

SB 1712

1 THE STATE SENATE
2 Monday, February 22, 2010

3 Senate Bill No. 1712
4 As Amended

5 SENATE BILL NO. 1712 - By: Anderson of the Senate and Denney of the
6 House.

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

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

12 SECTION 1. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 5000 of Title 59, unless there
14 is created a duplication in numbering, reads as follows:

15 This act shall be known and may be cited as the "Commercial Pet
16 Breeders Act".

17 SECTION 2. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 5001 of Title 59, unless there
19 is created a duplication in numbering, reads as follows:

20 As used in the Commercial Pet Breeders Act:

- 21 1. "Adult animal" means an animal six (6) months of age or
22 older;
- 23 2. "Animal" means a dog or a cat;
- 24 3. "Cat" means a mammal that is wholly or partly of the species
25 Felis domesticus;

1 4. "Commercial breeder" and "commercial pet breeder" means any
2 individual, entity, association, trust, or corporation who possesses
3 eleven or more adult intact female animals and is engaged in the
4 business of breeding or dealing in animals for direct or indirect
5 sale or for exchange in return for consideration;

6 5. "Person" means any individual, association, trust,
7 corporation, limited liability company, partnership, or other
8 entity;

9 6. "Board" means the Board of Commercial Pet Breeders;

10 7. "Commercial Pet Breeders license" means a license issued to
11 any person that qualifies and is licensed as a commercial pet
12 breeder;

13 8. "Controlling person" means an individual who:

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

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

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

21 9. "Dog" means a mammal that is wholly or partly of the species
22 *Canis familiaris*;

1 10. "Executive director" means the executive director of the
2 Board;

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

7 12. "Family member" means the parent, spouse, child, or sibling
8 of an individual;

9 13. "Humane society" means a nonprofit organization exempt from
10 federal income taxation as an organization described in Section
11 501(c)(3), Internal Revenue Code of 1986, as amended, that has as a
12 principal purpose the prevention of animal cruelty or the sheltering
13 of, caring for, and providing of homes for lost, stray, and
14 abandoned animals;

15 14. "Intact female animal" means a female animal that has not
16 been spayed and is capable of sexual reproduction;

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

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

22 17. "Pet" means a dog or cat, including a puppy or kitten;

23 18. "Possess" means to have custody of or control over;

1 19. "Puppy" means a dog less than six (6) months old;

2 20. "Registered breeder inspector" means an individual
3 certified by the Board to conduct investigations and inspections of
4 facilities; and

5 21. "Veterinarian" means a person currently licensed to
6 practice veterinary medicine in Oklahoma.

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

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

14 B. The Commercial Pet Breeders Act does not prevent a
15 municipality or county from prohibiting or further regulating by
16 order or ordinance, the possession, breeding, or selling of dogs or
17 cats.

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

21 A. The Board of Commercial Pet Breeders is hereby created, to
22 continue until July 1, 2014, in accordance with the provisions of

1 the Oklahoma Sunset Law. The Board shall administer the provisions
2 of the Commercial Pet Breeders Act.

- 3 B. 1. The Board shall consist of eight (8) members as follows:
- 4 a. one member who represents the dog or cat breeding
5 industry appointed by the Governor for an initial term
6 of office of one (1) year,
 - 7 b. one member who represents an animal welfare
8 association appointed by the Governor for an initial
9 term of office of two (2) years,
 - 10 c. one member who represents the Oklahoma Veterinary
11 Medical Association appointed by the Governor for an
12 initial term of office of two (2) years,
 - 13 d. one member at large appointed by the Governor for an
14 initial term of office of three (3) years,
 - 15 e. the Dean of the Oklahoma State University Center for
16 Veterinary Health Sciences or designee,
 - 17 f. the Dean of the Oklahoma State University Division of
18 Agricultural Sciences and Natural Resources
19 Administration or designee,
 - 20 g. the Chair of the Oklahoma Tax Commission or designee,
21 and

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

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

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

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

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

20 F. The Board shall meet within one (1) month of its formation
21 and thereafter when it deems necessary, and during normal business
22 hours. Special meetings may be held at the request of the executive
23 director or by request from any two members of the Board.

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

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

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

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

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

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

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

19 1. Establish application procedures and requirements;

20 2. Establish procedures for renewing licenses;

21 3. Establish conditions under which licenses are revoked,
22 denied, or denied renewal;

1 4. Establish qualifications and training for registered breeder
2 inspectors.

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

6 The Board of Commercial Pet Breeders shall establish reasonable
7 and necessary fees in amounts sufficient to cover the costs of
8 enforcing and administering the Commercial Pet Breeders Act.

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

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

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

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

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

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

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

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

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

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

1 B. The inspector shall submit an inspection report to the Board
2 not later than ten (10) days after the date of the inspection on a
3 form prescribed by the Board and provide a copy of the report to the
4 commercial breeder or the representative. If there is a deficiency,
5 the Board will follow the procedures set out in its rules, which
6 shall include opportunities for the breeder to correct deficiencies,
7 object to the report, and to request a hearing.

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

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

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

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

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

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

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

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

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

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

19 C. The Board may not issue a commercial pet breeder license
20 until the Board receives an initial prelicense inspection report
21 from the inspector in a format approved by the Board certifying that
22 the facility meets the requirements of the Commercial Pet Breeders
23 Act.

1 D. Before the initial prelicense inspection may be conducted,
2 each applicant shall pay to the Board a nonrefundable inspection
3 fee.

4 SECTION 14. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 5013 of Title 59, unless there
6 is created a duplication in numbering, reads as follows:

7 The Board of Commercial Pet Breeders shall issue a commercial
8 pet breeder license to each commercial breeder who:

- 9 1. Meets the requirements of the Commercial Pet Breeders Act;
- 10 2. Applies to the Board on the form prescribed by the Board;
- 11 and
- 12 3. Pays the required fee.

13 SECTION 15. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 5014 of Title 59, unless there
15 is created a duplication in numbering, reads as follows:

16 A license issued under the Commercial Pet Breeders Act is valid
17 until the first anniversary of the date of issuance and is
18 nontransferable. The Board of Commercial Pet Breeders shall include
19 the expiration date on each license issued under the Commercial Pet
20 Breeders Act.

21 SECTION 16. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 5015 of Title 59, unless there
23 is created a duplication in numbering, reads as follows:

1 The Board of Commercial Pet Breeders may deny a license, or
2 renewal thereof, or revoke a license to an applicant who fails to
3 meet the standards of care adopted by the Board, or if the person
4 is:

- 5 1. Convicted of a crime involving animal cruelty; or
- 6 2. Convicted of violating the act more than three (3) times.

7 SECTION 17. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 5016 of Title 59, unless there
9 is created a duplication in numbering, reads as follows:

10 A. A license holder who is not in violation of the Commercial
11 Pet Breeders Act or any rule adopted under the Commercial Pet
12 Breeders Act may renew the license of the person by:

- 13 1. Submitting a renewal application to the Board of Commercial
14 Pet Breeders on the form prescribed by the Board;
- 15 2. Complying with any other renewal requirements adopted by the
16 Board; and
- 17 3. Paying the required fee.

18 B. A person whose license has expired may not engage in
19 activities that require a license until the license has been
20 renewed.

21 C. Not later than sixty (60) days before the expiration of the
22 license, the Board shall send written notice of the impending

1 license expiration to the person at the last known address of the
2 person according to the records of the Board.

3 SECTION 18. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 5017 of Title 59, unless there
5 is created a duplication in numbering, reads as follows:

6 A commercial pet breeder shall:

7 1. Prominently display a copy of the commercial pet breeder
8 license at the facility of the commercial pet breeder;

9 2. Include the commercial pet breeder license number in each
10 advertisement for the sale or transfer of an animal by the
11 commercial pet breeder; and

12 3. Include in each contract for the sale or transfer of an
13 animal by the commercial pet breeder the commercial pet breeder
14 license number.

15 SECTION 19. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 5018 of Title 59, unless there
17 is created a duplication in numbering, reads as follows:

18 A commercial pet breeder shall notify the Board of Commercial
19 Pet Breeders in a manner prescribed by the Board not later than ten
20 (10) days after the date any change occurs in the address, name,
21 management, substantial control, or ownership of the business or
22 operation.

1 SECTION 20. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 5019 of Title 59, unless there
3 is created a duplication in numbering, reads as follows:

4 A. Not later than February 1 of each year, a commercial pet
5 breeder shall submit to the Board of Commercial Pet Breeders an
6 annual report on a form prescribed by the Board setting forth the
7 number of adult intact animals held at the facility at the end of
8 the prior year and such other information regarding the commercial
9 pet breeder's prior year's operations as required by the Board.

10 B. The commercial pet breeder shall keep a copy of the annual
11 report at the facility of the commercial breeder and, on request,
12 make the report available to the Board, a local animal control
13 authority, or a registered breeder inspector designated by the
14 Board.

15 C. A license holder that has more than one facility must keep
16 separate records and file a separate report for each facility.

17 D. The Board shall provide the report to the Oklahoma Tax
18 Commission.

19 SECTION 21. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 5020 of Title 59, unless there
21 is created a duplication in numbering, reads as follows:

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

4 B. The health record must include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 D. A commercial pet breeder commits an offense if the
20 commercial breeder interferes with, hinders, or thwarts any
21 inspection or investigation under the Commercial Pet Breeders Act or
22 refuses to allow an inspector full access to all areas of the
23 facility where animals are kept or cared for and all records

1 required to be kept under the Commercial Pet Breeders Act or any
2 rule adopted under the Commercial Pet Breeders Act. An offense
3 under this subsection is a misdemeanor punishable as provided in
4 subsection E of this section.

5 E. 1. Any violation of subsections A, B, or C of this section
6 shall be punishable by a fine not to exceed Five Hundred Dollars
7 (\$500.00) or imprisonment in the county jail for not to exceed one
8 (1) year, or by both such fine and imprisonment.

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

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

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

20 Not later than November 1, 2010, the Board of Commercial Pet
21 Breeders shall adopt the rules, standards, procedures, and fees
22 necessary to implement the Commercial Pet Breeders Act.

1 SECTION 28. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 5027 of Title 59, unless there
3 is created a duplication in numbering, reads as follows:

4 Notwithstanding anything herein to the contrary, a commercial
5 pet breeder is not required to:

6 1. Hold a license under the Commercial Pet Breeders Act to act
7 as a commercial pet breeder before January 1, 2011; or

8 2. Comply with the standards adopted under the Commercial Pet
9 Breeders Act, before January 1, 2011.

10 SECTION 29. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 5028 of Title 59, unless there
12 is created a duplication in numbering, reads as follows:

13 A. The change in law made by the Commercial Pet Breeders Act
14 applies only to an offense committed on or after July 1, 2010. For
15 purposes of this section, an offense is committed before July 1,
16 2010, if any element of the offense occurs before that date.

17 B. An offense committed before July 1, 2010, is covered by the
18 law in effect when the offense was committed, and the former law is
19 continued in effect for that purpose.

20 SECTION 30. This act shall become effective July 1, 2010.

21 SECTION 31. It being immediately necessary for the preservation
22 of the public peace, health and safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.
3 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-17-10 - DO
4 PASS, As Amended and Coauthored.