

By: _____

____.B. No. _____

A BILL TO BE ENTITLED

AN ACT

relating to the licensing and regulation of commercial dog and cat breeders; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Title 4, Occupations Code, is amended to read as follows:

TITLE 4. PROFESSIONS RELATED TO ANIMALS [~~ANIMAL HEALTH~~]

SECTION 2. Title 4, Occupations Code, is amended by adding Chapter 802 to read as follows:

CHAPTER 802. COMMERCIAL DOG AND CAT BREEDERS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 802.001. SHORT TITLE. This chapter may be cited as the Commercial Dog and Cat Breeders Act.

Sec. 802.002. DEFINITIONS. In this chapter:

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

(2) "Animal" means a dog or a cat.

(3) "Cat" means a mammal that is wholly or partly of the species *Felis domesticus*.

(4) "~~Commercial-High-volume~~ breeder" means a person who possesses 11 or more adult intact female animals and is engaged in the business of breeding animals for direct or indirect sale or for

exchange in return for consideration. For purposes of this definition, an adult intact female shall be presumed used for breeding purposes unless the person possessing the animal establishes otherwise through the person's breeding records or such other documentation reasonably acceptable to the department.

(5) "Commission" means the Texas Commission of Licensing and Regulation.

(6) "Controlling person" means an individual who:

(A) is a partner, manager, director, officer, or member of a commercial breeder;

(B) possesses the authority to set policy or direct management of a commercial breeder; or

(C) possesses a direct or indirect control of 25 percent or more of a commercial breeder.

(7) "Department" means the Texas Department of Licensing and Regulation.

(8) "Dog" means a mammal that is wholly or partly of the species Canis familiaris.

(9) "Facility" means the premises used by a commercial breeder for keeping or breeding animals. The term includes all buildings, property, and confinement areas used to conduct the commercial breeding business.

(10) "Federal regulations" means the specifications for the humane handling, care, treatment, and transportation of dogs and cats set forth in 9 C.F.R. Part 3, Subpart A.

(11) "Intact female animal" means a female animal that has not been spayed and is capable of reproduction.

(12) "Kitten" means a cat less than six months old.

(13) "Licensed Breeder"

~~(13) "Local animal control agency" means a municipal or county animal control office with authority over the premises in which an animal is kept or, in an area that does not have an animal control office, the county sheriff.~~

Comment [H1]: Add definition for a licensed breeder. If you are a high-volume breeder and are licensed you are a licensed breeder in Texas.

(14) "Possess" means to have custody of or control over.

(15) "Primary enclosure" means any structure used to restrict an animal to a limited amount of space. The term includes a room, pen, run, cage, or compartment.

(16) "Puppy" means a dog less than six months old.

(17) "Third-party inspector" means any of the following entities with which the department contracts under Section 802.062, including an employee of the entity:

(A) a state agency; or

(B) a local law enforcement agency or fire department.

~~(C) a local animal control agency.~~

(18) "Veterinarian" means a veterinarian in good standing and licensed to practice veterinary medicine in this state.

Sec. 802.003. APPLICABILITY OF CHAPTER. (a) This chapter does not affect the applicability of any other law, rule, order,

ordinance, or other legal requirement of the federal government, this state, or a political subdivision of this state.

(b) This chapter does not prevent a municipality or county from prohibiting or further regulating by order or ordinance the possession, breeding, or selling of dogs or cats.

(c) This chapter does not apply to an animal regulated under the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes).

[Sections 802.004-802.050 reserved for expansion]

SUBCHAPTER B. POWERS AND DUTIES OF COMMISSION AND DEPARTMENT

Sec. 802.051. GENERAL POWERS AND DUTIES; RULES. (a) The department shall administer and enforce this chapter.

(b) The commission shall adopt rules necessary to administer and enforce this chapter.

Sec. 802.052. FEES. The commission by rule shall establish reasonable and necessary fees in amounts sufficient to cover the costs of administering and enforcing this chapter. In setting the fee for inspecting or licensing a facility, the commission may consider the number of adult intact female animals at the facility.

Sec. 802.053. PERSONNEL. The department may employ personnel necessary to carry out the functions and duties of the department under this chapter.

Sec. 802.054. EXPENSES. The department may authorize disbursements necessary to implement this chapter, including disbursements for office expenses, equipment costs, and other necessary facilities.

Sec. 802.055. CRIMINAL BACKGROUND CHECKS. The department shall conduct a criminal background check on each applicant who submits an application for a license under this chapter and on any controlling person of the applicant. The department may, as permitted by law:

(1) examine any criminal conviction, guilty plea, or deferred adjudication of the applicant or controlling person; and

(2) obtain any criminal history or record of the applicant or controlling person.

Sec. 802.056. DIRECTORY. (a) The department shall maintain a directory of commercial breeders licensed, and third-party inspectors registered, under this chapter.

(b) The department shall make the directory available to the public.

Sec. 802.057. DISCIPLINARY DATABASE. (a) The department shall maintain a database of commercial breeders who have been subject to disciplinary action as provided by Subchapter F.

(b) The department shall make the information maintained in the database available to the public.

Sec. 802.058. CONSUMER INTEREST INFORMATION. (a) The department shall prepare information of consumer interest describing:

(1) the functions performed by the department under this chapter; and

(2) the rights of a consumer affected by this chapter.

(b) The information must describe the procedure by which a consumer complaint is filed with and resolved by the department.

(c) The department shall make the information available to the public.

Sec. 802.059. COMMERCIAL BREEDER TRAINING AND ENFORCEMENT ACCOUNT. (a) The commercial breeder training and enforcement account is an account in the general revenue fund. Administrative penalties collected under Subchapter F shall be deposited to the credit of the account.

(b) Funds in the account may be appropriated only to the department for:

(1) promoting consumer awareness of this chapter and rules adopted under this chapter;

(2) supporting educational seminars, training activities, or other projects designed to benefit the department's ability to administer this chapter;

(3) paying for information resulting in disciplinary action against a person [for acting as a licensed breeder without having the appropriate license, or suspension or revocation of a licensed breeder license](#) under Subchapter F; and

(4) taking any other action to improve the department's ability to investigate violations of and enforce this chapter.

(c) The commission by rule may provide for a system to pay for information resulting in disciplinary action against a person under Subchapter F. Rules adopted under this subsection must

ensure that a public purpose is accomplished through the use of the payment system.

(d) The department may solicit and accept gifts, grants, and other donations from any source for deposit into the account.

(e) The account is exempt from the application of Section 403.095, Government Code.

Sec. 802.060. REGULATION OF THIRD-PARTY INSPECTORS. The commission by rule may shall establish:

(1) training requirements for a third-party inspector;

(2) registration procedures for a third-party inspector;

and

(3) policies governing the acts of a third-party inspector in conducting an inspection or investigation.

Sec. 802.061. REGISTRATION OF CERTAIN EMPLOYEES OF COMMERCIAL BREEDERS. The commission by rule may establish registration procedures for any person whose duties and responsibilities include the handling of or caring for an animal in a commercial breeder's facility.

Sec. 802.062. CONTRACTS FOR ENFORCEMENT. The department may contract with a third-party inspector to enforce or assist in the enforcement of this chapter and rules adopted under this chapter, including the performance of inspections and investigations required under this chapter.

Sec. 802.063. INSPECTIONS. (a) The department shall inspect each facility of a licensed commercial breeder at least once in

every 128-month period and at other times as necessary to ensure compliance with this chapter and rules adopted under this chapter.

(b) The inspection must be conducted during the facility's normal business hours, and the commercial breeder or a representative of the commercial breeder may be present during the inspection.

(c) The department or third-party inspector may not provide advance notice to the commercial breeder or a representative of the commercial breeder before arriving at the facility. The commercial breeder or its representative shall, on request of an inspector, assist the inspector in performing the inspection.

(d) In conducting an inspection under this section, an inspector may not enter or access any portion of a private residence of a commercial breeder except as necessary to access animals, documents, records, or other property relevant to the inspection.

(e) The inspector shall submit an inspection report to the department not later than the 10th day after the date of the inspection on a form prescribed by the department and provide a copy of the report to the commercial breeder or its representative.

Sec. 802.064. INVESTIGATIONS. On receipt of a complaint alleging a violation of this chapter or a rule adopted under this chapter, the department or a third-party inspector designated by the department shall investigate the alleged violation.

Sec. 802.065. REPORTING ANIMAL CRUELTY. A person conducting

an inspection under Section 802.063 or 802.103 or an investigation under Section 802.064 shall notify the appropriate local law enforcement agency or local animal control agency not later than 24 hours after discovering evidence of animal cruelty or neglect during the inspection or investigation.

[Sections 802.066-802.100 reserved for expansion]

SUBCHAPTER C. LICENSING OF COMMERCIAL BREEDERS

Sec. 802.101. LICENSE REQUIRED. (a) A person may not act as, offer to act as, or represent that the person is a commercial breeder in this state unless the person holds a commercial breeder license under this chapter for each facility that the person owns or operates in this state. A commercial breeder license for a single facility may cover more than one building on the same premises.

(b) The commission by rule may establish requirements for issuance or renewal of a commercial breeder license under this chapter.

Sec. 802.102. APPLICATION. An applicant for a license under this chapter must:

(1) submit to the department a completed application on a form prescribed by the department;

~~(2) submit to the department the number of the applicant's sales tax permit issued by the comptroller;~~

(3) submit to the department any other information regarding the applicant's facilities and operations requested by

the department;

(43) demonstrate that the applicant has satisfied the requirements of this chapter and rules adopted under this chapter;
and

(54) pay to the department the required fee.

Sec. 802.103. PRELICENSE INSPECTION. (a) Except as provided by Subsection (e), the department must inspect a facility before a commercial breeder license is issued for the facility.

(b) The department may not issue a commercial breeder license until the department receives a prelicense inspection report from the inspector in a format approved by the department certifying that the facility meets the requirements of this chapter and rules adopted under this chapter.

(c) Before the prelicense inspection may be conducted, each applicant must pay to the department the required inspection fee to be used to pay third-party inspectors and the reasonable expenses of the department related to its licensing and inspection duties under this chapter.

(d) An applicant whose facility does not meet the requirements of this chapter and rules adopted under this chapter as revealed by a prelicense inspection may, after correcting deficiencies noted in the inspection report, request another prelicense inspection by paying the required fee to the department.

(e) The department may not require a prelicense inspection of a facility for an applicant who:

(1) holds a current Class A animal dealers license issued under the Animal Welfare Act (7 U.S.C. Section 2131 et seq.); and

(2) submits to the department:

(A) a copy of the license; and

(B) on a form prescribed by the department, a statement certifying that the facility meets the requirements of this chapter and rules adopted under this chapter.

Sec. 802.104. INITIAL LICENSE. The department shall issue a commercial breeder license to each person who:

(1) meets the requirements of this chapter and rules adopted under this chapter;

(2) applies to the department on the form prescribed by the department; and

(3) pays the required fee.

Sec. 802.105. TERM; NONTRANSFERABILITY. A license issued under this chapter is valid until the first anniversary of the date of issuance and is nontransferable. The department shall include the expiration date on each license issued under this chapter.

Sec. 802.106. LICENSE RENEWAL. (a) A license holder may renew the person's license by:

(1) submitting a renewal application to the department on the form prescribed by the department;

(2) complying with any other renewal requirements adopted by the department; and

(3) paying the required fee.

(b) A person whose license has expired may not engage in activities that require a license until the license has been renewed.

(c) The department may not renew the license of a person if the person is in violation of this chapter or any rule adopted under this chapter at the time of renewal.

Sec. 802.107. LICENSE DENIAL, REVOCATION, AND SUSPENSION.

(a) The department shall deny issuance of a license to, or refuse to renew the license of, a person if the person or a controlling person of the commercial breeder has pled guilty to, been convicted of, or received deferred adjudication for animal cruelty or neglect in this state or any other jurisdiction in the five years preceding the person's initial or renewal application for a commercial breeder license.

(b) The department shall revoke a license if, after the license is issued, the person or a controlling person of the commercial breeder pleads guilty to, is convicted of, or receives deferred adjudication for animal cruelty or neglect in this state or any other jurisdiction.

(c) The department may deny issuance of a license to, refuse to renew the license of, or revoke or suspend a license held by a person who:

(1) fails to meet the requirements of this chapter and rules adopted under this chapter;

(2) has had a similar license issued by a federal, state, or local authority denied, revoked, or suspended;

(3) has falsified any material information requested by the department;

(4) has failed to meet a standard adopted by rule under this chapter; or

(5) has failed to comply with any corrective action required under an inspection report in the time provided by the report.

[Sections 802.108-802.150 reserved for expansion]

SUBCHAPTER D. PRACTICE BY LICENSE HOLDER

Sec. 802.151. DISPLAY OF LICENSE; APPLICABLE LAWS AND RULES; INCLUSION OF LICENSE NUMBER AND DEPARTMENT INFORMATION. A commercial breeder shall:

(1) prominently display a copy of the commercial breeder license at the breeder's facility;

(2) maintain at the breeder's facility a printed copy of this chapter and rules adopted under this chapter as made available by the department;

(3) include the commercial breeder's license number in each advertisement of the commercial breeder; and

(4) include in each contract for the sale or transfer of an animal by the commercial breeder:

(A) the commercial breeder's license number; and

(B) the following statement: "Commercial breeders

are regulated by the Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711, 1-800-803-9202, 512-463-6599, www.license.state.tx.us" or a similar statement adopted by commission rule that includes the department's name, mailing address, telephone numbers, and Internet website address.

Sec. 802.152. CHANGE IN LICENSE INFORMATION. A commercial breeder shall notify the department in a manner prescribed by the department not later than the 10th day after the date any change occurs in the address, name, management, or controlling person of the business or operation.

Sec. 802.153. ~~SALES TAX ACCOUNTING;~~ ANNUAL INVENTORY. (a) Not later than February 1 of each year, a commercial breeder shall submit to the department:

~~(1) a copy of its sales tax report filed with the comptroller for the preceding calendar year; and~~

(2) on a form prescribed by the department, an accounting of all animals held at the facility at any time during the preceding calendar year.

(b) The commercial breeder shall keep copies of the items described by Subsection (a) at the commercial breeder's facility and shall make them available on request to the department or a third-party inspector designated by the department.

(c) A commercial breeder that has more than one facility shall:

(1) keep separate records for each facility;

(2) submit a copy of each sales tax report filed with the comptroller by the commercial breeder; and

(3) submit a separate accounting of animals for each facility.

Sec. 802.154. ANIMAL RECORDS. (a) A commercial breeder shall maintain a separate record for each animal in the commercial breeder's facility documenting the animal's care.

(b) The record must include:

(1) the date the animal entered the facility;

(2) the name, address, and telephone number of the person from whom the animal was purchased or obtained;

(3) a description of the animal, including the animal's breed, sex, color, identifying marks, and weight;

(4) the date of birth of the animal or approximate age if the date of birth is unknown;

(5) any tattoo, microchip, or other identification number carried by or appearing on the animal;

(6) if the animal is a breeding female:

(A) breeding dates;

(B) dates the animal gave birth to a litter;

(C) number of puppies or kittens for each litter of the animal; and

(D) the name and identification of the sire or tom for each litter;

(7) all veterinary care provided for the animal,

including a record of all inoculations, medications, and other veterinary medical treatment received by the animal while in the possession of the commercial breeder; and

(8) for an animal that was at the facility but is no longer at the facility:

(A) the date of disposition or death of the animal;

and

(B) as applicable:

(i) the name and address of the person to whom the animal was transferred; or

(ii) the animal's cause of death.

(c) The commercial breeder shall make the animal records available on request to the department or a third-party inspector designated by the department.

(d) The commission by rule shall establish the retention period for records required under this section.

~~Sec. 802.155. LIMIT ON NUMBER OF ADULT INTACT FEMALE ANIMALS. (a) Except as provided by this section, a commercial breeder may not possess more than 50 adult intact female animals in a facility at any time.~~

~~(b) The department may permit a commercial breeder to possess more than 50 adult intact female animals in the breeder's facility if:~~

~~(1) the commercial breeder submits an application under this subsection on a form prescribed by the department; and~~

~~(2) the department determines that the commercial breeder is~~

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~~adequately staffed and able to meet the requirements of this chapter and the rules adopted under this chapter while housing and caring for the additional adult intact female animals and their litters.~~

~~(c) The department may:~~

~~(1) establish additional requirements for a commercial breeder possessing more than 50 adult intact female animals in a facility to ensure the proper housing and care of the animals at the facility; and~~

~~(2) charge additional fees for licensing and inspecting a facility in which more than 50 adult intact female animals are kept.~~

~~(d) The department may revoke permission granted under this section if a commercial breeder fails to meet the requirements of this chapter, the rules adopted under this chapter, or any additional requirement set by the department under this section.~~

~~[Sections 802.1565-802.200 reserved for expansion]~~

SUBCHAPTER E. STANDARDS OF CARE AND CONFINEMENT

Sec. 802.201. ADOPTION OF STANDARDS. (a) The commission shall adopt rules establishing minimum standards for the humane handling, care, housing, and transportation of dogs and cats by a commercial breeder to ensure the overall health, safety, and well-being of each animal in the commercial breeder's possession.

(b) The standards adopted under this section must:

(1) at a minimum meet ~~or exceed~~ federal regulations;

(2) require that, unless otherwise certified by a

veterinarian in the manner prescribed by the department, a commercial breeder provide each dog 12 weeks of age and older with at least one hour of daily exercise in an area that:

(A) has a solid, level surface with adequate drainage;

(B) provides adequate protection against harsh weather, including exposure to the sun; and

(C) has at least three times more square feet than the dog's primary enclosure;

(3) require that each adult intact female animal be provided with adequate ~~rest-time~~ between breeding cycles consistent with the breed standards;

(4) require that a commercial breeder provide basic grooming to each animal, including bathing and nail trimming, as needed to prevent any condition that adversely affects the animal's health and cleanliness;

(5) require all primary enclosures to have a solid floor surface with not more than 50 percent of the floor composed of a solid slatted surface;

(6) prohibit the placement of more than one a primary enclosure of a dog on top of another primary enclosure of a dog;

(7) prohibit the placement of a primary enclosure of an eat-animal on top of another primary enclosure of an eatanimal, unless an impervious barrier is placed between the enclosures;

(8) require at least one regular veterinary examination

Comment [H2]: I need a good definition for flooring. I have attached some suggestions

Comment [H3]: Again, I need something that works for flooring.

a year for a breeding animal;

(9) ensure that necessary routine and preventive veterinary care is provided under the direction of a veterinarian and that written healthcare management protocol addressing routine veterinary care is maintained at the breeder's facility.~~to each animal by a veterinarian to address any disease or illness, including immunization and treatment of animals for disease, parasites, and pest control;~~

(10) prohibit a person from euthanizing an animal or performing a surgical birth of an animal unless the person is a veterinarian;

(11) for any person whose duties and responsibilities include the handling of or caring for an animal in a commercial breeder's facility, require:

(A) compliance with the criminal background check requirements of Section 802.055; and

(B) appropriate training; and

(12) prohibit a commercial breeder from selling, trading, or giving away an animal before the animal is eight weeks of age.

(c) The commission by rule may modify existing standards and establish additional standards or requirements as necessary to protect or improve the health and well-being of animals or to protect the health and safety of the public.

[Sections 802.202-802.250 reserved for expansion]

SUBCHAPTER F. ENFORCEMENT

Sec. 802.251. DISCIPLINARY ACTION; ADMINISTRATIVE PENALTY.

If a person violates this chapter or a rule adopted under this chapter, the person is subject to any action or penalty under Subchapter F or G, Chapter 51.

SECTION 3. Not later than March 31, 2012, the Texas Commission of Licensing and Regulation shall adopt the rules, standards, procedures, and fees necessary to implement Chapter 802, Occupations Code, as added by this Act, and Section 4 of this Act.

SECTION 4. Notwithstanding Chapter 802, Occupations Code, as added by this Act, a commercial breeder is not required to:

(1) hold a license under that chapter to act as a commercial breeder before September 1, 2012; or

(2) comply with the standards adopted under Subchapter E, Chapter 802, Occupations Code, as added by this Act, before September 1, 2012.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011.