As Amended.