

SB 1340

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THE STATE SENATE  
Monday, February 22, 2010

Senate Bill No. 1340  
As Amended

SENATE BILL NO. 1340 - By: Ellis of the Senate and Pruett of the House.

[ agriculture - creating the "Kennel Definitions Act" - codification - 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 1960.1 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. This act shall be known and may be cited as the "Kennel Definitions Act".

B. The purpose of the Kennel Definitions Act is to define terms used in licensing, operating, and inspecting animal care facilities.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1960.2 of Title 2, unless there is created a duplication in numbering, reads as follows:

As used in the Kennel Definitions Act:

1. "Adequate food" means the provision of a quantity of food, at intervals of not more than twelve (12) hours unless the dietary requirements of the animal requires a longer or shorter interval,

1 served in a safe and clean receptacle sufficient to maintain a  
2 reasonable level of nutritional welfare suitable for the animal;

3 2. "Adequate housing" means the continuous provision of a  
4 sanitary facility, protected from the extremes of weather  
5 conditions, with proper ventilation and appropriate space depending  
6 on the species of animal, as specified by regulations of the USDA or  
7 by such requirements set forth in the Kennel Definitions Act;

8 3. "Adequate water" means the provision, either continuously or  
9 at intervals of not to exceed eight (8) hours suitable to the  
10 animal, of a supply of water in a clean and safe receptacle. The  
11 water shall be clean and clear of debris or foreign matter and  
12 capable of passing state minimum drinking water standards;

13 4. "Animal" means a dog or cat which is being used for or is  
14 intended to be used for research, teaching, testing, breeding,  
15 exhibition, handicap-assist purposes, is police or government  
16 employed or is a pet;

17 5. "Animal shelter" means a facility which is used to house or  
18 contain animals, which is owned, operated, or maintained by an  
19 incorporated humane society, animal welfare society, society for the  
20 prevention of cruelty to animals, county, civic or municipal  
21 organization, or other not-for-profit organization devoted to the  
22 welfare, protection, and humane treatment of the animals, or a

1 person whose primary purpose is to act as an animal rescue, to  
2 collect and care for unwanted animals or to offer them for adoption;

3 6. "Animal welfare official" means any licensed veterinarian  
4 who administers or assists in the administration of the provisions  
5 of the Kennel Definitions Act;

6 7. "Boarding kennel" means a place or establishment, other than  
7 a pound or animal shelter, where animals, not owned by the  
8 proprietor, are sheltered, fed, and watered in return for monetary  
9 consideration whether through county or municipal funds or through  
10 private funding. "Boarding kennel" shall not include hobby or show  
11 breeders who board intact females for a period of time for the sole  
12 purpose of breeding such intact females, and shall not include  
13 individuals who temporarily, and not in the normal course of  
14 business, board or care for animals owned by other individuals;

15 8. "Business hours" means a reasonable number of hours between  
16 8:30 a.m. and 5:30 p.m., Monday through Friday, during which  
17 inspections may be made during such business hours, but not on a  
18 state or federal holiday;

19 9. "Carrier" means the operator of any airline, aircraft,  
20 railroad, motor carrier, shipping line, or other enterprise which is  
21 engaged in the business of transporting animals for hire;

22 10. "Commercial breeder" means a person, other than a hobby or  
23 show breeder, engaged in the business of breeding animals for sale

1 or for exchange in return for monetary consideration, and who  
2 harbors more than twenty-five intact females for the primary purpose  
3 of breeding animals for sale either through the Internet or via  
4 brokers or directly to the public or directly to pet stores;

5 11. "Commercial kennel" means a kennel which performs grooming  
6 or training services for animals, and may or may not render boarding  
7 services in return for a consideration;

8 12. "Contract kennel" means any facility operated by any person  
9 or entity other than the state or any political subdivision of the  
10 state, for the purpose of impounding or harboring seized, stray,  
11 homeless, abandoned, or unwanted animals, on behalf of and pursuant  
12 to a contract with the state, county, municipality or any political  
13 subdivision;

14 13. "Dealer" or "Broker" means any person who is engaged in the  
15 business of buying for resale, selling or exchanging animals for  
16 resale, as a principal or agent for the transaction of resale, or  
17 who holds himself or herself out to be so engaged or is otherwise  
18 classified as a dealer or broker by the USDA;

19 14. "Exhibitor" means any person exhibiting an animal to the  
20 public for compensation or for a consideration of any kind whether  
21 directly or indirectly. "Exhibitor" does not include pet shops that  
22 are exhibiting only the animals for sale to the general public if  
23 exhibited only within the licensed facility;

1           15. "Hobby breeder" means a noncommercial breeder who harbors  
2 less than twenty-five intact females for the primary purpose of  
3 breeding animals for sale either through the Internet or directly to  
4 the public;

5           16. "Hobby show breeder" means a noncommercial breeder who  
6 breeds animals with the primary purpose of exhibiting or showing the  
7 animals at state or municipal or county or registry club-sanctioned  
8 events or shows, improving the breed, or selling the animals for the  
9 specific goal of exhibition or exhibiting, and having no more than  
10 ten intact females;

11           17. "Humane euthanasia" means the act of putting an animal to  
12 death in a humane manner and shall be accomplished by a method  
13 specified as acceptable by the American Veterinary Medical  
14 Association Panel on Euthanasia;

15           18. "Indoor housing facility" means any structure or building  
16 with environmental controls housing or intended to house animals;

17           19. "Intact female" means, with respect to a dog, a female  
18 between the ages of six (6) months and six (6) years of age which is  
19 capable of being bred;

20           20. "Pet shop" means any facility where animals are bought,  
21 sold, exchanged, or offered for retail sale to the general public;

22           21. "Pound" or "dog pound" means a facility operated by the  
23 state or any political subdivision of the state for the purpose of

1 impounding or harboring seized, stray, homeless, abandoned, or  
2 unwanted animals;

3 22. "Secretary" means the Secretary of the Oklahoma Department  
4 of Agriculture, Food, and Forestry; and

5 23. "USDA" means the United States Department of Agriculture.

6 SECTION 3. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 1960.3 of Title 2, unless there  
8 is created a duplication in numbering, reads as follows:

9 A. All animal shelters shall be subject to the guidelines and  
10 requirements specified in the Kennel Definitions Act.

11 B. A boarding kennel shall meet or exceed all requirements of  
12 animal care and welfare specified in the Kennel Welfare Act.

13 C. A commercial breeder shall be USDA certified and follow the  
14 guidelines specified by the U.S. Animal Welfare Act. A commercial  
15 breeder shall meet or exceed all requirements of animal care and  
16 welfare specified in the Kennel Definitions Act.

17 D. A commercial kennel shall meet or exceed all requirements of  
18 animal care and welfare specified in the Kennel Definitions Act.

19 E. A contract kennel shall meet or exceed all requirements of  
20 animal care and welfare specified in the Kennel Definitions Act and  
21 shall meet, at a minimum, USDA standards.

22 F. A show breeder shall meet or exceed all requirements of  
23 animal care and welfare specified in the Kennel Definitions Act.

1 G. A hobby breeder shall meet or exceed all requirements of  
2 animal care and welfare specified in the Kennel Definitions Act.

3 SECTION 4. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 1960.4 of Title 2, unless there  
5 is created a duplication in numbering, reads as follows:

6 A. A dealer or broker shall purchase animals only from persons  
7 in this state who are licensed under the USDA. All actions  
8 regarding animal resale shall fall within the guidelines specified  
9 in the U.S. Animal Welfare Act.

10 B. A breeder shall be classified as a hobby or show breeder if  
11 the breeder only sells animals to other breeders or to individuals.

12 C. A hobby breeder shall not sell directly to a pet store or  
13 through a pet broker. More than fifty percent (50%) of the monetary  
14 considerations received by a hobby breeder must be used for the  
15 support of the hobby breeder in order to properly support the  
16 requirements specified in the Kennel Definitions Act.

17 D. Hobby or show breeders are exempt from inspection  
18 requirements, but must register annually, at no cost to the hobby or  
19 show breeder, with the Secretary of Agriculture for the purpose of  
20 establishing that they are hobby or show breeders. A breeder who  
21 buys or sells any animal for the primary purpose of resale does not  
22 qualify as a hobby or show breeder.

1 SECTION 5. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 1960.5 of Title 2, unless there  
3 is created a duplication in numbering, reads as follows:

4 A. Indoor housing facilities shall meet the following  
5 requirements:

6 1. The facility must be capable of controlling the temperature  
7 within the building or structure within the limits set forth for  
8 that species of animal and be able to maintain proper humidity  
9 levels inside the building, as well as rapidly eliminating by way of  
10 exhausting odors from within the building;

11 2. The facility must be an enclosure created by the continuous  
12 connection of a roof, floor, and walls;

13 3. The facility must have at least one door for entry and exit  
14 that can be opened and closed. Any windows or openings which  
15 provide natural light must be covered with a transparent material  
16 such as glass or hard plastic;

17 4. The facility must provide adequate, external space for  
18 exercise separate but attached to and from the internal living  
19 quarters of the animal;

20 5. USDA kennels and USDA breeders must provide an impervious  
21 surface that does not permit the absorption of fluids if the dogs  
22 are in exercise runs. If not an impervious surface, then all USDA

1 kennels must provide adequate external cage space that does not  
2 allow the dog to touch the soil or ground or absorption surface;

3 6. The facility must provide an area of animal isolation  
4 regarding sick or contagious animals in order to protect the welfare  
5 and health of the other kennel inhabitants;

6 7. All animal compartments shall be designed so that food and  
7 water is easily accessible;

8 8. All animal living quarters shall be designed and managed in  
9 such a manner that they remain clean and sanitized. As used in this  
10 paragraph, "sanitized" means to make physically clean and to remove  
11 and destroy, to the maximum degree that is practical, agents  
12 injurious to the health of those animals living within the confines  
13 of or outside of the kennel on regular basis as to maintain at the  
14 very least, minimum health and living standards;

15 9. The facility shall have adequate natural and artificial  
16 lighting; and

17 10. Where dogs are present, the facility must utilize a  
18 functional mechanical ventilation system. If a mechanical system  
19 malfunction occurs, the facility must have windows, doors, or other  
20 openings in the structure that are operable to maintain adequate  
21 ventilation. Proper ventilation helps ensure that dogs are healthy  
22 and not stressed.

1           B. As used in this subsection, outdoor housing means any  
2 structure, building, land, or premises housing or intended to house  
3 animals which does not meet the definition of any other type of  
4 housing facility provided in the Kennel Definitions Act and in which  
5 temperatures cannot be controlled within set limits. Outdoor  
6 housing is only suitable for pets and is not suitable for any other  
7 purpose specified in the Kennel Definitions Act. Use of outdoor  
8 housing for any purpose specified in the Kennel Definitions Act  
9 other than as provided in this subsection shall be a violation of  
10 the Kennel Definitions Act and shall be punishable as a misdemeanor.

11           SECTION 6.           NEW LAW           A new section of law to be codified  
12 in the Oklahoma Statutes as Section 1960.6 of Title 2, unless there  
13 is created a duplication in numbering, reads as follows:

14           A. No animal shall be sold prior to weaning. As used in this  
15 subsection:

16           1. "Weaning" means that the animal has been on solid food for  
17 not less than five (5) days after separation from the mother; and

18           2. "Sold" means the final exchange of all monetary  
19 considerations regarding the animal.

20           B. No animal shall be sold either within this state or  
21 originating from this state without a health certificate provided by  
22 a veterinarian licensed to practice in this state.

1 C. All animals under one (1) year of age must be sold with a  
2 warranty of limited guarantee against hereditary defects, allowing  
3 the buyer to return the animal should such defects become apparent.  
4 Should defects occur, the buyer must provide a complete report and  
5 health summary regarding the animal as provided by their licensed  
6 veterinarian. The seller would then have the option to either give  
7 the buyer their money back or provide another animal of same value  
8 to the buyer. It shall not be the obligation of the seller to pay  
9 for shipping fees during this period. Poor health due to abuse or  
10 improper feeding or improper care is not considered hereditary  
11 defects.

12 D. After receiving the purchased animal, the buyer shall have a  
13 licensed veterinarian examine the animal within three (3) days of  
14 receipt. The buyer is then obligated to send a certified copy of  
15 the inspection summary of the examining veterinarian regarding the  
16 health of the animal. The seller shall keep the record of initial  
17 health examination for a period of one (1) year after the  
18 examination is made. Failure on the part of the buyer to meet these  
19 requirements shall void any limited warranty or limited health  
20 guarantee associated with the animal in question.

21 E. No animal shall be transported for destination of sale until  
22 the animal is at least eight (8) weeks old. No carrier shall  
23 transport such an animal without a health certificate dated not more

1 than ten (10) days prior to the date of transportation. All  
2 transportation shall follow U.S. Animal Welfare Act guidelines.

3 SECTION 7. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 1960.7 of Title 2, unless there  
5 is created a duplication in numbering, reads as follows:

6 A. The selling of animals in retail parking lots, public  
7 parking lots, or private parking lots is not permitted.

8 B. Selling animals in municipal or county parks or on county,  
9 municipal, or other government property is prohibited unless the  
10 seller has a permit from the appropriate government entity allowing  
11 for the sale of the animals. The permit shall be for a period of  
12 not less than twelve (12) hours and no more than twenty-four (24)  
13 hours. The permit shall not cost more than Twenty-five Dollars  
14 (\$25.00). Failure to follow these guidelines shall be a  
15 misdemeanor.

16 C. Selling animals at county or municipal public markets,  
17 farmers markets, or public auctions must be accompanied with a  
18 visible certificate-of-sale permit from the county or municipality.  
19 The animals shall not be temporarily housed closer than one hundred  
20 (100) feet to food products being sold at the public market, farmers  
21 market, or public auction.

22 D. 1. Barn auctions or public or private auctions for the  
23 intended purpose of the sale of animals must first be filed with the

1 county or municipality where the auction is to occur. A record must  
2 be kept by the auction management company or auction organizer or  
3 the person responsible for the auction and presented to either the  
4 municipal clerk or county clerk where the auction is being held as  
5 to the number of animals sold at the auction. As used in this  
6 subsection, "auction" means any person selling any consignment of  
7 animals to the highest bidder. This shall include any means,  
8 procedure, or practice in which the ownership of a dog is conveyed  
9 from one person to another by any type or method of bidding process.

10 2. The county or municipality shall receive One Dollar (\$1.00)  
11 per animal sold at the auction as a permit fee for the sale.

12 Violation on the part of the auction management or the owners of  
13 sold animals will exclude the auction company or person from any  
14 such future business in this state. The funds shall be paid to the  
15 county or municipality within (48) hours of the end of the auction.

16 SECTION 8. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 1960.8 of Title 2, unless there  
18 is created a duplication in numbering, reads as follows:

19 Any facility raising, housing, or breeding dogs in such a manner  
20 as to violate the basic guidelines, humane standards, and  
21 definitions of care set forth within the Kennel Definitions Act  
22 shall be termed a "puppy mill". As used in this section, "facility"  
23 means any land, premises, shed, barn, building, trailer or other

1 structure or area of housing that was not designed, or for the  
2 primary intention, to house animals.

3 SECTION 9. This act shall become effective November 1, 2010.

4 COMMITTEE REPORT BY: COMMITTEE ON TOURISM & WILDLIFE, dated 2-18-10  
5 - DO PASS, As Amended and Coauthored.