

By: Whitmire

S.B. No. 1910

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the licensing and regulation of commercial dog and cat
3 breeders and the regulation of dog and cat dealers; providing
4 penalties.

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

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

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

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

11 CHAPTER 802. COMMERCIAL DOG AND CAT BREEDERS AND DEALERS

12 SUBCHAPTER A. GENERAL PROVISIONS

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

15 Sec. 802.002. DEFINITIONS. In this chapter:

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

18 (2) "Advisory committee" means the Dog and Cat
19 Breeders Advisory Committee.

20 (3) "Animal" means a dog or a cat.

21 (4) "Broker" means a person who purchases animals for
22 resale to dealers or other brokers.

23 (5) "Cat" means a mammal that is wholly or partly of
24 the species Felis domesticus.

1 (6) "Commercial breeder" means a person who possesses
2 11 or more adult intact female animals and is engaged in the
3 business of breeding animals for direct or indirect sale or for
4 exchange in return for consideration.

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

7 (8) "Dealer" means a person, including a commercial
8 breeder or hobby breeder, who is required to collect sales tax for
9 the sale of animals to the public. The term does not include a
10 humane society or local animal control authority.

11 (9) "Department" means the Texas Department of
12 Licensing and Regulation.

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

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

19 (12) "Health problem" means a disease, illness, or
20 congenital or hereditary condition that:

21 (A) impairs the health or function of an animal
22 and is apparent at the time of sale; or

23 (B) is or should be apparent to the seller from
24 the veterinary history of the animal or either of the animal's
25 parents.

26 (13) "Hobby breeder" means a person who possesses
27 fewer than 11 adult intact female animals and is engaged in the

1 business of breeding animals for direct sale or for exchange in
2 return for consideration.

3 (14) "Humane society" means a nonprofit organization
4 exempt from federal taxation under Section 501(c)(3), Internal
5 Revenue Code of 1986, that has as the organization's purpose the
6 prevention of animal cruelty or the sheltering of, caring for, and
7 providing of homes for lost, stray, and abandoned animals.

8 (15) "Humane society agent" means an employee or agent
9 of a humane society designated by the department to enforce this
10 chapter or rules adopted under this chapter.

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

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

14 (18) "Local animal control authority" means a
15 municipal or county animal control office with authority over the
16 premises in which an animal is kept or, in an area that does not have
17 an animal control office, the county sheriff.

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

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

21 (21) "Veterinarian" means a veterinarian in good
22 standing and licensed to practice veterinary medicine in this state
23 or another state.

24 Sec. 802.003. APPLICABILITY OF CHAPTER. (a) This chapter
25 does not affect the applicability of any other law, rule, order,
26 ordinance, or other legal requirement of the federal government,
27 this state, or a political subdivision of this state.

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

4 [Sections 802.004-802.050 reserved for expansion]

5 SUBCHAPTER B. POWERS AND DUTIES OF DEPARTMENT

6 Sec. 802.051. GENERAL POWERS AND DUTIES; RULES. The
7 department shall administer this chapter and adopt and enforce the
8 rules necessary to administer this chapter, including rules to
9 establish qualifications required for licensing under this chapter
10 as necessary to protect the public health and safety.

11 Sec. 802.052. FEES. The department, with the advice of the
12 advisory committee, shall establish reasonable and necessary fees
13 in amounts sufficient to cover the costs of administering this
14 chapter.

15 Sec. 802.053. PERSONNEL. (a) The department shall employ
16 and designate a person to administer the licensing program under
17 this chapter.

18 (b) The department may employ personnel necessary to carry
19 out the functions and duties of the department under this chapter.

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

24 Sec. 802.055. CRIMINAL BACKGROUND CHECKS. (a) On receipt
25 of an application for a license under this chapter, the department
26 shall conduct a criminal background check on the applicant. The
27 department may examine any criminal conviction, guilty plea, or

1 deferred adjudication of an applicant for issuance or renewal of a
2 license, including by obtaining any criminal history or record
3 permitted by law.

4 (b) An applicant is not eligible for a license under this
5 chapter if the applicant, in the five years preceding the date of
6 the application, has been finally convicted of animal cruelty or a
7 misdemeanor involving moral turpitude or a felony.

8 Sec. 802.056. INSURANCE REQUIREMENTS. The department shall
9 set insurance requirements for a license holder under this chapter.

10 Sec. 802.057. DIRECTORY. The department shall annually
11 publish a directory of commercial breeders licensed under this
12 chapter.

13 Sec. 802.058. CONTRACTS FOR ENFORCEMENT. The department
14 may contract with another state agency or a political subdivision
15 of this state to enforce this chapter and rules adopted under this
16 chapter.

17 Sec. 802.059. INSPECTIONS AND INVESTIGATIONS. (a) The
18 department at least annually shall inspect each facility of a
19 licensed commercial breeder. The inspection must be conducted
20 during the facility's normal business hours and in the presence of
21 the commercial breeder or an agent of the commercial breeder. The
22 department is not required to provide notice to the facility before
23 an inspection.

24 (b) The inspector shall submit an inspection report to the
25 department not later than the 10th day after the date of the
26 inspection on a form prescribed by the department. The inspection
27 report must list separately each rule or standard established by

1 the department under Subchapter F, and the inspector shall document
2 whether the facility complies with each rule or standard. The
3 inspection report must document the animal inventory on the date of
4 the inspection.

5 (c) The department may designate a veterinarian who is not
6 affiliated with the licensed commercial breeder who is the subject
7 of the inspection or investigation, a local animal control
8 authority, or a humane society agent to conduct or assist in an
9 inspection or investigation.

10 (d) The department, a local animal control authority, or a
11 humane society agent may access during the facility's normal
12 business hours the facility of a commercial breeder whose license
13 has been suspended, revoked, or denied to verify that the facility
14 is not operating as a commercial breeding facility.

15 (e) The department, a local animal control authority, a
16 peace officer, or a humane society agent may investigate possible
17 violations of this chapter. On receipt of a written complaint
18 alleging a violation of this chapter, the department shall
19 investigate the alleged violation.

20 Sec. 802.060. CONSUMER INTEREST INFORMATION. (a) The
21 department shall prepare information of consumer interest
22 describing:

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

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

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

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

3 [Sections 802.061-802.100 reserved for expansion]

4 SUBCHAPTER C. DOG AND CAT BREEDERS ADVISORY COMMITTEE

5 Sec. 802.101. ADVISORY COMMITTEE MEMBERSHIP. The Dog and
6 Cat Breeders Advisory Committee consists of seven members as
7 follows:

8 (1) two members who represent the public, appointed by
9 the commission;

10 (2) one member who is a licensed veterinarian whose
11 primary practice consists of the treatment of dogs and cats,
12 appointed by the commission based on recommendations provided by
13 the State Board of Veterinary Medical Examiners;

14 (3) one member who is an animal welfare advocate,
15 appointed by the commission based on recommendations provided by a
16 federation or association of humane societies;

17 (4) one member who represents the interests of
18 consumers, appointed by the commission based on recommendations
19 provided by consumer advocacy groups or associations;

20 (5) one member who represents the interests of animal
21 control officers in this state, appointed by the commission based
22 on recommendations provided by the Texas Animal Control
23 Association; and

24 (6) one member who is the zoonosis control manager of
25 the Department of State Health Services or the manager's designee.

26 Sec. 802.102. TERMS; VACANCY. (a) Appointed advisory
27 committee members serve staggered four-year terms. The terms of

1 three or four appointed members expire on February 1 of each
2 odd-numbered year.

3 (b) Service on the advisory committee by a state officer or
4 employee is an additional duty of the member's office or
5 employment.

6 (c) If a vacancy occurs during an appointed member's term,
7 the vacancy shall be filled for the remainder of the unexpired term
8 in the manner provided by Section 802.101.

9 Sec. 802.103. PRESIDING OFFICER. The commission shall
10 designate one member of the advisory committee to serve as
11 presiding officer of the advisory committee for a two-year term.

12 Sec. 802.104. COMPENSATION; REIMBURSEMENT. An advisory
13 committee member serves without compensation but is entitled to
14 reimbursement for actual and necessary expenses incurred in
15 performing functions as an advisory committee member, subject to
16 any applicable limitation on reimbursement provided by the General
17 Appropriations Act.

18 Sec. 802.105. MEETINGS. (a) The advisory committee shall
19 meet at least once annually and may meet at other times at the call
20 of the presiding officer.

21 (b) The advisory committee shall meet in this state at a
22 place designated by the presiding officer.

23 Sec. 802.106. MEMBERSHIP ELIGIBILITY. A person may not be a
24 member of the advisory committee if the person or the person's
25 parent, spouse, child, or sibling:

26 (1) is required to be licensed under this chapter;

27 (2) is employed by or participates in the management

1 of a business entity or other organization required to be licensed
2 under this chapter;

3 (3) owns or controls, directly or indirectly, more
4 than a 10 percent interest in a business entity or other
5 organization required to be licensed under this chapter; or

6 (4) is an attorney, lobbyist, or veterinarian employed
7 by or under a service contract with a person required to be licensed
8 under this chapter.

9 Sec. 802.107. ADVISORY COMMITTEE DUTIES. (a) The advisory
10 committee shall advise the department in adopting rules and in
11 administering and enforcing this chapter.

12 (b) The advisory committee shall advise the department in
13 setting fees under this chapter.

14 Sec. 802.108. RULES GOVERNING ADVISORY COMMITTEE. The
15 commission shall adopt rules for the operation of the advisory
16 committee, including rules governing:

17 (1) the purpose, role, responsibility, and goals of
18 the advisory committee;

19 (2) the qualifications required for members of the
20 advisory committee;

21 (3) the appointment process for the advisory
22 committee;

23 (4) the process for removing a member of the advisory
24 committee; and

25 (5) a requirement that the advisory committee comply
26 with Chapter 551, Government Code.

27 Sec. 802.109. VOTE REQUIRED FOR ACTION. A decision of the

1 advisory committee is not effective unless it receives the
2 affirmative vote of at least a majority of the members present.

3 Sec. 802.110. APPLICABILITY OF OTHER LAW. Chapter 2110,
4 Government Code, does not apply to the advisory committee.

5 [Sections 802.111-802.150 reserved for expansion]

6 SUBCHAPTER D. LICENSING OF COMMERCIAL BREEDERS

7 Sec. 802.151. LICENSE REQUIRED; QUALIFICATIONS. (a) A
8 person may not act as a commercial breeder in this state unless the
9 person holds a commercial breeder license under this subchapter for
10 each facility that the person owns or operates in this state.

11 (b) A commercial breeder license for a single facility may
12 cover more than one building on the same premises.

13 (c) The department may adopt educational or training
14 qualifications required for issuance or renewal of a license under
15 this subchapter as necessary to protect the public health and
16 safety.

17 Sec. 802.152. APPLICATION. (a) An applicant for a license
18 under this subchapter must:

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

21 (2) submit to the department any other information
22 required by department rule;

23 (3) demonstrate to the satisfaction of the department
24 the qualifications required by this chapter and department rule;
25 and

26 (4) pay the application fee.

27 (b) A license application must include:

1 (1) a place for the applicant to:

2 (A) indicate whether the applicant's facility
3 will operate under more than one name and, if so, each name under
4 which the applicant will operate; and

5 (B) indicate whether the applicant has an
6 ownership interest in any other facility inside or outside this
7 state and the name and location of each facility in which the
8 applicant has an interest;

9 (2) a signed statement on:

10 (A) the number and breed of all adult animals
11 that will be kept, housed, and maintained by the applicant at the
12 facility and the estimated number of puppies or kittens to be kept,
13 housed, and maintained at the facility during the term of the
14 license;

15 (B) whether a license held by an applicant under
16 this subchapter or under another federal, state, county, or local
17 law, ordinance, or other regulation relating to dealing in or
18 handling dogs or cats has been suspended, revoked, or denied; and

19 (C) whether the applicant has been charged with
20 animal cruelty or neglect in any jurisdiction and, for an applicant
21 that is a partnership, corporation, or limited liability company,
22 whether any of the applicant's partners, directors, officers, or
23 members have been charged with animal cruelty or neglect in this or
24 any other jurisdiction; and

25 (3) the number of persons who will be employed by the
26 facility.

27 (c) An application from a partnership, corporation, or

1 limited liability company must include:

2 (1) the name and address of all partners, directors,
3 officers, members, and managers; and

4 (2) a notation of each partner, director, officer,
5 member, manager, or other person authorized to represent the
6 partnership, corporation, or limited liability company.

7 (d) If an applicant is required to be licensed by the United
8 States Department of Agriculture under the federal Animal Welfare
9 Act (7 U.S.C. Section 2131 et seq.), the application must include
10 all United States Department of Agriculture inspection reports and
11 records for the preceding five years for any facility owned or
12 operated by the applicant.

13 Sec. 802.153. INITIAL PRELICENSE INSPECTION. (a) The
14 department shall inspect a facility before an initial commercial
15 breeder license is issued for that facility. An initial prelicense
16 inspection must be performed not later than the 30th day after the
17 date an applicant submits an application for a commercial breeder
18 license to the department.

19 (b) The department may designate a veterinarian who is not
20 affiliated with the applicant, a local animal control authority, or
21 a humane society agent to conduct or assist in an initial prelicense
22 inspection.

23 (c) The department may not issue a commercial breeder
24 license until the department receives an initial prelicense
25 inspection certificate signed by the inspector in a format approved
26 by the department certifying that the facility meets the
27 requirements of this chapter and rules adopted under this chapter.

1 (d) Before the initial prelicense inspection may be
2 conducted, each applicant shall pay to the department a
3 nonrefundable inspection fee.

4 Sec. 802.154. ISSUANCE. The department shall issue a
5 commercial breeder license to each commercial breeder who:

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

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

10 (3) pays the required fee.

11 Sec. 802.155. TERM. A license issued under this subchapter
12 is valid until the first anniversary of the date of issuance and is
13 nontransferable. The department shall include the expiration date
14 on each license issued under this subchapter.

15 Sec. 802.156. LICENSE DENIAL. The department shall refuse
16 to issue a license to an applicant who:

17 (1) fails to meet the standards of care adopted by the
18 department under Subchapter F;

19 (2) has been convicted of cruelty to animals under the
20 laws of this state or any other jurisdiction;

21 (3) has had a similar license by a federal, state, or
22 local authority denied, revoked, or suspended;

23 (4) has falsified any material information requested
24 by the department; or

25 (5) was an owner, partner, director, officer, member,
26 manager, agent, family member, affiliate, or employee of a
27 commercial breeder whose license was revoked or suspended and was

1 responsible for or participated in the violation that resulted in a
2 revocation or suspension that is still in effect.

3 Sec. 802.157. LICENSE RENEWAL. (a) A license holder may
4 renew the person's license by:

5 (1) submitting a renewal application to the department
6 on the form prescribed by the department before the expiration date
7 on the license;

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

10 (3) paying the renewal fee set by the department.

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

14 (c) Not later than the 90th day before the expiration of the
15 person's license, the department shall send written notice of the
16 impending license expiration to the person at the person's last
17 known address according to the records of the department.

18 (d) A license renewal application and the renewal fee must
19 be postmarked not later than the 60th day before the expiration date
20 of the license. A license renewal application received after the
21 60th day is subject to a late fee in the amount set by department
22 rule, not to exceed 50 percent of the license renewal fee.

23 (e) If a license is not renewed by the renewal date, the
24 license holder must reapply for an initial commercial breeder
25 license.

26 (f) A license renewal application by a person licensed by
27 the United States Department of Agriculture under the federal

1 Animal Welfare Act (7 U.S.C. Section 2131 et seq.) must be
2 accompanied by all United States Department of Agriculture
3 inspection reports and records for the licensed facility during the
4 preceding 12 months.

5 [Sections 802.158-802.200 reserved for expansion]

6 SUBCHAPTER E. PRACTICE BY LICENSE HOLDER

7 Sec. 802.201. DISPLAY OF LICENSE; INCLUSION OF LICENSE
8 NUMBER. A commercial breeder shall:

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

11 (2) include the commercial breeder license number in
12 each advertisement and in each contract for the sale or transfer of
13 an animal by the commercial breeder.

14 Sec. 802.202. CHANGE IN LICENSE INFORMATION. A commercial
15 breeder shall notify the department by certified mail not later
16 than the 10th day after the date any change occurs in the address,
17 name, management, or substantial control and ownership of the
18 business or operation.

19 Sec. 802.203. ANNUAL REPORT. (a) Not later than February
20 1 of each year, a commercial breeder shall submit to the department
21 a report on the form prescribed by the department. The report must
22 include:

23 (1) the number of dogs and cats in the commercial
24 breeder's possession on the first and last day of the preceding
25 year;

26 (2) the number of animals that during the preceding
27 year:

1 (A) died; or

2 (B) were born, sold, traded, bartered, leased,
3 brokered, given away, or euthanized; and

4 (3) any other information required by the department.

5 (b) A license holder that uses more than one business name
6 must keep separate records and file a separate report for each
7 business name.

8 Sec. 802.204. ANIMAL LOG. (a) A commercial breeder shall:

9 (1) maintain a separate written log for each animal
10 documenting the animal's veterinary care; and

11 (2) make the log available on request to the
12 department or a veterinarian, local animal control authority, or
13 humane society agent designated by the department.

14 (b) The log must include:

15 (1) the date of the animal's birth;

16 (2) the date the commercial breeder took possession of
17 the animal if the animal was acquired from another person;

18 (3) the breed, sex, color, and identifying marks of
19 the animal;

20 (4) the animal's identifying tag, tattoo, microchip,
21 or collar number;

22 (5) the name and registration number of the sire and
23 dam of the animal; and

24 (6) a record of all inoculations, medications, and
25 other veterinary medical treatment received by the animal while in
26 the possession of the commercial breeder that includes:

27 (A) the date of the inoculation, medication, or

1 treatment;

2 (B) the type or nature of the inoculation,
3 medication, or treatment; and

4 (C) the name of the attending veterinarian, if
5 applicable.

6 Sec. 802.205. LIMIT ON NUMBER OF INTACT ANIMALS. A
7 commercial breeder may not possess more than 50 intact adult
8 animals at any time.

9 Sec. 802.206. TRANSPORTATION. A commercial breeder and its
10 designated carrier or intermediate handler of the animal shall
11 comply with the standards that apply to transporting the animal
12 under the federal Animal Welfare Act (7 U.S.C. Section 2131 et seq.)
13 and the regulations adopted under that Act.

14 [Sections 802.207-802.250 reserved for expansion]

15 SUBCHAPTER F. STANDARDS OF CARE AND CONFINEMENT

16 Sec. 802.251. ADOPTION OF STANDARDS. The department, in
17 accordance with this subchapter and with the advice of the advisory
18 committee, shall adopt rules for the proper feeding, watering,
19 housing, care, including veterinary care, grooming, treatment,
20 transportation, and disposition of dogs and cats by a commercial
21 breeder to ensure the overall health and welfare of each animal in
22 the commercial breeder's facility.

23 Sec. 802.252. FOOD AND WATER STANDARDS. (a) The
24 department shall establish standards to ensure that commercial
25 breeders provide animals with uncontaminated, palatable, and
26 wholesome food and water suitable for the species, at a frequency
27 and in an amount appropriate for the animal's size, condition, and

1 age to maintain proper and healthy weight.

2 (b) The standards must require animals to be offered food at
3 least once every 24 hours and have continuous access to water.

4 Sec. 802.253. SHELTER AND CONFINEMENT STANDARDS. (a) The
5 department shall establish standards to ensure that commercial
6 breeders provide:

7 (1) a safe structural housing environment that is free
8 of sharp or jagged edges and restricts access by vermin;

9 (2) adequate indoor and outdoor confinement areas
10 based on animal age, breed, physical condition, and type, and for
11 each animal at least one separate shelter large enough to allow the
12 animal in the shelter to easily sit, stand, turn around, and lie
13 down in a normal manner;

14 (3) for cats housed in an outdoor confinement area,
15 free access to an indoor confinement area;

16 (4) an indoor confinement area of adequate dimensions
17 based on the size and type of animal;

18 (5) adequate construction and materials for
19 confinement area walls, ceilings, and flooring, including adequate
20 solid or solid slatted floor surface areas;

21 (6) appropriate ventilation in all indoor confinement
22 areas to allow the free movement of air in and around the
23 confinement area;

24 (7) proper temperatures in indoor and outdoor
25 confinement areas to protect the health and well-being of the
26 animals based on the age, breed, physical condition, and type of
27 animal;

1 (8) proper methods for minimizing odors, drafts,
2 ammonia levels, and condensation in all housing facilities and
3 recreational areas;

4 (9) adequate lighting in indoor confinement areas that
5 allows observation of the physical condition of the animals housed
6 in the area and routine inspection and cleaning; and

7 (10) adequate types, quantities, and placement of fire
8 extinguishers, smoke detectors, and carbon monoxide detectors for
9 indoor confinement areas.

10 (b) The standards must prohibit:

11 (1) a commercial breeder from housing females in
12 estrus with unneutered males, except for breeding purposes;

13 (2) the placement of primary enclosures more than 12
14 inches above the floor or on top of another primary enclosure; and

15 (3) the tethering or leashing of animals in a facility
16 as a means of confinement.

17 Sec. 802.254. SANITATION STANDARDS. The department shall
18 establish standards to ensure that commercial breeders provide:

19 (1) suitable methods to daily eliminate feces and
20 excess fluids from confinement areas, to weekly disinfect
21 impervious surfaces, and to remove animals from a confinement area
22 when a hose or pressure washer is used;

23 (2) adequate sanitation practices, including bedding
24 sanitation, food and water contamination prevention, and isolation
25 of animals with infectious or contagious diseases; and

26 (3) adequate methods for employees to disinfect their
27 hands and shoes after handling isolated animals.

1 Sec. 802.255. EXERCISE AND GROOMING STANDARDS. (a) The
2 department shall establish standards to ensure that commercial
3 breeders provide adequate exercise areas to allow animals eight
4 weeks of age and older the opportunity for daily exercise. The
5 standards must provide that animals exercised in groups are
6 compatible and free of illness.

7 (b) The department shall establish bathing and grooming
8 standards to ensure that commercial breeders keep animals clean and
9 comfortable.

10 Sec. 802.256. SOCIALIZATION STANDARDS; STANDARDS FOR
11 PUPPIES AND KITTENS. (a) The department shall establish standards
12 to ensure that commercial breeders provide:

13 (1) adequate socialization by physical contact with
14 other compatible animals of the same or like breed and human beings;
15 and

16 (2) adequate care of puppies and kittens, including
17 housing of puppies and kittens with their mothers until an
18 appropriate age.

19 (b) The department shall prohibit a commercial breeder from
20 selling, trading, or giving away an animal before the animal is 12
21 weeks of age.

22 Sec. 802.257. HEALTH AND HANDLING STANDARDS. (a) The
23 department shall establish standards to ensure that commercial
24 breeders provide:

25 (1) proper handling, treatment, and immunization of
26 animals for disease, parasite, and pest control, including proper
27 care by a veterinarian and written health records for each animal;

1 (2) adequate methods for animal identification and
2 tracking that are nontransferable;

3 (3) proper handling of animals to prevent trauma,
4 behavioral stress, physical harm, or discomfort to the animal;

5 (4) proper breeding procedures for male and female
6 animals; and

7 (5) proper handling of animals during transportation
8 to ensure the safety and well-being of the animals transported,
9 including the provision of adequate food, water, exercise, cage
10 size and structure, temperature, and observation and proper care
11 for females in estrus.

12 (b) A person may not sell or transport into, out of, or
13 within this state an animal that is less than 12 weeks of age for a
14 direct or indirect sale or for an exchange in return for
15 consideration.

16 Sec. 802.258. STAFFING STANDARDS. (a) The department
17 shall establish standards to ensure that commercial breeders
18 provide:

19 (1) adequate staffing; and

20 (2) adequate training for staff in animal welfare,
21 care, and proper supervision.

22 (b) The department shall prohibit a commercial breeder from
23 employing an employee or independent contractor who has been
24 convicted of cruelty to or neglect of animals under the laws of this
25 state or of any other jurisdiction.

26 Sec. 802.259. ADDITIONAL STANDARDS. The department may
27 establish any additional standards considered necessary to protect

1 the public health and the welfare of animals covered under this
2 chapter.

3 [Sections 802.260-802.300 reserved for expansion]

4 SUBCHAPTER G. RETAIL SALES OF DOGS AND CATS

5 Sec. 802.301. DISCLOSURE. (a) Each dealer shall deliver
6 to each retail purchaser of an animal a written disclosure that
7 includes the following:

8 (1) the commercial breeder's name, address, United
9 States Department of Agriculture license number, and commercial
10 breeder license number;

11 (2) the name, address, and United States Department of
12 Agriculture license number of any broker who has had possession of
13 the animal;

14 (3) the date of the animal's birth;

15 (4) the date the dealer received the animal;

16 (5) the breed, sex, color, and identifying marks of
17 the animal;

18 (6) the individual identifying tag, tattoo,
19 microchip, or collar number;

20 (7) the name and registration number of the sire and
21 dam and the litter number; and

22 (8) a record of inoculations, worming treatments, and
23 medication received by the animal while in the possession of the
24 dealer.

25 (b) The written disclosure must include:

26 (1) a statement signed by the dealer that the animal
27 does not have any known health problem or that discloses any known

1 health problem; and

2 (2) a statement signed by a veterinarian that lists
3 any treatments the animal has received and any recommendations for
4 future treatment.

5 (c) The written disclosure required under this section is a
6 part of the purchaser rights required under this subchapter.

7 (d) Except as provided by this subsection, a written
8 disclosure is not required for a mixed breed animal if the
9 information is not available and cannot be determined by the
10 dealer. The dealer must disclose all known health problems and
11 medical records of a mixed breed animal.

12 Sec. 802.302. RECORDS. The dealer shall retain until the
13 first anniversary of the date of issuance a copy of the statement of
14 purchaser rights delivered to the retail purchaser.

15 Sec. 802.303. REGISTRATION. (a) A dealer who represents
16 an animal as eligible for registration with an animal pedigree
17 organization shall, not later than the 90th day after the date the
18 final payment is received, provide to the retail purchaser the
19 documents necessary for registration with the organization.

20 (b) If the dealer fails to provide the registration
21 documents to the retail purchaser as required by Subsection (a),
22 the purchaser may:

23 (1) retain the animal and receive a refund of 50
24 percent of the purchase price of the animal; or

25 (2) return the animal and all documentation previously
26 provided to the purchaser and receive a full refund of the purchase
27 price.

1 (c) The dealer is not responsible for delays in registration
2 that are the result of the actions or inaction of persons other than
3 the dealer.

4 Sec. 802.304. EXAMINATION BY VETERINARIAN. (a) A broker
5 or dealer may not offer an animal for sale to a retail purchaser
6 unless the animal has been examined by a veterinarian.

7 (b) A veterinarian who examines an animal for a broker may
8 not be the same veterinarian who examines the animal for a dealer.

9 (c) If a dealer is not the breeder of an animal, the animal
10 must be examined by a veterinarian:

11 (1) not later than the second day after the date the
12 dealer receives the animal; and

13 (2) not later than the fourth day after the date the
14 dealer delivers the animal to the purchaser.

15 (d) The dealer shall pay the cost of the veterinarian
16 examination required under Subsection (c).

17 Sec. 802.305. RIGHTS OF PURCHASER. (a) An animal is
18 considered unfit for sale by a dealer if:

19 (1) a veterinarian states in writing not later than
20 the 20th day after the date a purchaser takes possession of an
21 animal that the animal has a health problem that existed in the
22 animal at the time of delivery; or

23 (2) a veterinarian states in writing not later than
24 the first anniversary of the date that a purchaser took possession
25 of an animal that the animal:

26 (A) died or is ill due to a hereditary or
27 congenital defect; or

1 (B) is not the breed the dealer represented the
2 animal to be to the purchaser.

3 (b) If the dealer misrepresents the breed of the animal to
4 the purchaser, the dealer shall provide to the purchaser one of the
5 following remedies selected by the purchaser:

6 (1) return of the animal to the dealer for a refund of
7 the full purchase price; or

8 (2) exchange of the animal for an animal of the breed
9 represented by the dealer to the purchaser, provided the dealer has
10 an animal of that breed available for sale.

11 (c) If an animal dies due to a health problem that existed in
12 the animal at the time the purchaser took possession of the animal,
13 the dealer shall provide to the purchaser one of the following
14 remedies selected by the purchaser:

15 (1) another animal of equal value, if available, and
16 reimbursement of all reasonable veterinary fees incurred by the
17 purchaser for the deceased animal; or

18 (2) a refund of the full purchase price and
19 reimbursement of all reasonable veterinary fees incurred by the
20 purchaser for the deceased animal.

21 (d) If a health problem existed at the time the purchaser
22 took possession of the animal, the dealer shall provide to the
23 purchaser one of the following remedies selected by the purchaser:

24 (1) return of the animal to the dealer for a refund of
25 the full purchase price;

26 (2) exchange of the animal with a health problem for
27 another animal of the purchaser's choice of equivalent value,

1 providing a replacement is available; or

2 (3) retention of the animal with a health problem by
3 the purchaser and reimbursement of reasonable veterinary fees for
4 the animal.

5 (e) The price of a veterinary service is considered
6 reasonable if the service is appropriate for the diagnosis and
7 treatment of the health problem and the price for the service is
8 comparable to a similar service rendered by other veterinarians in
9 proximity to the treating veterinarian.

10 Sec. 802.306. RESPONSIBILITIES OF PURCHASER. (a) To be
11 eligible for the remedies provided in Section 802.305, the retail
12 purchaser of an animal with a health problem shall:

13 (1) notify the dealer not later than the fifth
14 business day after the date a veterinarian diagnoses a health
15 problem; and

16 (2) provide the dealer with the name and telephone
17 number of the veterinarian and a copy of the veterinarian's report
18 on the animal.

19 (b) A retail purchaser who is seeking a full refund of the
20 purchase price of an animal shall return the animal to the dealer
21 not later than the fifth business day after the date the purchaser
22 receives a written statement from a veterinarian indicating that
23 the animal is unfit due to a health problem.

24 (c) If an animal has died, the retail purchaser must provide
25 the dealer with a written statement from a veterinarian indicating
26 that the animal died from a health problem that existed on or before
27 the date the purchaser took possession of the animal.

1 Sec. 802.307. RIGHTS OF DEALER. A dealer is not required to
2 provide a refund, replacement, or reimbursement of veterinary fees
3 if one or more of the following conditions exist:

4 (1) the health problem or death resulted from
5 maltreatment, neglect, or a disease contracted while in the
6 possession of the purchaser or from an injury sustained after
7 delivery of the animal to the purchaser;

8 (2) a veterinarian's statement was provided to the
9 purchaser under Section 802.301 that disclosed the health problem
10 for which the purchaser seeks to return the animal; or

11 (3) the purchaser failed to provide to the animal a
12 treatment recommended by the examining veterinarian under Section
13 802.301.

14 Sec. 802.308. CONTEST OF RELIEF; CIVIL ACTION. (a) A
15 dealer seeking to contest a demand for relief specified in Section
16 802.303 or 802.305 may require the retail purchaser to produce the
17 animal for examination or necropsy by a veterinarian designated by
18 the dealer. The dealer shall pay the cost of the examination or
19 necropsy. The dealer has a right of recovery against the purchaser
20 if the dealer is not obligated to provide a remedy under Section
21 802.305.

22 (b) If the dealer does not provide the relief selected by
23 the retail purchaser under Section 802.303 or 802.305, the
24 purchaser may bring a civil action against the dealer. The
25 prevailing party in the civil action has the right to recover costs
26 and reasonable attorney's fees.

27 Sec. 802.309. POSTING OF PURCHASER RIGHTS NOTICE. Each

1 dealer shall post in a prominent location in the dealer's facility a
2 notice, in 48-point boldfaced type, that states the following:

3 "Information is available on each dog or cat sold by
4 this establishment. You are entitled to a statement of
5 purchaser rights related to the sale of a dog or cat by
6 this establishment. Please ensure that you receive
7 this statement at the time you purchase a dog or cat."

8 Sec. 802.310. STATEMENT ACKNOWLEDGING RECEIPT OF PURCHASER
9 RIGHTS. (a) Each dealer shall provide each retail purchaser with
10 a written statement of the purchaser's rights under this chapter.
11 The purchaser must sign an acknowledgment that the purchaser
12 received the statement and has reviewed the statement. The dealer
13 shall certify in writing the accuracy of the information contained
14 in the statement. The dealer shall retain a copy of the signed
15 acknowledgment and provide a copy of the signed acknowledgment to
16 the purchaser.

17 (b) The statement of purchaser rights must be in 16-point
18 boldfaced type as follows:

19 "STATEMENT OF TEXAS LAW GOVERNING SALE OF DOGS AND
20 CATS: The sale of dogs and cats is subject to consumer
21 protection regulations. Texas law also provides
22 safeguards to protect dealers and animal purchasers.
23 Attached is a copy of Subchapter G, Chapter 802,
24 Occupations Code. Contained in this law is a statement
25 of your purchaser rights. These rights are not your
26 exclusive rights and do not limit the rights or
27 remedies available to you as a purchaser under any

1 other law."

2 (c) The statement of purchaser rights must contain or have
3 attached to the statement the disclosures required under Section
4 802.301.

5 Sec. 802.311. LIMITATION; WAIVER PROHIBITED. (a) Nothing
6 in this chapter shall limit the rights or remedies otherwise
7 available to a purchaser under any other law.

8 (b) An agreement or contract by a purchaser to waive any
9 rights under this chapter is null, void, and unenforceable.

10 [Sections 802.312-802.350 reserved for expansion]

11 SUBCHAPTER H. DISCIPLINARY ACTION

12 Sec. 802.351. SUSPENSION AND REVOCATION OF LICENSE; REFUSAL
13 TO RENEW LICENSE. (a) The department may suspend, revoke, or
14 refuse to renew a license for:

15 (1) a violation of this chapter or a rule adopted under
16 this chapter;

17 (2) failure to comply with a sanction;

18 (3) failure to pay a civil penalty;

19 (4) failure to meet a standard of care adopted by the
20 department under Subchapter F;

21 (5) failure to comply with any corrective action
22 required under an inspection report in the time provided by the
23 report;

24 (6) falsification of information requested by the
25 department;

26 (7) the denial, revocation, or suspension of a similar
27 license by another federal, state, or local authority; or

1 (8) conviction of cruelty to animals under the laws of
2 this state or any other jurisdiction by a commercial breeder or any
3 owner, partner, director, officer, member, manager, employee, or
4 agent of a commercial breeder.

5 (b) A person whose commercial breeder license is revoked may
6 not reapply for a commercial breeder license before the second
7 anniversary of the date of revocation. The department shall
8 permanently revoke a commercial breeder license if the basis for
9 the revocation was a conviction of animal cruelty.

10 (c) A person whose commercial breeder license is suspended
11 or revoked twice is permanently barred from holding a license under
12 this chapter.

13 Sec. 802.352. RIGHT TO HEARING; ADMINISTRATIVE PROCEDURE.

14 (a) A license holder or applicant for a commercial breeder license
15 is entitled to a hearing conducted by the State Office of
16 Administrative Hearings if the department proposes to deny,
17 suspend, or revoke a license.

18 (b) A proceeding under this chapter to deny, suspend, or
19 revoke a license is a contested case under Chapter 2001, Government
20 Code.

21 Sec. 802.353. ENFORCEMENT PROCEEDINGS; INJUNCTION.

22 (a) The department, the attorney general, or the district, county,
23 or city attorney for the county or municipality in which a facility
24 is located may bring an appropriate administrative or judicial
25 proceeding to enforce this chapter or any rule adopted under this
26 chapter.

27 (b) The department, the attorney general, or the district,

1 county, or city attorney for the county or municipality in which a
2 facility is located may initiate an action for an injunction to
3 prohibit a person from violating this chapter or any rule adopted
4 under this chapter.

5 Sec. 802.354. CIVIL PENALTY. (a) A person who violates
6 this chapter or any rule adopted under this chapter is liable to
7 this state for a civil penalty of not less than \$200 or more than
8 \$5,000 for each violation. Each animal to which the violation
9 applies and each day that violation continues constitutes a
10 separate violation.

11 (b) The amount of the penalty shall be based on:

12 (1) the seriousness of the violation;

13 (2) the history of previous violations;

14 (3) the amount necessary to deter a future violation;

15 and

16 (4) any other matter that justice may require.

17 (c) The department or the attorney general may sue to
18 collect a civil penalty under this section. In the suit the state
19 may recover the reasonable expenses incurred in obtaining the
20 penalty, including investigation and court costs, reasonable
21 attorney's fees, witness fees, and other expenses.

22 Sec. 802.355. CRIMINAL OFFENSES AND PENALTIES. (a) A
23 person commits an offense if the person violates this chapter or any
24 rule adopted under this chapter. Each animal to which a violation
25 applies and each day that violation continues constitutes a
26 separate offense. An offense under this subsection is a Class C
27 misdemeanor.

1 (b) A broker or dealer commits an offense if the broker or
2 dealer knowingly acquires a dog or cat from an unlicensed
3 commercial breeder for the purpose of reselling the dog or cat to
4 another person. An offense under this subsection is a Class B
5 misdemeanor. It is a defense to prosecution for an offense under
6 this subsection that the dealer was a humane society or a local
7 animal control authority.

8 (c) A dealer commits an offense if the dealer knowingly
9 possesses an animal under the age of 12 weeks for the purpose of
10 reselling the animal to another person. An offense under this
11 subsection is a Class C misdemeanor. It is a defense to prosecution
12 for an offense under this subsection that the dealer was a humane
13 society or a local animal control authority.

14 (d) A person commits an offense if the person knowingly
15 falsifies information in a license application, annual report, or
16 record required under this chapter. An offense under this
17 subsection is a state jail felony.

18 (e) An unlicensed commercial breeder commits an offense if
19 the breeder advertises animals for sale. An offense under this
20 subsection is a Class C misdemeanor.

21 (f) A commercial breeder commits an offense if the
22 commercial breeder interferes with, hinders, or thwarts any
23 inspection or investigation under this chapter or refuses to allow
24 an inspector full access to all areas of the facility where animals
25 are kept or cared for and all records required to be kept under this
26 chapter or any rule adopted under this chapter. An offense under
27 this subsection is a Class B misdemeanor.

1 SECTION 3. Not later than December 31, 2009, the Texas
2 Commission of Licensing and Regulation shall appoint the members of
3 the Dog and Cat Breeders Advisory Committee in accordance with
4 Chapter 802, Occupations Code, as added by this Act. In making the
5 initial appointments, the commission shall designate:

6 (1) three members for terms expiring February 1, 2011;
7 and

8 (2) three members for terms expiring February 1, 2013.

9 SECTION 4. Not later than June 1, 2010, the Department of
10 Licensing and Regulation shall adopt the rules, standards,
11 procedures, and fees necessary to implement Chapter 802,
12 Occupations Code, as added by this Act, and Section 5 of this Act.

13 SECTION 5. Notwithstanding Chapter 802, Occupations Code,
14 as added by this Act, a commercial breeder is not required to:

15 (1) hold a license under that chapter to act as a
16 commercial breeder before September 1, 2010; or

17 (2) comply with the standards adopted under Subchapter
18 F, Chapter 802, Occupations Code, as added by this Act, before
19 September 1, 2010.

20 SECTION 6. (a) The change in law made by this Act applies
21 only to an offense committed on or after the effective date of this
22 Act. For purposes of this section, an offense is committed before
23 the effective date of this Act if any element of the offense occurs
24 before that date.

25 (b) An offense committed before the effective date of this
26 Act is covered by the law in effect when the offense was committed,
27 and the former law is continued in effect for that purpose.

1 SECTION 7. This Act takes effect immediately if it receives
2 a vote of two-thirds of all the members elected to each house, as
3 provided by Section 39, Article III, Texas Constitution. If this
4 Act does not receive the vote necessary for immediate effect, this
5 Act takes effect September 1, 2009.