

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 SENATE BILL NO. 1919

By: Fields of the Senate

and

6 Armes of the House

7
8
9 COMMITTEE SUBSTITUTE

10 An Act relating to pet breeders; creating the
11 Commercial Pet Breeders Act of 2012; defining terms;
12 directing the State Board of Agriculture to enforce
13 and administer the act; directing Board to adopt
14 rules; requiring license for commercial pet breeders;
15 declaring certain act unlawful; directing Board to
16 establish licensing criteria for applicants;
17 providing for initial and annual inspections;
18 requiring inspection report prior to issuing license;
19 providing for inspection fee; providing for
20 investigation of written complaints; prohibiting
21 certain group from performing any inspection;
22 describing application process for licensing;
23 requiring a separate license for each facility;
24 stating validity of license; prohibiting transfer of
license; permitting denial or revocation of license;
providing for license renewals; requiring written
notice be sent to expiring licensees; mandating
breeder give notice to Department if certain change
occurs; requiring breeder display license and include
license number in certain advertisements and
contracts; requiring breeder submit annual report;
requiring separate records and reports for separate
facilities; prescribing breeder maintain a health
record for each animal; setting forth contents of the
health record; providing for certain hearings;
authorizing administrative penalty; limiting annual
administrative penalty; providing punishment for
violations of the act; stating certain acts deemed to

1 be violations; providing for fines; permitting
2 injunctive relief and civil penalties; providing for
3 reimbursement of certain costs and attorney fees;
4 allowing use of warrants to enforce access and
5 inspection; providing exemptions; providing for
6 distribution and transfer of certain funds; allowing
7 Board to promulgate emergency rules; providing for
8 transfer of licenses; repealing 59 O.S. 2011,
9 Sections 5001, 5002, 5003, 5004, 5005, 5006, 5007,
10 5008, 5009, 5010, 5011, 5012, 5013, 5014, 5015, 5016,
11 5017, 5018, 5019, 5020, 5021, 5022, 5023, 5024, 5025,
12 5026, 5027, 5028 and 5029, which relate to the
13 Commercial Pet Breeders Act; providing for
14 codification; providing for noncodification;
15 providing an effective date; and declaring an
16 emergency.

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

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

21 This act shall be known and may be cited as the "Commercial Pet
22 Breeders Act of 2012" and shall be administered by the State Board
23 of Agriculture.

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

As used in the Commercial Pet Breeders Act of 2012:

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

- 1 2. "Animal" means a dog or a cat;
- 2 3. "Board" means the State Board of Agriculture;
- 3 4. "Cat" means a mammal that is wholly or partly of the species
4 Felis domesticus;
- 5 5. "Commercial breeder" and "commercial pet breeder" mean any
6 individual, entity, association, trust, or corporation who possesses
7 eleven or more intact female animals for the use of breeding or
8 dealing in animals for direct or indirect sale or for exchange in
9 return for consideration;
- 10 6. "Commercial pet breeder license" means a license issued to
11 any person that qualifies and is licensed as a commercial pet
12 breeder;
- 13 7. "Department" means the Oklahoma Department of Agriculture,
14 Food, and Forestry;
- 15 8. "Dog" means a mammal that is wholly or partly of the species
16 Canis familiaris;
- 17 9. "Facility" means the premises used by a commercial breeder
18 for keeping, housing, or breeding animals. The term includes all
19 buildings, property, and confinement areas in a single location used
20 to conduct the commercial breeding business;
- 21 10. "Family member" means the parent, spouse, child, or sibling
22 of an individual;
- 23 11. "Humane society" means a nonprofit organization exempt from
24 federal income taxation as an organization described in Section

1 501(c)(3), Internal Revenue Code of 1986, as amended, that has as a
2 principal purpose the prevention of animal cruelty or the sheltering
3 of, caring for, and providing of homes for lost, stray, and
4 abandoned animals;

5 12. "Inspector" means an authorized agent of the Board or any
6 other qualified person authorized by the Department to conduct
7 inspections;

8 13. "Intact female animal" means a female animal that is one
9 and one-half (1 1/2) years of age or has attained her second heat
10 cycle, whichever occurs first;

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

12 15. "Local animal control authority" means a municipal or
13 county animal control office with authority over the premises in
14 which an animal is kept or, in an area that does not have an animal
15 control office, the county sheriff;

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

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

22 18. "Person" means any individual, association, trust,
23 corporation, limited liability company, partnership, or other
24 entity;

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

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

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

4 22. "Veterinarian" means a person currently licensed to
5 practice veterinary medicine in the state.

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

9 A. The State Board of Agriculture shall enforce and administer
10 the provisions of the Commercial Pet Breeders Act of 2012.

11 B. The Board shall adopt the rules necessary to enforce and
12 administer the Commercial Pet Breeders Act of 2012, including but
13 not limited to rules that:

14 1. Establish standards for care;

15 2. Establish reasonable and necessary fees;

16 3. Establish provisions related to initial and renewal
17 applications, revocation or nonrenewal of licenses, procedures for
18 sale of animals, and procedures for making complaints; and

19 4. Establish any other rules deemed necessary by the Board.

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

23 A. A person shall not act, offer to act, or hold himself or
24 herself out as a commercial pet breeder in this state unless the

1 person holds a commercial pet breeder license obtained pursuant to
2 the Commercial Pet Breeders Act of 2012 for each facility that the
3 person owns or operates in this state.

4 B. It shall be unlawful for any person to act as a commercial
5 pet breeder licensee, or to hold himself or herself out as a
6 licensee, unless the person is licensed under the Commercial Pet
7 Breeders Act of 2012.

8 C. An applicant for a commercial pet breeder license shall meet
9 the criteria established by the State Board of Agriculture through
10 rules promulgated pursuant to the Commercial Pet Breeders Act of
11 2012.

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

15 A. The Oklahoma Department of Agriculture, Food, and Forestry
16 may contract with a local veterinarian licensed by the state, other
17 state agency or any other qualified person to conduct or assist in
18 an initial prelicense inspection and annual inspections.

19 B. The Department shall arrange for an inspection at a facility
20 prior to issuance of an initial commercial pet breeder license for
21 that facility.

22 1. The Department shall not issue a commercial pet breeder
23 license to any person until the Department receives an initial
24 prelicense inspection report from the inspector in a format approved

1 by the Department certifying that the facility meets the
2 requirements of the Commercial Pet Breeders Act of 2012.

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

5 C. The Department, at least annually, shall arrange for the
6 inspection of each facility of a licensed commercial breeder. The
7 inspection shall be conducted during normal business hours and the
8 commercial breeder or a representative of the commercial breeder
9 shall be present during the inspection.

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

14 E. On receipt of a valid written complaint alleging a violation
15 of the Commercial Pet Breeders Act of 2012, an authorized agent of
16 the State Board of Agriculture, a local animal control authority, or
17 an inspector designated by the Department may investigate the
18 alleged violation.

19 F. The Department shall not hire any humane society group or
20 member of any humane society group to perform any inspection
21 required by the Commercial Pet Breeders Act of 2012.

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

1 A. The Oklahoma Department of Agriculture, Food, and Forestry
2 shall issue a commercial pet breeder license to each commercial pet
3 breeder who:

4 1. Meets the requirements of the Commercial Pet Breeders Act of
5 2012;

6 2. Applies to the Department on the form prescribed by the
7 Department; and

8 3. Pays the required fee.

9 B. A commercial pet breeder shall obtain a separate license for
10 each facility where breeding animals are kept. A separate license
11 shall be issued for each facility of the commercial pet breeder,
12 whether or not the breeder has eleven or more intact female animals
13 at each facility.

14 C. A license issued under the Commercial Pet Breeders Act of
15 2012 is valid July 1 of each calendar year and is nontransferable.

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

19 The Oklahoma Department of Agriculture, Food, and Forestry may
20 deny a license, or renewal thereof, or revoke a license to any
21 applicant or commercial pet breeder who fails to meet the standards
22 of animal care or fails to follow the application process adopted by
23 the Department, or if the person:

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

1 2. Is convicted of violating the Commercial Pet Breeders Act of
2 2012 more than three times;

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

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

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

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

15 A. A commercial pet breeder who is not in violation of the
16 Commercial Pet Breeders Act of 2012 or any rule of the United States
17 Department of Agriculture adopted under the Commercial Pet Breeders
18 Act of 2012 may renew the license of the person by:

19 1. Submitting a renewal application to the Oklahoma Department
20 of Agriculture, Food, and Forestry on the form prescribed by the
21 Department;

22 2. Complying with any other renewal requirements adopted by the
23 Department; and

24 3. Paying the required fee.

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

5 C. Not later than sixty (60) days before the expiration of the
6 license, the Department shall send written notice of the impending
7 license expiration to the commercial pet breeder at the last-known
8 address according to the records of the Department.

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

12 A commercial pet breeder shall notify the Oklahoma Department of
13 Agriculture, Food, and Forestry in writing not later than ten (10)
14 days after the date any change occurs in the address, name,
15 management, substantial control, or ownership of the business or
16 operation.

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

20 A commercial pet breeder shall:

21 1. Prominently display a copy of the commercial pet breeder
22 license at the facility of the commercial pet breeder;
23
24

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

4 3. Include in each contract for the sale or transfer of an
5 animal by the commercial pet breeder the commercial pet breeder
6 license number.

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

10 A. Not later than February 1 of each year, a commercial pet
11 breeder shall submit to the Oklahoma Department of Agriculture,
12 Food, and Forestry an annual report on a form prescribed by the
13 Department setting forth the number of adult intact female animals
14 held at the facility at the end of the prior year and such other
15 information regarding the commercial pet breeder's prior year's
16 operations as required by the Department.

17 B. The commercial pet breeder shall keep a copy of the annual
18 report at the facility of the commercial pet breeder and, on
19 request, make the report available to the authorized agent of the
20 Board, a local animal control authority, or any other inspector
21 designated by the Department.

22 C. A license holder that has more than one facility shall keep
23 separate records and file a separate report for each facility.
24

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

4 A. A commercial pet breeder shall maintain a separate health
5 record for each animal in the facility of the commercial breeder
6 documenting the healthcare of the animal.

7 B. The health record shall include:

8 1. The breed, sex, color, and identifying marks of the animal;
9 and

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

13 C. The commercial pet breeder shall make the health records
14 available on request to the Oklahoma Department of Agriculture,
15 Food, and Forestry, an authorized agent of the Board, a local animal
16 control authority, or any other inspector designated by the
17 Department.

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

21 A. After notice and opportunity for a hearing in accordance
22 with the Administrative Procedures Act, if the State Board of
23 Agriculture finds any person in violation of the Commercial Pet
24 Breeders Act of 2012 or any rule promulgated or order issued

1 pursuant thereto, the Board shall have the authority to assess an
2 administrative penalty of not less than One Hundred Dollars
3 (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for
4 each violation. Each animal, each action, or each day a violation
5 continues may constitute a separate and distinct violation. During
6 each license year of the facility, a facility shall not be subject
7 to more than Ten Thousand Dollars (\$10,000.00) in administrative
8 penalties assessed pursuant to this subsection.

9 B. A person commits an offense if the person violates the
10 Commercial Pet Breeders Act of 2012 or any rule adopted under the
11 Commercial Pet Breeders Act of 2012. Each animal to which a
12 violation applies and each day that violation continues constitutes
13 a separate offense. An offense under this subsection is a
14 misdemeanor punishable as provided in subsection F of this section.

15 C. A person commits an offense if the person knowingly
16 falsifies information in a license application, annual report, or
17 record required under the Commercial Pet Breeders Act of 2012. An
18 offense under this subsection is a misdemeanor punishable as
19 provided in subsection F of this section.

20 D. An unlicensed commercial pet breeder commits an offense if
21 the breeder advertises animals for sale. An offense under this
22 subsection is a misdemeanor punishable as provided in subsection F
23 of this section.

24

1 E. A commercial pet breeder commits an offense if the
2 commercial breeder interferes with, hinders, or thwarts any
3 inspection or investigation under the Commercial Pet Breeders Act of
4 2012 or refuses to allow an inspector full access to all areas of
5 the facility where animals are kept or cared for and all records
6 required to be kept under the Commercial Pet Breeders Act of 2012 or
7 any rule adopted under the Commercial Pet Breeders Act of 2012. An
8 offense under this subsection is a misdemeanor punishable as
9 provided in subsection F of this section.

10 F. 1. Any violation of subsection B, C or D of this section
11 shall be punishable by a fine not to exceed Five Hundred Dollars
12 (\$500.00).

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

15 G. In addition to penalties and fines, the Board shall have
16 authority to obtain injunctions against anyone who violates the
17 Commercial Pet Breeders Act of 2012, and shall have authority to
18 obtain or impose civil monetary penalties to anyone who violates the
19 Commercial Pet Breeders Act of 2012, and upon obtaining a court
20 order, shall have authority to seize and impound animals in the
21 possession, custody, or care of that person if there is reason to
22 believe that the health, safety, or welfare of the animals is
23 endangered, or the animals are in imminent danger. The reasonable
24 costs of transportation, care, and feeding of seized and impounded

1 animals shall be paid by the person from whom the dogs or cats were
2 seized and impounded.

3 H. Nothing in the Commercial Pet Breeders Act of 2012 shall
4 preclude the Board from seeking penalties in district court in the
5 maximum amount allowed by law. The assessment of penalties in an
6 administrative enforcement proceeding shall not prevent the
7 subsequent assessment by a court of the maximum civil or criminal
8 penalties for violations of the Commercial Pet Breeders Act of 2012
9 and rules promulgated pursuant thereto.

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

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

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

21 The State Board of Agriculture shall maintain and post on its
22 website the directory of commercial pet breeders licensed pursuant
23 to the Commercial Pet Breeders Act of 2012. The Board shall post on
24

1 its website the directory of commercial pet breeders who have been
2 denied licensing, or whose licenses have been revoked.

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

6 A. The Commercial Pet Breeders Act of 2012 shall not affect the
7 applicability of any other law, rule, order, ordinance, or other
8 legal requirement of the federal government, this state, or a
9 political subdivision of this state.

10 B. The Commercial Pet Breeders Act of 2012 shall not prevent a
11 municipality or county from prohibiting or further regulating by
12 order or ordinance, the possession, breeding, or selling of dogs or
13 cats.

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

16 Any funds on July 1, 2012, in the possession of the Oklahoma
17 State Board of Commercial Pet Breeders shall on a pro rata basis, be
18 distributed to any person who donated or gifted funds to the
19 Oklahoma State Board of Commercial Pet Breeders, except that the pro
20 rata share of funds obtained by the Oklahoma State Board of
21 Commercial Pet Breeders through fees or fines shall be transferred
22 to the Oklahoma Department of Agriculture, Food, and Forestry.

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

1 The State Board of Agriculture may promulgate emergency rules to
2 implement the provisions of the Commercial Pet Breeders Act of 2012.
3 All fees promulgated by the Oklahoma State Board of Commercial Pet
4 Breeders shall be enforceable by the State Board of Agriculture.
5 Any license issued by the Oklahoma State Board of Commercial Pet
6 Breeders and in effect on June 30, 2012, shall be transferred to the
7 Oklahoma Department of Agriculture, Food, and Forestry.

8 SECTION 18. REPEALER 59 O.S. 2011, Sections 5001, 5002,
9 5003, 5004, 5005, 5006, 5007, 5008, 5009, 5010, 5011, 5012, 5013,
10 5014, 5015, 5016, 5017, 5018, 5019, 5020, 5021, 5022, 5023, 5024,
11 5025, 5026, 5027, 5028 and 5029, are hereby repealed.

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

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

17

18 53-2-10329 EK 04/11/12

19

20

21

22

23

24