

EHB 2745

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THE STATE SENATE  
Wednesday, March 31, 2010

ENGROSSED

House Bill No. 2745

ENGROSSED HOUSE BILL NO. 2745 - By: Denney and Nations of the House and Anderson of the Senate.

An Act relating to animals; creating the Oklahoma Pet Quality Assurance and Protection Act; providing for administration; defining terms; providing for a rule advisory committee; specifying membership; establishing a voluntary license procedure; providing for application form; requiring applicants to submit certain protocol; limiting issuance of licenses; authorizing temporary permit; specifying certain requirements to be met before license approval or renewal; specifying procedures for renewal; specifying late penalty; establishing fees; specifying requirements for display of license and certain information; providing for the promulgation of rules consistent with United States Department of Agriculture standards; authorizing certain inspection system; providing for enforcement; providing for disclosure of records; prohibiting the issuance of a license to certain persons; stating penalties for violation; establishing the Pet Quality Assurance Enforcement Fund; providing for revenues; providing for use of fund; providing for expenditures; specifying conditions justifying refusal of license; providing for written notice; authorizing seizure and impoundment of dogs or cats upon certain circumstances; prohibiting certain dogs and cats to be sold or transferred; requiring certain information to accompany dogs or cats; requiring certain records be maintained; providing for codification; providing for noncodification; and providing an 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:

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

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

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

10          1. "Cat" means the genus and species known as *Felis catus*, a  
11 domestic cat;

12          2. "Department" means the Oklahoma Department of Agriculture,  
13 Food, and Forestry;

14          3. "Dog" means the genus and species known as *Canis familiaris*;

15          4. "Person" means the state, any municipality, political  
16 subdivision, institution, individual, public or private corporation,  
17 partnership, association, firm, company, public trust, joint-stock  
18 company, trust, estate, state or federal agency, other governmental  
19 entity, or any other legal entity or an agent, employee,  
20 representative, assignee or successor thereof;

21          5. "Pet Quality Assurance license" means a certificate issued  
22 to any person that qualifies and obtains a license pursuant to the  
23 Oklahoma Pet Quality Assurance and Protection Act;

1       6. "United States Department of Agriculture (USDA) licensed  
2 facility" means a facility that is governed by the Animal Welfare  
3 Act, has passed a current inspection and provided written  
4 verification of licensure or certification of inspection for pet  
5 quality assurance licensure; and

6       7. "Veterinarian" means a person currently licensed to practice  
7 veterinary medicine.

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

11       The State Veterinarian shall appoint a rule advisory committee  
12 who, without compensation, shall act as advisors to the State Board  
13 of Agriculture in the formulation of the rules promulgated pursuant  
14 to the Oklahoma Pet Quality Assurance and Protection Act. The  
15 committee shall consist of:

16       1. Four members who shall represent the dog or cat breeding  
17 industry;

18       2. One member who is an Oklahoma-licensed accredited veterinary  
19 practitioner;

20       3. One member who shall represent the Oklahoma Veterinary  
21 Medical Association;

22       4. One member who shall represent the Oklahoma State University  
23 School of Veterinary Medicine;

1           5. One member who shall represent the United States Department  
2 of Agriculture, Animal Care;

3           6. One member who shall represent the Oklahoma State  
4 University, Oklahoma Cooperative Extension Service; and

5           7. One member who shall represent an Oklahoma animal welfare  
6 association.

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

10          A. Any person that sells, gives away, or transfers a cumulative  
11 total of thirty-five or more dogs or cats, or any combination  
12 thereof, of any age in any calendar year directly to any person may  
13 voluntarily obtain a Pet Quality Assurance license, including but  
14 not limited to:

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

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

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

21          B. Any person may voluntarily obtain a Pet Quality Assurance  
22 license, so long as the person complies with all requirements of the  
23 Oklahoma Pet Quality Assurance and Protection Act and rules

1 promulgated pursuant thereto. Nothing in the Oklahoma Pet Quality  
2 Assurance and Protection Act shall preclude any person from  
3 voluntarily obtaining a license if the person sells, gives away, or  
4 transfers less than thirty-five dogs or cats in any calendar year.

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

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

17 E. The Department may issue a temporary permit to a person  
18 applying for a license upon the submission of an application and  
19 payment of a licensing fee pursuant to subsection H of this section.  
20 Upon issuance of the temporary permit, the person may operate until  
21 the Department is able to complete the licensing process in  
22 accordance with this section.

1 F. The Department shall not approve a license or renewal until  
2 the following have occurred:

3 1. The premises, facility, equipment, dogs or cats, and  
4 breeding operation, if applicable, are inspected by the Department  
5 and are determined to be in compliance with the Oklahoma Pet Quality  
6 Assurance and Protection Act and rules promulgated pursuant thereto;  
7 and

8 2. The husbandry and breeding protocol, if applicable,  
9 veterinary health care protocol, and signed veterinarian of record  
10 affidavit, as required in the Oklahoma Pet Quality Assurance and  
11 Protection Act and rules promulgated pursuant thereto, have been  
12 reviewed by the Department and are found to be in compliance with  
13 the Oklahoma Pet Quality Assurance and Protection Act.

14 G. Each Pet Quality Assurance license shall be renewed  
15 annually. Renewals postmarked or received within thirty (30) days  
16 after the renewal date shall be subject to a late penalty not to  
17 exceed One Hundred Dollars (\$100.00). Each thirty-day period  
18 thereafter in which the renewal is late shall result in an  
19 additional late penalty of One Hundred Dollars (\$100.00) per thirty-  
20 day period, and may result in administrative fines not to exceed One  
21 Hundred Dollars (\$100.00) per day.

22 H. The State Board of Agriculture is authorized to establish a  
23 tiered system of fees based upon the quantity of dogs and cats sold,

1 given away, or transferred in a calendar year and any other relevant  
2 factor pertaining to the Oklahoma Pet Quality Assurance and  
3 Protection Act for the purpose of implementing and enforcing the  
4 Oklahoma Pet Quality Assurance and Protection Act. Fees shall not  
5 exceed Five Hundred Dollars (\$500.00) and shall be promulgated  
6 through rules established by the State Board of Agriculture. The  
7 nonrefundable fee shall accompany each application and each renewal  
8 application for a Pet Quality Assurance license.

9 I. Implementation of the Oklahoma Pet Quality Assurance and  
10 Protection Act shall be contingent upon the availability of funds.

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

14 A. Any person holding a Pet Quality Assurance license shall  
15 conspicuously display the license on the premises where the dogs or  
16 cats are kept and sold in a manner readily visible to the Department  
17 and to the public.

18 B. Any person holding a Pet Quality Assurance license shall  
19 display the Pet Quality Assurance license number and the USDA permit  
20 number, if applicable, on all correspondence, advertisements, web  
21 pages, e-mails, or any other form of dissemination of information  
22 printed or posted on any media.

1 C. Any person holding a Pet Quality Assurance license shall  
2 provide a copy of the license in any transaction involving the sale,  
3 giveaway, or transfer of a dog or cat to the person obtaining the  
4 dog or cat.

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

8 A. The State Board of Agriculture shall promulgate rules that  
9 at a minimum are consistent with United States Department of  
10 Agriculture standards pursuant to the Animal Welfare Act including,  
11 but not limited to:

- 12 1. Minimum standards for breeding criteria and restrictions;
- 13 2. Housing and sanitation;
- 14 3. Nutrition and hydration;
- 15 4. Operating standards;
- 16 5. Management and staff operating plan;
- 17 6. Veterinarian of record and veterinary care;
- 18 7. Record keeping; and
- 19 8. Transportation of dogs or cats within a vehicle.

20 B. The Oklahoma Department of Agriculture, Food, and Forestry  
21 shall consult with the United States Department of Agriculture to  
22 establish a system for inspections to maximize efficiency and  
23 minimize duplication of efforts.

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

4           A. The State Board of Agriculture or its authorized agents  
5 shall have the authority to enter any premises or form of  
6 transportation of any person who applies for or is issued a license  
7 pursuant to the Oklahoma Pet Quality Assurance and Protection Act  
8 during reasonable hours for the purpose of implementing the Oklahoma  
9 Pet Quality Assurance and Protection Act or rules promulgated  
10 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 Oklahoma Pet Quality Assurance and Protection  
10 Act. Expenditures from the fund shall be made upon warrants issued  
11 by the State Treasurer against claims filed as prescribed by law  
12 with the Director of the Office of State Finance for approval and  
13 payment.

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

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

1           B. The Oklahoma Department of Agriculture, Food, and Forestry  
2 or designated agent may refuse to grant or renew, and may suspend or  
3 revoke a Pet Quality Assurance license on any one of the following  
4 grounds:

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

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

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

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

18           D. The Department may revoke a Pet Quality Assurance license if  
19 the applicant for the license or a licensee:

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

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

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

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

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

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

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

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

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

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

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

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

1 Each person holding a Pet Quality Assurance license described in  
2 the Oklahoma Pet Quality Assurance and Protection Act shall be  
3 required to keep the following records:

4 1. A copy of a bill of sale and individual identification for  
5 each dog or cat purchased which shall be presented upon delivery.  
6 Any bill of sale which is fraudulent or indicates the theft of any  
7 dog or cat shall be prima facie evidence for the immediate  
8 revocation of a license by the Oklahoma Department of Agriculture,  
9 Food, and Forestry. The bill of sale shall contain information  
10 required by the Oklahoma Pet Quality Assurance and Protection Act;

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

15 3. Any other records required by the Department.

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

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

21 SECTION 16. This act shall become effective November 1, 2010.

22 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 3-30-10 - DO  
23 PASS.