

1 TATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE  
4 FOR ENGROSSED  
5 HOUSE BILL 2921

By: Richardson, Renegar and  
Denney of the House

6 and

7 Brecheen of the Senate  
8

9 COMMITTEE SUBSTITUTE

10 An Act relating to pet breeders; creating the  
11 Commercial Pet Breeders Act of 2012 administered by  
12 the State Board of Agriculture; providing short  
13 title; defining terms; authorizing Board to adopt  
14 certain rules; requiring commercial pet breeder  
15 license; providing for initial and annual  
16 inspections; requiring inspection report; prohibiting  
17 inspections by certain group; establishing license  
18 requirements; requiring separate licenses; permitting  
19 denial, renewal or revocation of license for certain  
20 reasons; establishing license renewal procedure;  
21 requiring certain notice; setting out certain duties;  
22 requiring submission of annual report; mandating  
23 certain records be kept; providing for penalties;  
24 directing Board to maintain and post certain  
information on its website; transferring funds from  
the Board of Commercial Pet Breeders to the Oklahoma  
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.

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

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

5 This act shall be known and may be cited as the "Commercial Pet  
6 Breeders Act of 2012" and shall be administered by the State Board  
7 of Agriculture.

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

11 As used in the Commercial Pet Breeders Act of 2012:

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

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

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

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

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

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1       6. "Commercial pet breeder license" means a license issued to  
2 any person that qualifies and is licensed as a commercial pet  
3 breeder;

4       7. "Department" means the Oklahoma Department of Agriculture,  
5 Food, and Forestry;

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

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

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

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

20      12. "Inspector" means an authorized agent of the Board or any  
21 other qualified person authorized by the Department to conduct  
22 inspections;

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

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

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

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

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

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

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

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

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

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

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

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

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

9 1. Establish standards for care that are no more stringent than  
10 United States Department of Agriculture specifications for the  
11 humane handling, care, and treatment of dogs and cats;

12 2. Establish reasonable and necessary fees;

13 3. Establish provisions related to initial and renewal  
14 applications, revocation or nonrenewal of licenses, procedures for  
15 sale of animals, and procedures for making complaints; and

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

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

20 A. A person shall not act, offer to act, or hold himself or  
21 herself out as a commercial pet breeder in this state unless the  
22 person holds a commercial pet breeder license obtained pursuant to  
23 the Commercial Pet Breeders Act of 2012 for each facility that the  
24 person owns 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 of 2012.

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

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

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

16 B. The Department shall arrange for an inspection at a facility  
17 prior to issuance of an initial commercial pet breeder license for  
18 that facility.

19 1. The Department shall not issue a commercial pet breeder  
20 license to any person until the Department receives an initial  
21 prelicense inspection report from the inspector in a format approved  
22 by the Department certifying that the facility meets the  
23 requirements of the Commercial Pet Breeders Act of 2012.

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

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

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

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

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

20        SECTION 6.        NEW LAW        A new section of law to be codified  
21 in the Oklahoma Statutes as Section 30.6 of Title 4, unless there is  
22 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 USDA adopted  
17 under the Commercial Pet Breeders Act of 2012 may renew the license  
18 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;  
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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.

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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.

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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  
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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.

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