



## TEXAS BILL REGULATING DOG/CAT BREEDERS-DEALERS: LAW WOULD REGULATE OWNERSHIP OF MORE THAN 11 FEMALES AND BAN MORE THAN 50 INTACT ADULTS

**\*\* Hearing Set for April 1 \*\***

### The Issue.

The Texas Legislature's House Licensing & Administrative Procedures Committee has scheduled a hearing on Wednesday, April 1, at 8:00 a.m., on House Bill 3180, a bill that would establish a Commercial Dog and Cat Breeders and Dealers Act to regulate "commercial breeders."

A regulated commercial breeder would be anyone "who possesses 11 or more adult female animals AND no more than 50 intact "adult animals" at any time AND is engaged in the business of breeding animals for direct or indirect sale or for exchange in return for consideration."

Also, buried in the penalty section is a prohibition (Class C misdemeanor) on possessing "an animal under the age of 12 weeks for the purpose of reselling the animal to another person; another violation involves buying an animal from an unlicensed commercial breeder for the purpose of resale.

A Breeders Advisory Committee would be established to advise the Department on proposed rules that include standards, administration and enforcement. Violations range from Class B and C misdemeanors to felonies.

### The Impact

Facility operations:

- Licensees must undergo a criminal background check and if found during the prior 5 years to have been convicted of animal cruelty or a misdemeanor involving moral turpitude or a felony.
- The State will set insurance limits for breeders.
- License fees shall be "reasonable and necessary in amounts sufficient to cover the costs of administration" of the Act.
- Each facility would be subject to at least one annual inspection.
- The department, a local authority, "or a humane society agent" may conduct inspections and/or investigate "possible violations."
- The Advisory Committee recommending standards for commercial breeders will be comprised of individuals representing interest other than commercial breeders.
- To obtain a license, a prospective licensee must provide data on number and breed of all adult animals possessed by applicant and "estimated" number of puppies or kittens; the number of employees; and if USDA licenses, copies of all inspection reports for the past 5 years.
- Standards of care shall include, but not be limited to, appropriate food and water, housing, ventilation, solid or slatted flooring, temperatures, lighting, cage design and placement, sanitation, exercise, socialization, animal and veterinary care, grooming, "adequate staffing," and additional standards "considered necessary to protect the public health and the welfare of animals" under the Act.



#### Dealer responsibility for retail sales:

- Provide each purchaser a written disclosure
  - Breeder's name, address, USDA license number, and Texas license number
  - Date of animal's birth; date dealer received animal
  - Breed, sex, color, and identifying tag, tattoo, microchip or collar number
  - Name and registration number of sire and dam and the litter number
  - Record of inoculations, working treatments, and medication received while in dealer's possession
  - Statement that no known health problems or discloses those known to exist
  - Statement signed by veterinarian that lists any treatments animal received and any recommendation for future treatment
  - Not required for mixed breed animals if information not available and cannot be determined by the dealer
- If sold as registerable, documents to complete registration must be provided to purchaser within 90 following final payment or be subject to refund
- No animal may be offered for sale unless the animal examined by a veterinarian
- If a dealer is not the breeder, veterinarian exam must be within 2 days after received the animal and not later than 4 days after purchaser receives the animal AND the dealer must pay for both examinations
- An animal is unfit for sale if veterinarian states in writing
  - that within 20 days of delivery that the animal has health problem that existed at the time of delivery, or
  - that the animal died or is ill due to hereditary or congenital defect,
  - that the animal is not the breed represented to purchaser
- Consumer options, depending on reason for seeking a refund, exchange, or expense varies according to the facts. Remedies include range of remedies: return for refund, reimbursement of reasonable veterinary fees, exchanging animal, keeping the animal and receiving reimbursement of reasonable veterinary fees.
- Dealer may seek second opinion
- Dealer not liable if health problem or death due to maltreatment, neglect, or disease contracted while animal in possession of purchaser, or purchaser failed to provide treatment recommended by a veterinarian
- Dealer must post purchaser's rights in 48-point type AND provide purchaser with a statement of their rights which shall be acknowledged by the purchaser. The dealer shall also certify the accuracy of the information contained in the statement. Both parties shall have executed copies.

#### Purchaser's obligations:

- Notify dealer within 5 days of veterinarian diagnosis of health problem including name and telephone number of veterinarian AND copy of the findings
- If seeking full refund, return animal to dealer within 5 business days of purchasers receiving written copy of veterinarian's finding(s).

**THIS ALERT SUMMARIZES HB 3180. TO VIEW THE ACTUAL PROVISIONS OF THE BILL, VISIT PLJAC'S WEBSITE AT [WWW.PLJAC.ORG](http://WWW.PLJAC.ORG) UNDER THE BREAKING NEWS SECTION.**

#### **Recommended Action.**

- Read HB 3180 very carefully. Some of the provisions are found in a number of states, such as portions of the consumer remedies sections. **The hearing is scheduled for Wednesday April 1, 2009 at 8:00 a.m. Room E2.016 of the State Capitol.**
- Persons affected by this legislation should attend the committee hearing, and provide comments on their concerns.
- In any event, contact committee members, preferably via a written statement, expressing your views.
- **Pet stores would be dealers** under certain circumstances and could not possess animals under 12 weeks of age.
- The breeding and minimum age limits have yet to be accepted anywhere in the US.
- There is no correlation between the number of animals in a facility and the quality of care those animals receive or the quality of the puppies offered to the public as pets!

- Prohibitions proposed in this bill severely limit the ability of breeders to maintain sufficiently diverse blood lines – This will result in an increase in adverse hereditary conditions, to the detriment of the dogs, pet owners and the business itself.
- And guess what? A humane society or local animal control authority is exempt irrespective of the fact they adopt out animals for a “donation” (fee) and sometimes sell pet supplies – often tax free!
- **PIJAC will update its website with any change in status for all of these bills, as well as recommendations for future action. Visit the site at [www.pijac.org](http://www.pijac.org) for additional information.**
- Should you have any further questions, you may also contact PIJAC’s by phone at 202-452-1525 or by email at [info@pijac.org](mailto:info@pijac.org).

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## Not Yet a PIJAC Member?

For more than thirty-five years, the Pet Industry Joint Advisory Council (PIJAC) has ensured the prosperity of the pet industry. To learn more about PIJAC, please visit our website at [www.pijac.org](http://www.pijac.org). For further information, please send an e-mail to [Members@pijac.org](mailto:Members@pijac.org) or phone 1-800-553-PETS (1-800-553-7387).

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STATE OF TEXAS

By: Thompson

H.B. No. 3180

A BILL TO BE ENTITLED

AN ACT

Relating to the licensing and regulation of commercial dog and cat breeders and the regulation of dog and cat dealers; 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 AND DEALERS

SUBCHAPTER A. GENERAL PROVISIONS

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

Sec. 802.002. DEFINITIONS. In this chapter:

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

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

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

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

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

(6) "Commercial 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.

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

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

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

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

(11) "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.

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

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

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

(13) "Hobby breeder" means a person who possesses fewer than 11 adult intact female animals and is engaged in the business of breeding animals for direct sale or for exchange in return for consideration.

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

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

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

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

(18) "Local animal control authority" 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.

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

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

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

[Sections 802.004-802.050 reserved for expansion]

#### SUBCHAPTER B. POWERS AND DUTIES OF DEPARTMENT

Sec. 802.051. GENERAL POWERS AND DUTIES; RULES. The department shall administer this chapter and adopt and enforce the rules necessary to administer this chapter, including rules to establish qualifications required

for licensing under this chapter as necessary to protect the public health and safety.

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

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

(b) 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. (a) On receipt of an application for a license under this chapter, the department shall conduct a criminal background check on the applicant. The department may examine any criminal conviction, guilty plea, or deferred adjudication of an applicant for issuance or renewal of a license, including by obtaining any criminal history or record permitted by law.

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

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

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

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

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

(b) 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. The inspection report must list separately each rule or standard established by the department under Subchapter F, and the inspector shall document whether the facility complies with each rule or standard. The inspection report must document the animal inventory on the date of the inspection.

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

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

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

Sec. 802.060. 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.

[Sections 802.061-802.100 reserved for expansion]

SUBCHAPTER C. DOG AND CAT BREEDERS ADVISORY COMMITTEE

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

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

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

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

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

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

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

Sec. 802.102. TERMS; VACANCY. (a) Appointed advisory committee members serve staggered four-year terms. The terms of three or four appointed members expire on February 1 of each odd-numbered year.

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

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

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

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

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

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

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

- (1) is required to be licensed under this chapter;
- (2) is employed by or participates in the management of a business entity or other organization required to be licensed under this chapter;
- (3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization required to be licensed under this chapter; or
- (4) is an attorney, lobbyist, or veterinarian employed by or under a service contract with a person required to be licensed under this chapter.

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

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

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

- (1) the purpose, role, responsibility, and goals of the advisory committee;
- (2) the qualifications required for members of the advisory committee;
- (3) the appointment process for the advisory committee;
- (4) the process for removing a member of the advisory committee; and
- (5) a requirement that the advisory committee comply with Chapter 551, Government Code.

Sec. 802.109. VOTE REQUIRED FOR ACTION. A decision of the advisory committee is not effective unless it receives the affirmative vote of at least a majority of the members present.

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

[Sections 802.111-802.150 reserved for expansion]

#### SUBCHAPTER D. LICENSING OF COMMERCIAL BREEDERS

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

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

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

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

- (1) submit to the department a completed application on a form prescribed by the department;
- (2) submit to the department any other information required by department rule;

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

(4) pay the application fee.

(b) A license application must include:

(1) a place for the applicant to:

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

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

(2) a signed statement on:

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

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

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

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

(c) An application from a partnership, corporation, or limited liability company must include:

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

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

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

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

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

(c) The department may not issue a commercial breeder license until the department receives an initial prelicense inspection certificate signed by 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.

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

Sec. 802.154. ISSUANCE. The department shall issue a commercial breeder license to each commercial breeder 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. 802.155. TERM. A license issued under this subchapter 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 subchapter.

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

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

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

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

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

(5) was an owner, partner, director, officer, member, manager, agent, family member, affiliate, or employee of a commercial breeder whose license was revoked or suspended and was responsible for or participated in the violation that resulted in a revocation or suspension that is still in effect.

Sec. 802.157. 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 before the expiration date on the license;

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

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

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

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

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

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

(f) A license renewal application by a person licensed by the United States Department of Agriculture under the federal Animal Welfare Act (7 U.S.C. Section 2131 et seq.) must be accompanied by all United States Department

of Agriculture inspection reports and records for the licensed facility during the preceding 12 months.

[Sections 802.158-802.200 reserved for expansion]

SUBCHAPTER E. PRACTICE BY LICENSE HOLDER

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

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

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

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

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

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

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

(A) died; or

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

(3) any other information required by the department.

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

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

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

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

(b) The log must include:

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

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

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

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

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

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

(A) the date of the inoculation, medication, or treatment;

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

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

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

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

[Sections 802.207-802.250 reserved for expansion]

#### SUBCHAPTER F. STANDARDS OF CARE AND CONFINEMENT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The standards must prohibit:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) adequate staffing; and

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

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

Sec. 802.259. ADDITIONAL STANDARDS. The department may establish any additional standards considered necessary to protect the public health and the welfare of animals covered under this chapter.

[Sections 802.260-802.300 reserved for expansion]

#### SUBCHAPTER G. RETAIL SALES OF DOGS AND CATS

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

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

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

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

(4) the date the dealer received the animal;

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

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

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

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

(b) The written disclosure must include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) exchange of the animal with a health problem for another animal of the purchaser's choice of equivalent value, providing a replacement is available; or

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

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

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

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

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

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

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

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

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

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

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

Sec. 802.308. CONTEST OF RELIEF; CIVIL ACTION. (a) A dealer seeking to contest a demand for relief specified in Section 802.303 or 802.305 may require the retail purchaser to produce the animal for examination or necropsy by a veterinarian designated by the dealer. The dealer shall pay the cost of the examination or necropsy.

The dealer has a right of recovery against the purchaser if the dealer is not obligated to provide a remedy under Section 802.305.

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

Sec. 802.309. POSTING OF PURCHASER RIGHTS NOTICE. Each dealer shall post in a prominent location in the dealer's facility a notice, in 48-point boldfaced type, that states the following: "Information is available on each dog or cat sold by this establishment. You are entitled to a statement of purchaser rights related to the sale of a dog or cat by this establishment. Please ensure that you receive this statement at the time you purchase a dog or cat."

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

(b) The statement of purchaser rights must be in 16-point boldfaced type as follows: "STATEMENT OF TEXAS LAW GOVERNING SALE OF DOGS AND CATS: The sale of dogs and cats is subject to consumer protection regulations. Texas law also provides safeguards to protect dealers and animal purchasers. Attached is a copy of Subchapter G, Chapter 802, Occupations Code. Contained in this law is a statement of your purchaser rights. These rights are not your exclusive rights and do not limit the rights or remedies available to you as a purchaser under any other law."

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

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

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

[Sections 802.312-802.350 reserved for expansion]

#### SUBCHAPTER H. DISCIPLINARY ACTION

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

- (1) a violation of this chapter or a rule adopted under this chapter;
- (2) failure to comply with a sanction;
- (3) failure to pay a civil penalty;
- (4) failure to meet a standard of care adopted by the department under Subchapter F;
- (5) failure to comply with any corrective action required under an inspection report in the time provided by the report;
- (6) falsification of information requested by the department;
- (7) the denial, revocation, or suspension of a similar license by another federal, state, or local authority; or
- (8) conviction of cruelty to animals under the laws of this state or any other jurisdiction by a commercial breeder

or any owner, partner, director, officer, member, manager, employee, or agent of a commercial breeder.

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

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

Sec. 802.352. RIGHT TO HEARING; ADMINISTRATIVE PROCEDURE. (a) A license holder or applicant for a commercial breeder license is entitled to a hearing conducted by the State Office of Administrative Hearings if the department proposes to deny, suspend, or revoke a license.

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

Sec. 802.353. ENFORCEMENT PROCEEDINGS; INJUNCTION. (a) The department, the attorney general, or the district, county, or city attorney for the county or municipality in which a facility is located may bring an appropriate administrative or judicial proceeding to enforce this chapter or any rule adopted under this chapter.

(b) The department, the attorney general, or the district, county, or city attorney for the county or municipality in which a facility is located may initiate an action for an injunction to prohibit a person from violating this chapter or any rule adopted under this chapter.

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

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

(1) the seriousness of the violation;

(2) the history of previous violations;

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

(4) any other matter that justice may require.

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

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

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

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

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

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

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

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

- (1) three members for terms expiring February 1, 2011; and
- (2) three members for terms expiring February 1, 2013.

SECTION 4. Not later than June 1, 2010, the Department 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 5 of this Act.

SECTION 5. 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, 2010; or
- (2) comply with the standards adopted under Subchapter F, Chapter 802, Occupations Code, as added by this Act, before September 1, 2010.

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

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

SECTION 7. 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, 2009.