

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 SENATE BILL 1712

By: Anderson

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5
6 AS INTRODUCED

7 An Act relating to professions and occupations;
8 creating the Commercial Pet Breeders Act; providing
9 short title; defining terms; construing law; creating
10 Commercial Pet Breeders Board; requiring certain
11 license; prohibiting certain actions; limiting
12 certain practice; providing for exceptions;
13 authorizing Board to adopt certain rules;
14 establishing requirements for licensure of certain
15 persons; providing for expiration of certain
16 licenses; establishing procedure for renewal of
17 license; providing for certain fees; providing for
18 power of county or municipal governments; providing
19 for responsibility of certain costs; providing for
20 self funding; creating criminal offenses and
21 punishments; providing for codification; providing an
22 effective date; and declaring an emergency.

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

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

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

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

4 As used in the Commercial Pet Breeders Act:

5 1. "Adult animal" means an animal six (6) months of age or
6 older;

7 2. "Animal" means a dog or a cat;

8 3. "Cat" means a mammal that is wholly or partly of the species
9 *Felis domesticus*;

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

15 5. "Person" means any individual, association, trust,
16 corporation, limited liability company, partnership, or other
17 entity;

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

19 7. "Commercial Pet Breeders license" means a license issued to
20 any person that qualifies and is licensed as a commercial pet
21 breeder;

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

23 a. is a partner, manager, director, officer, or member of
24 a commercial breeder,

- 1 b. possesses the authority to set governing policy or
2 direct management of a commercial breeder, or
3 c. possesses a direct or indirect ownership or voting
4 control of twenty-five percent (25%) or more of a
5 commercial breeder;

6 9. "Dog" means a mammal that is wholly or partly of the species
7 Canis familiaris;

8 10. "Executive director" means the executive director of the
9 Board;

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

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

16 13. "Humane society" means a nonprofit organization exempt from
17 federal income taxation as an organization described in Section
18 501(c)(3), Internal Revenue Code of 1986, as amended, that has as a
19 principal purpose the prevention of animal cruelty or the sheltering
20 of, caring for, and providing of homes for lost, stray, and
21 abandoned animals;

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

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

1 16. "Local animal control authority" means a municipal or
2 county animal control office with authority over the premises in
3 which an animal is kept or, in an area that does not have an animal
4 control office, or the county sheriff;

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

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

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

8 20. "Registered breeder inspector" means an individual
9 certified by the Board to conduct investigations and inspections of
10 facilities; and

11 21. "Veterinarian" means a person currently licensed to
12 practice veterinary medicine in Oklahoma.

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

16 A. The Commercial Pet Breeders Act does not affect the
17 applicability of any other law, rule, order, ordinance, or other
18 legal requirement of the federal government, this state, or a
19 political subdivision of this state.

20 B. The Commercial Pet Breeders Act does not prevent a
21 municipality or county from prohibiting or further regulating by
22 order or ordinance, the possession, breeding, or selling of dogs or
23 cats.

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

4 A. The Board of Commercial Pet Breeders is hereby created, to
5 continue until July 1, 2014, in accordance with the provisions of
6 the Oklahoma Sunset Law. The Board shall administer the provisions
7 of the Commercial Pet Breeders Act.

8 B. 1. The Board shall consist of eight (8) members as follows:

9 a. one member who represents the dog or cat breeding
10 industry appointed by the Governor for an initial term
11 of office of one (1) year,

12 b. one member who represents an animal welfare
13 association appointed by the Governor for an initial
14 term of office of two (2) years,

15 c. one member who represents the Oklahoma Veterinary
16 Medical Association appointed by the Governor for an
17 initial term of office of two (2) years,

18 d. one member at large appointed by the Governor for an
19 initial term of office of three (3) years,

20 e. the Dean of the Oklahoma State University Center for
21 Veterinary Health Sciences or designee,

22 f. the Dean of the Oklahoma State University Division of
23 Agricultural Sciences and Natural Resources
24 Administration or designee,

1 g. the Chair of the Oklahoma Tax Commission or designee,
2 and

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

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

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

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

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

22 F. The Board shall meet within one (1) month of its formation
23 and thereafter when it deems necessary, and during normal business
24

1 hours. Special meetings may be held at the request of the executive
2 director or by request from any two members of the Board.

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

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

9 1. Shall appoint members and chairpersons of the committees and
10 may determine the length of service; and

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

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

16 A. The Board of Commercial Pet Breeders shall enforce and
17 administer the provisions of the Commercial Pet Breeders Act.

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

21 1. Establish application procedures and requirements;

22 2. Establish procedures for renewing licenses;

23 3. Establish conditions under which licenses are revoked,
24 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:

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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.

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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.

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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.

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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:

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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
23 license expiration to the person at the last known address of the
24 person according to the records of the Board.

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

4 A commercial pet breeder shall:

5 1. Prominently display a copy of the commercial pet breeder
6 license at the facility of the commercial pet breeder;

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

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

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

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

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

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

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

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

14 D. The Board shall provide the report to the Oklahoma Tax
15 Commission.

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

19 A. A commercial pet breeder shall maintain a separate health
20 record for each animal in the facility of the commercial breeder
21 documenting the healthcare of the animal.

22 B. The health record must include:

23 1. The breed, sex, color, and identifying marks of the animal;
24 and

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

4 C. The commercial pet breeder shall make the health records
5 available on request to the Board of Commercial Pet Breeders, a
6 local animal control authority, or a registered breeder inspector
7 designated by the Board.

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

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

18 B. The standards adopted under this section must at a minimum
19 meet USDA standards:

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

23 The Board of Commercial Pet Breeders may establish any
24 additional standards considered necessary to protect the public

1 health and the health and welfare of animals covered under the
2 Commercial Pet Breeders Act.

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

6 In adopting standards under the Commercial Pet Breeders Act, the
7 Board of Commercial Pet Breeders shall consider relevant state,
8 federal, and nationally recognized standards for animal health and
9 welfare.

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

13 A person is subject to the administrative penalties as provided
14 in Section 5 of this act if the person violates the Commercial Pet
15 Breeders Act or a rule adopted under the Commercial Pet Breeders
16 Act.

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

20 A. A person commits an offense if the person violates the
21 Commercial Pet Breeders Act or any rule adopted under the Commercial
22 Pet Breeders Act. Each animal to which a violation applies and each
23 day that violation continues constitutes a separate offense. An
24

1 offense under this subsection is a misdemeanor punishable as
2 provided in subsection E of this section.

3 B. A person commits an offense if the person knowingly
4 falsifies information in a license application, annual report, or
5 record required under the Commercial Pet Breeders Act. An offense
6 under this subsection is a misdemeanor punishable as provided in
7 subsection E of this section.

8 C. An unlicensed commercial pet breeder commits an offense if
9 the breeder advertises animals for sale. An offense under this
10 subsection is a misdemeanor punishable as provided in subsection E
11 of this section.

12 D. A commercial pet breeder commits an offense if the
13 commercial breeder interferes with, hinders, or thwarts any
14 inspection or investigation under the Commercial Pet Breeders Act or
15 refuses to allow an inspector full access to all areas of the
16 facility where animals are kept or cared for and all records
17 required to be kept under the Commercial Pet Breeders Act or any
18 rule adopted under the Commercial Pet Breeders Act. An offense
19 under this subsection is a misdemeanor punishable as provided in
20 subsection E of this section.

21 E. 1. Any violation of subsections A, B, or C of this section
22 shall be punishable by a fine not to exceed Five Hundred Dollars
23 (\$500.00) or imprisonment in the county jail for not to exceed one
24 (1) year, or by both such fine and imprisonment.

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

5 F. In addition to the above, the Board should have authority to
6 obtain injunctions against anyone who violates the act, and shall
7 have authority to obtain or impose civil monetary penalties to
8 anyone who violates the act.

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

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

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

18 Notwithstanding anything herein to the contrary, a commercial
19 pet breeder is not required to:

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

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

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

4 A. The change in law made by the Commercial Pet Breeders Act
5 applies only to an offense committed on or after July 1, 2010. For
6 purposes of this section, an offense is committed before July 1,
7 2010, if any element of the offense occurs before that date.

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

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

12 SECTION 31. It being immediately necessary for the preservation
13 of the public peace, health and safety, an emergency is hereby
14 declared to exist, by reason whereof this act shall take effect and
15 be in full force from and after its passage and approval.

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