

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 2921

6 By: Richardson

7 COMMITTEE SUBSTITUTE

8 An Act relating to pet breeders; creating the  
9 Commercial Pet Breeders Act administered by the State  
10 Board of Agriculture; defining terms; authorizing  
11 Board to adopt certain rules; requiring commercial  
12 pet breeder license; providing for initial and annual  
13 inspections; requiring inspection report; prohibiting  
14 inspections by certain group; establishing license  
15 requirements; requiring separate licenses; permitting  
16 denial, renewal or revocation of license for certain  
17 reasons; establishing license renewal procedure;  
18 requiring certain notice; setting out certain duties;  
19 requiring submission of annual report; mandating  
20 certain records be kept; providing for penalties;  
21 directing Board to maintain and post certain  
22 information on its website; transferring funds from  
23 the Board of Commercial Pet Breeders to the Oklahoma  
24 Department of Agriculture, Food, and Forestry;  
providing for promulgation of certain emergency  
rules; repealing 59 O.S. 2011, Sections 5001, 5002,  
5003, 5004, 5005, 5006, 5007, 5008, 5009, 5010, 5011,  
5012, 5013, 5014, 5015, 5016, 5017, 5018, 5019, 5020,  
5021, 5022, 5023, 5024, 5025, 5026, 5027, 5028 and  
5029, which relate to the Commercial Pet Breeders  
Act; providing for codification; providing for  
noncodification; providing an effective date; and  
declaring an emergency.

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

1 SECTION 1. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 30.1 of Title 4, unless there is  
3 created a duplication in numbering, reads as follows:

4 This act shall be known and may be cited as the "Commercial Pet  
5 Breeders Act" and shall be administered by the State Board of  
6 Agriculture.

7 SECTION 2. NEW LAW A new section of law to be codified  
8 in the Oklahoma Statutes as Section 30.2 of Title 4, unless there is  
9 created a duplication in numbering, reads as follows:

10 As used in the Commercial Pet Breeders Act:

11 1. "Adult animal" means an intact female animal twelve (12)  
12 months of age or older;

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

14 3. "Board" means the State Board of Agriculture;

15 4. "Cat" means a mammal that is wholly or partly of the species  
16 *Felis domesticus*;

17 5. "Commercial breeder" and "commercial pet breeder" mean any  
18 individual, entity, association, trust, or corporation who possesses  
19 eleven or more adult intact female animals for the use of breeding  
20 or dealing in animals for direct or indirect sale or for exchange in  
21 return for consideration;

22 6. "Commercial pet breeder license" means a license issued to  
23 any person that qualifies and is licensed as a commercial pet  
24 breeder;

1       7. "Department" means the Oklahoma Department of Agriculture,  
2 Food, and Forestry;

3       8. "Dog" means a mammal that is wholly or partly of the species  
4 Canis familiaris;

5       9. "Facility" means the premises used by a commercial breeder  
6 for keeping, housing, or breeding animals. The term includes all  
7 buildings, property, and confinement areas in a single location used  
8 to conduct the commercial breeding business;

9       10. "Family member" means the parent, spouse, child, or sibling  
10 of an individual;

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

17       12. "Inspector" means an authorized agent of the Board or any  
18 other person authorized by the Department to conduct inspections;

19       13. "Intact female animal" means a female animal at the second  
20 estrus cycle or one and one-half (1 1/2) years of age, whichever  
21 comes first and is capable of sexual reproduction;

22       14. "Kitten" means a cat less than twelve (12) months old;

23       15. "Local animal control authority" means a municipal or  
24 county animal control office with authority over the premises in

1 which an animal is kept or, in an area that does not have an animal  
2 control office, the county sheriff;

3 16. "Marketing" means the solicitation for sale of animals;

4 17. "Noncommercial breeder" means any individual, entity,  
5 association, trust, or corporation who possesses ten or less adult  
6 intact female animals for the use of breeding or dealing in animals  
7 for direct or indirect sale or for exchange in return for  
8 consideration;

9 18. "Person" means any individual, association, trust,  
10 corporation, limited liability company, partnership, or other  
11 entity;

12 19. "Pet" means a dog or cat, including a puppy or kitten;

13 20. "Possess" means to have custody of or control over;

14 21. "Puppy" means a dog less than twelve (12) months old; and

15 22. "Veterinarian" means a person currently licensed to  
16 practice veterinary medicine in Oklahoma.

17 SECTION 3. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 30.3 of Title 4, unless there is  
19 created a duplication in numbering, reads as follows:

20 A. The State Board of Agriculture shall enforce and administer  
21 the provisions of the Commercial Pet Breeders Act.

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

- 1        1. Establish application procedures and requirements;
- 2        2. Establish procedures for renewing licenses;
- 3        3. Establish reasonable and necessary fees in amounts  
4 sufficient to cover the costs of enforcing and administering the  
5 Commercial Pet Breeders Act. Any annual fees shall reflect a credit  
6 for any U.S. Department of Agriculture licensing fees paid that year  
7 for the applicant;
- 8        4. Establish conditions under which licenses are revoked,  
9 denied, or denied renewal;
- 10       5. Establish minimum standards of care of for the proper care,  
11 including veterinary care, treatment, feeding and watering, shelter  
12 and confinement, grooming, exercise, socialization, transportation,  
13 and disposition of dogs and cats by a commercial pet breeder to  
14 ensure the overall health, safety, well-being and humane environment  
15 for each animal in the facility of the commercial breeder:
  - 16           a. the standards adopted under this section shall at a  
17           minimum meet USDA standards, and
  - 18           b. in adopting standards under the Commercial Pet  
19           Breeders Act, the Board shall consider relevant state,  
20           federal, and nationally recognized standards for  
21           animal health and welfare;
- 22       6. Establish procedures for sale of animals, including a health  
23 certificate provided by a licensed veterinarian in every sale, and  
24 prohibiting marketing in retail or public parking lots;

1 7. Establish penalties for violations of this act; and

2 8. Establish a toll-free hotline for people to report cases of  
3 animal abuse and require the complainants to leave their names and  
4 phone numbers.

5 SECTION 4. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 30.4 of Title 4, unless there is  
7 created a duplication in numbering, reads as follows:

8 A. A person shall not act, offer to act, or hold himself or  
9 herself out as a commercial pet breeder in this state unless the  
10 person holds a commercial pet breeder license obtained pursuant to  
11 the Commercial Pet Breeders Act for each facility that the person  
12 owns or operates in this state.

13 B. It shall be unlawful for any person to act as a commercial  
14 pet breeder licensee, or to hold himself or herself out as such,  
15 unless the person shall have been licensed to do so under the  
16 Commercial Pet Breeders Act.

17 C. An applicant for a commercial pet breeder license shall meet  
18 the criteria established by the State Board of Agriculture through  
19 rules promulgated pursuant to the Commercial Pet Breeders Act.

20 SECTION 5. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 30.5 of Title 4, unless there is  
22 created a duplication in numbering, reads as follows:

23 A. The Oklahoma Department of Agriculture, Food, and Forestry  
24 may contract with a local veterinarian licensed by the state, other

1 state agency or any other person to conduct or assist in an initial  
2 prelicense inspection and annual inspections.

3 B. The Department shall inspect a facility prior to issuance of  
4 an initial commercial pet breeder license for that facility.

5 1. The Department shall not issue a commercial pet breeder  
6 license to any person until the Department receives an initial  
7 prelicense inspection report from the inspector in a format approved  
8 by the Department certifying that the facility meets the  
9 requirements of the Commercial Pet Breeders Act.

10 2. Prior to the initial prelicense inspection, each applicant  
11 shall pay to the Department a nonrefundable inspection fee.

12 C. The Department, at least annually, shall arrange for the  
13 inspection of each facility of a licensed commercial breeder. The  
14 inspection shall be conducted during normal business hours and the  
15 commercial breeder or a representative of the commercial breeder  
16 shall be present during the inspection.

17 D. The inspector shall submit an inspection report to the  
18 Department not later than ten (10) days after the date of the  
19 inspection on a form prescribed by the Department and provide a copy  
20 of the report to the commercial breeder or the representative.

21 E. On receipt of a written complaint alleging a violation of  
22 the Commercial Pet Breeders Act, an authorized agent of the State  
23 Board of Agriculture, a local animal control authority, or an  
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1 inspector designated by the Department may investigate the alleged  
2 violation.

3 F. The Department shall not hire any humane society group or  
4 member of any humane society group to perform any inspection  
5 required by the Commercial Pet Breeders Act.

6 SECTION 6. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 30.6 of Title 4, unless there is  
8 created a duplication in numbering, reads as follows:

9 A. The Oklahoma Department of Agriculture, Food, and Forestry  
10 shall issue a commercial pet breeder license to each commercial pet  
11 breeder who:

- 12 1. Meets the requirements of the Commercial Pet Breeders Act;
- 13 2. Applies to the Department on the form prescribed by the  
14 Department; and
- 15 3. Pays the required fee.

16 B. A commercial pet breeder shall obtain a separate license for  
17 each physical location where breeding animals are kept. A separate  
18 license shall be issued for each physical location of the commercial  
19 pet breeder, whether or not the breeder has eleven or more intact  
20 female animals at each location.

21 C. A license issued under the Commercial Pet Breeders Act is  
22 valid November 1 of each calendar year and is nontransferable.

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1 SECTION 7. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 30.7 of Title 4, unless there is  
3 created a duplication in numbering, reads as follows:

4 The Oklahoma Department of Agriculture, Food, and Forestry may  
5 deny a license, or renewal thereof, or revoke a license to any  
6 applicant or commercial pet breeder who fails to meet the standards  
7 of animal care or fails to follow the application process adopted by  
8 the Department, or if the person:

9 1. Is convicted of a crime involving animal cruelty;

10 2. Is convicted of violating the Commercial Pet Breeders Act  
11 more than three times;

12 3. Is convicted of a type of felony specified by subparagraphs  
13 a through pp of paragraph 2 of Section 571 of Title 57 of the  
14 Oklahoma Statutes;

15 4. Is convicted of a felony punishable under the Oklahoma  
16 Racketeer-Influenced and Corrupt Organizations Act; or

17 5. Has held or applied for a United States Department of  
18 Agriculture license pursuant to the Animal Welfare Act and whose  
19 license was suspended, revoked, or whose application was refused due  
20 to the improper care of animals.

21 SECTION 8. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 30.8 of Title 4, unless there is  
23 created a duplication in numbering, reads as follows:

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1 A. A commercial pet breeder who is not in violation of the  
2 Commercial Pet Breeders Act or any rule adopted under the Commercial  
3 Pet Breeders Act may renew the license of the person by:

4 1. Submitting a renewal application to the Oklahoma Department  
5 of Agriculture, Food, and Forestry on the form prescribed by the  
6 Department;

7 2. Complying with any other renewal requirements adopted by the  
8 Department; and

9 3. Paying the required fee.

10 B. Any person who fails to apply for a renewal in a manner  
11 prescribed by the Department, and whose license has expired may not  
12 engage in activities that require a license until the license has  
13 been renewed.

14 C. Not later than sixty (60) days before the expiration of the  
15 license, the Department shall send written notice of the impending  
16 license expiration to the commercial pet breeder at the last known  
17 address according to the records of the Department.

18 SECTION 9. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 30.9 of Title 4, unless there is  
20 created a duplication in numbering, reads as follows:

21 A commercial pet breeder shall notify the Oklahoma Department of  
22 Agriculture, Food, and Forestry in writing not later than ten (10)  
23 days after the date any change occurs in the address, name,  
24

1 management, substantial control, or ownership of the business or  
2 operation.

3 SECTION 10. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 30.10 of Title 4, 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 11. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 30.11 of Title 4, unless there  
17 is created a duplication in numbering, reads as follows:

18 A. Not later than February 1 of each year, a commercial pet  
19 breeder shall submit to the Oklahoma Department of Agriculture,  
20 Food, and Forestry an annual report on a form prescribed by the  
21 Department setting forth the number of adult intact animals held at  
22 the facility at the end of the prior year and such other information  
23 regarding the commercial pet breeder's prior year's operations as  
24 required by the Department.

1 B. The commercial pet breeder shall keep a copy of the annual  
2 report at the facility of the commercial pet breeder and, on  
3 request, make the report available to the authorized agent of the  
4 Board, a local animal control authority, or any other inspector  
5 designated by the Department.

6 C. A license holder that has more than one facility shall keep  
7 separate records and file a separate report for each facility.

8 SECTION 12. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 30.12 of Title 4, unless there  
10 is created a duplication in numbering, reads as follows:

11 A. A commercial pet breeder shall maintain a separate health  
12 record for each animal in the facility of the commercial breeder  
13 documenting the healthcare of the animal.

14 B. The health record shall include:

15 1. The breed, sex, color, and identifying marks of the animal;  
16 and

17 2. A record of all inoculations, medications, and other  
18 veterinary medical treatment received by the animal while in the  
19 possession of the commercial pet breeder.

20 C. The commercial pet breeder shall make the health records  
21 available on request to the Oklahoma Department of Agriculture,  
22 Food, and Forestry, an authorized agent of the Board, a local animal  
23 control authority, or any other inspector designated by the  
24 Department.

1 SECTION 13. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 30.13 of Title 4, unless there  
3 is created a duplication in numbering, reads as follows:

4 A. After notice and opportunity for a hearing in accordance  
5 with the Administrative Procedures Act, if the State Board of  
6 Agriculture finds any person in violation of the Commercial Pet  
7 Breeders Act or any rule promulgated or order issued pursuant  
8 thereto, the Board shall have the authority to assess an  
9 administrative penalty of not less than One Hundred Dollars  
10 (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for  
11 each violation. Each animal, each action, or each day a violation  
12 continues may constitute a separate and distinct violation.

13 B. A person commits an offense if the person violates the  
14 Commercial Pet Breeders Act or any rule adopted under the Commercial  
15 Pet Breeders Act. Each animal to which a violation applies and each  
16 day that violation continues constitutes a separate offense. An  
17 offense under this subsection is a misdemeanor punishable as  
18 provided in subsection F of this section.

19 C. A person commits an offense if the person knowingly  
20 falsifies information in a license application, annual report, or  
21 record required under the Commercial Pet Breeders Act. An offense  
22 under this subsection is a misdemeanor punishable as provided in  
23 subsection F of this section.

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1 D. An unlicensed commercial pet breeder commits an offense if  
2 the breeder advertises animals for sale. An offense under this  
3 subsection is a misdemeanor punishable as provided in subsection F  
4 of this section.

5 E. A commercial pet breeder commits an offense if the  
6 commercial breeder interferes with, hinders, or thwarts any  
7 inspection or investigation under the Commercial Pet Breeders Act or  
8 refuses to allow an inspector full access to all areas of the  
9 facility where animals are kept or cared for and all records  
10 required to be kept under the Commercial Pet Breeders Act or any  
11 rule adopted under the Commercial Pet Breeders Act. An offense  
12 under this subsection is a misdemeanor punishable as provided in  
13 subsection F of this section.

14 F. 1. Any violation of subsection B, C or D of this section  
15 shall be punishable by a fine not to exceed Five Hundred Dollars  
16 (\$500.00).

17 2. Any violation of subsection E of this section shall be  
18 punishable by a fine not to exceed One Thousand Dollars (\$1,000.00).

19 G. In addition to penalties and fines, the Board shall have  
20 authority to obtain injunctions against anyone who violates this  
21 act, and shall have authority to obtain or impose civil monetary  
22 penalties to anyone who violates this act, and upon obtaining a  
23 court order, shall have authority to seize and impound animals in  
24 the possession, custody, or care of that person if there is reason

1 to believe that the health, safety, or welfare of the animals is  
2 endangered, or the animals are in imminent danger. The reasonable  
3 costs of transportation, care, and feeding of seized and impounded  
4 animals shall be paid by the person from whom the dogs or cats were  
5 seized and impounded.

6 H. Nothing in the Commercial Pet Breeders Act shall preclude  
7 the Board from seeking penalties in district court in the maximum  
8 amount allowed by law. The assessment of penalties in an  
9 administrative enforcement proceeding shall not prevent the  
10 subsequent assessment by a court of the maximum civil or criminal  
11 penalties for violations of the Commercial Pet Breeders Act and  
12 rules promulgated pursuant thereto.

13 I. Any person assessed an administrative or civil penalty may  
14 be required to pay, in addition to the penalty amount and interest  
15 thereon, attorney fees and costs associated with the collection of  
16 the penalties.

17 J. If any person refuses, denies or interferes with any right  
18 of access, the Board shall have the right to apply to and obtain  
19 from a district court an administrative or other warrant as  
20 necessary to enforce the right of access and inspection.

21 SECTION 14. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 30.14 of Title 4, unless there  
23 is created a duplication in numbering, reads as follows:

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1 The State Board of Agriculture shall maintain and post on its  
2 website the directory of commercial pet breeders licensed pursuant  
3 to the Commercial Pet Breeders Act. The Board shall post on its  
4 website the directory of commercial pet breeders who have been  
5 denied licensing, or whose licenses have been revoked.

6 SECTION 15. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 30.15 of Title 4, unless there  
8 is created a duplication in numbering, reads as follows:

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

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

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

19 Any funds on July 1, 2012, in the possession of the Board of  
20 Commercial Pet Breeders shall be transferred to the Oklahoma  
21 Department of Agriculture, Food, and Forestry.

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

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1       The State Board of Agriculture may promulgate emergency rules to  
2 implement the provisions of the Commercial Pet Breeders Act.

3       SECTION 18.       REPEALER       59 O.S. 2011, Sections 5001, 5002,  
4 5003, 5004, 5005, 5006, 5007, 5008, 5009, 5010, 5011, 5012, 5013,  
5 5014, 5015, 5016, 5017, 5018, 5019, 5020, 5021, 5022, 5023, 5024,  
6 5025, 5026, 5027, 5028 and 5029, are hereby repealed.

7       SECTION 19. This act shall become effective July 1, 2012.

8       SECTION 20. It being immediately necessary for the preservation  
9 of the public peace, health and safety, an emergency is hereby  
10 declared to exist, by reason whereof this act shall take effect and  
11 be in full force from and after its passage and approval.

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13       53-2-9660       EK       02/22/12

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