

As Engrossed: 3/12/91, 3/14/91, 3/15/91

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Senators Pagan and Scott**

A Bill

SENATE BILL 696

For An Act To Be Entitled

8 "AN ACT TO PROTECT CONSUMERS AND TO SAFEGUARD THE PUBLIC
9 HEALTH BY REQUIRING RETAIL PET STORES TO OFFER APPROPRIATE
10 GUARANTEES AND TO PROVIDE MANAGEMENT OF ANIMALS AND
11 FACILITIES CONSISTENT WITH THESE PURPOSES; AND FOR OTHER
12 PURPOSES."

13
14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

15
16 SECTION 1. TITLE.--

17 This subchapter may be cited as the "Arkansas Retail Pet Store Consumer
18 Protection Act of 1991".

19
20 SECTION 2. LEGISLATIVE INTENT.--

21 It is the purpose of this act is to require certain guarantees from
22 retail pet stores to the purchasers of dogs and cats, which are consistent
23 with their unique status as companions rather than commodities. A further
24 purpose is to provide a means by which it can be insured that the treatment,
25 care, and disposition of those animals is humane and that said treatment,
26 care, and disposition is consistent with providing to the retail consumer
27 animals which are physically and temperamentally sound, healthy, and fit as
28 companions; to provide a means by which the acquisition and care of those
29 animals can be monitored; and to insure that the animals and facilities are
30 managed in a manner non-injurious to the public health. Therefore, it is
31 hereby determined and declared that the supervision by the State of the sale
32 of dogs and cats by retail pet stores, and the inspection of such animals,
33 whether or not found within the public area of the store, is within the public
34 interest.

35

1 SECTION 3. DEFINITIONS.--

2 For the purposes of this act,

3 (a) "Animal" means a dog or cat of any age.

4 (b) "Authorized person" means the Director of the State Department of
5 Health or his delegate, or any law enforcement officer.

6 (c) "Cattery" means an enterprise wherein or whereon the business of
7 grooming or boarding cats, or breeding cats for sale, and selling such cats,
8 is carried on, and which does not in its usual course of business acquire cats
9 for resale to the public.

10 (d) "Consumer" means any individual purchasing an animal from a retail
11 pet store. A retail pet store shall not be considered a consumer.

12 (e) "D.V.M." means a person who has graduated from an accredited
13 school of veterinary medicine or has received equivalent formal education, and
14 who has a valid license to practice veterinary medicine within the State of
15 Arkansas.

16 (f) "Director" means the Director of the State Department of Health.

17 (g) "Euthanasia" means the humane killing of an animal accomplished by
18 a method that utilizes anesthesia produced by an agent that causes painless
19 loss of consciousness and subsequent death, and administered by a licensed
20 veterinarian or a euthanasia technician licensed by the Drug Enforcement
21 Administration and certified by the State Department of Health.

22 (h) "Kennel" means an enterprise wherein or whereon the business of
23 grooming or boarding dogs, or breeding dogs for sale, and selling such dogs,
24 is carried on, and which does not in its usual course of business acquire dogs
25 for resale to the public.

26 (i) "Person" means any individual, partnership, firm, joint stock
27 company, corporation, association, trust, estate, or other legal entity.

28 (j) "Records" of a retail pet store means:

29 (1) the permanent record of each animal's health history showing
30 the animal's vaccinations, inoculations, wormings, and other veterinary
31 medical procedures performed on that animal; and

32 (2) the permanent journal giving a perpetual, sequential listing
33 of animals which are kept at the retail pet store for thirty (30) days or
34 longer. Such journal shall contain the animal's identifying number, arrival
35 date, exit date and disposition.

36 (k) "Retail pet store" means any room or group of rooms, run, cage,

1 compartment, exhibition pen, or tether, any part of which is within the State
2 of Arkansas, wherein any animal is sold or kept, displayed, or offered for
3 sale, to the public. It excludes kennels and catteries which sell animals
4 directly to a consumer. Also excluded are duly authorized animal shelters and
5 duly incorporated humane societies dedicated to the care of unwanted animals
6 which make such animals available for adoption, whether or not a fee for such
7 adoption is charged. As used in this act, the term "retail pet store"
8 includes its owner(s), officers, agents, operators, managers, and employees,
9 and refers to any such enterprise whether in fact registered or not.

10

11 SECTION 4. REGISTRATION.--

12 (a) Any person who owns, operates, or establishes a retail pet store
13 within the State of Arkansas shall register, by reporting in writing to the
14 Director, the name of the retail pet store; the location of each housing
15 facility for animals owned by it, or in its care, custody or control; the name
16 and address of its principal agent; and date its operation began. Said Report
17 shall reflect the name and position of the individual under whose direction it
18 is prepared, and shall be made under oath before a notary public.

19 (b) Each registration shall be valid for a period of one year. On or
20 before the anniversary date of the original registration, re-registration
21 shall be required; except that if at any time prior to the required re-
22 registration date the information originally reported to the Director changes
23 or requires additions, that fact shall be reported to the Director without
24 delay.

25 (c) (1) A retail pet store in operation on or before the effective
26 date of this act shall register within 90 days after said effective date.

27 (2) A retail pet store which begins operation within 90 days
28 after the effective date of this act shall register within 30 days after the
29 beginning of operation.

30 (3) A retail pet store which begins operation subsequent to 90
31 days after the effective date of this act shall register at least 30 days
32 prior to the beginning of operation.

33 (4) The date of the first acquisition of an animal for retail
34 sale shall be deemed the date on which the operation begins.

35 (d) A fee of \$100.00 shall accompany the initial registration, and a

1 fee of \$50.00 shall accompany each subsequent re-registration. No fee shall
2 be required for interim Reports of Change or Addition.

3 (e) Each instance of failure to register or report as required by this
4 act is a Class A misdemeanor.

5 (f) The Director shall maintain a list of Registered Retail Pet Stores
6 containing all information reported with the initial registration, including
7 the date thereof, and the dates and information provided with all subsequent
8 amendments and re-registrations. The Director shall make said list of
9 Registered Retail Pet Stores available to the public, upon request, at no
10 charge.

11

12 SECTION 5. CONSUMER GUARANTEES.--

13 (a) A retail pet store shall provide to the consumer at the time of
14 sale of an animal a written notice, printed or typed, setting forth the rights
15 provided in subsection (b) of this section. Such Notice of Rights shall have
16 added to it by the retail pet store the animal's identifying number; a
17 description of the animal, including its breed, sex, and color; date of sale;
18 the name, address, and telephone number of the consumer; and the sales price
19 of the animal. Said Notice may be contained in a written contract, an animal
20 history certificate or a separate document, provided such Notice is in ten-
21 point boldface type. The retail pet store shall certify such information by
22 signing the document in which it is contained.

23 (b) If, within ten days following the sale of an animal subject to
24 this act, a licensed veterinarian of the consumer's choosing certifies such
25 animal to be unfit for purchase due to illness, a congenital malformation
26 which adversely affects the health of the animal, or the presence of symptoms
27 of a contagious or infectious disease, the retail pet store, in addition to
28 any other warranty, shall afford the consumer the right to retain the animal
29 and to receive reimbursement from the retail pet store for veterinary services
30 from a licensed veterinarian of the consumer's choosing, for the purpose of
31 curing or attempting to cure the animal. The reasonable value of reimbursable
32 services rendered to cure or attempting to cure the animal shall not exceed
33 the purchase price of the animal. The value of such services is reasonable if
34 comparable to the value of similar services rendered by other licensed
35 veterinarians in proximity to the treating veterinarian. Such reimbursement

1 shall not include the costs of initial veterinary examination fees and
2 diagnostic fees not directly related to the veterinarian's certification that
3 the animal is unfit for purchase pursuant to this section.

4 (c) The certification that an animal is unfit for purchase, which
5 shall be provided by an examining veterinarian to a consumer upon the
6 examination of an animal subject to the provisions of this section shall
7 include, but not be limited to, information which identifies the type of
8 animal, its breed, sex, and color, the owner, the date and diagnosis of the
9 animal, the treatment recommended if any, and an estimate or the actual cost
10 of such treatment. Such form shall also include the Notice prescribed in
11 subsection (a) of this section.

12 (d) The reimbursement required by subsection (b) of this section shall
13 be made by the retail pet store not later than ten business days following
14 receipt of a signed veterinary certification as herein required. Such
15 certification shall be presented to the retail pet store not later than three
16 business days following receipt thereof by the consumer.

17 (e) A veterinary finding of intestinal parasites shall not be grounds
18 for declaring the animal unfit for sale unless the animal is clinically ill
19 due to such condition. An animal may not be found unfit for sale on account
20 of an injury sustained or illness contracted subsequent to the consumer taking
21 possession thereof.

22 (f) In the event that a retail pet store wishes to contest a demand
23 for reimbursement made by a consumer pursuant to this section, such retail pet
24 store shall have the right to require the consumer to produce the animal for
25 examination by a licensed veterinarian designated by such retail pet store.
26 Upon such examination, if the consumer and the retail pet store are unable to
27 reach an agreement within ten business days following receipt of the animal
28 for such examination, the consumer may initiate an action in a court of
29 competent jurisdiction to recover or obtain such reimbursement.

30 (g) Nothing in this section shall be construed in any way to limit the
31 rights or remedies which are otherwise available to a consumer under any law.

32

33 SECTION 6. PUBLIC HEALTH.--

34 The State Board of Health may propose, adopt, promulgate, and enforce,
35 in accordance with the Administrative Procedures Act, § 25-15-201 et seq.,

1 such additional rules, regulations, and standards as may be necessary to carry
2 out the intent of this act.

3

4 SECTION 7. DISPOSITION OF ANIMALS.--

5 (a) It is unlawful for a retail pet store to knowingly give, sell,
6 exchange, barter or otherwise transfer an animal to any other person if the
7 ultimate destination of the animal is research or killing for dissection.

8 (b) It is unlawful for a retail pet store to kill any animal in its
9 care, custody, or control without a prior written or oral recommendation from
10 a D.V.M. citing the animal's interest justifying the killing of the animal.

11 (c) It is unlawful for a retail pet store, its owner(s), officers,
12 agents, operator, manager, or employees, or any other person, to kill any
13 animal in its care, custody, or control by any means other than euthanasia as
14 defined in section 3 hereof.

15 (d) Violations of this act or regulations promulgated hereunder shall
16 constitute Class A misdemeanors.

17

18 SECTION 8. INSPECTION.--

19 (a) Any authorized person is entitled to inspect the premises and
20 records of a retail pet store at reasonable hours.

21 (b) Retail pet stores shall make their premises available for
22 inspection by authorized persons at reasonable hours.

23 (c) Each failure to make premises or records available to an
24 authorized person whose identity is made known to an owner, officer, agent,
25 operator, manager, or employee of a retail pet store is a Class A misdemeanor.

26 (d) Every retail pet store required to be registered shall post a
27 Public Notice on each of its premises, in type not less than one inch in
28 height, in a location conspicuous to the public, that complaints regarding
29 treatment or care of its animals may be made to the State Board of Health, or
30 to any law enforcement officer. Said Public Notice shall refer to this act, as
31 codified. Failure to post such Public Notice is a Class A misdemeanor.

32 (e) Within 30 days of the receipt by the Director of an initial
33 registration Report, and the receipt of proper fees therefor, the Director
34 shall provide a Public Notice conforming with subsection (f) hereof to the
35 registrant. Additional Public Notices for multiple locations, and

1 replacements of Notices already provided, may be obtained from the Director
2 upon the payment of a fee of \$10.00 for each additional Public Notice.

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4 SECTION 9. All provisions of this act of a general and permanent nature
5 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
6 Revision Commission shall incorporate the same in the Code.

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8 SECTION 10. Nothing in this act shall be construed to prevent or limit
9 the application of any other law.

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11 SECTION 11. If any provision of this act or the application thereof to
12 any person or circumstance is held invalid, such invalidity shall not affect
13 other provisions or applications of the act which can be given effect without
14 the invalid provision or application, and to this end the provisions of this
15 act are declared to be severable.

16

17 SECTION 12. EMERGENCY. It is hereby found and declared that abuses
18 exist within the pet store industry regarding selling sick and injured animals
19 to the public; failing to provide consumer guarantees for these animals
20 consistent with their status as companions; failing to provide appropriate
21 time for the animals outside of cages for healthful exercise and
22 socialization; failing to provide proper veterinary care; maintaining
23 unsanitary and otherwise unhealthful conditions; and inhumane methods of
24 killing sick and unwanted animals, and animals returned for failure of
25 guarantee; that this act is designed to minimize or eliminate such abuses and
26 should be given effect immediately. Therefore, an emergency is hereby
27 declared to exist, and this act being necessary for the immediate preservation
28 of the public peace, health, safety and welfare, shall be in full force and
29 effect from and after the date of its passage and approval.

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/s/Pagan, et al

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