

1 INTERIM STUDY PROPOSAL 2015-027

2 State of Arkansas

*As Engrossed: H3/19/15*

3 90th General Assembly

# A Bill

4 Regular Session, 2015

HOUSE BILL 1620

5  
6 By: Representative Sorvillo

7 Filed with: House Committee on Agriculture, Forestry, and Economic Development  
8 pursuant to A.C.A. §10-3-217.

## For An Act To Be Entitled

9  
10 AN ACT TO REGULATE THE BREEDING OF CERTAIN ANIMALS;  
11 TO CREATE THE ARKANSAS COMMERCIAL BREEDING KENNEL ACT  
12 OF 2015; TO CREATE THE ARKANSAS COMMERCIAL BREEDING  
13 KENNEL FUND; AND FOR OTHER PURPOSES.  
14  
15

## Subtitle

16  
17 *TO REGULATE THE BREEDING OF CERTAIN*  
18 *ANIMALS; AND TO CREATE THE ARKANSAS*  
19 *COMMERCIAL BREEDING KENNEL ACT OF 2015.*  
20  
21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
23

24 *SECTION 1. Arkansas Code Title 20, Chapter 19, is amended to add an*  
25 *additional subchapter to read as follows:*

26 *Subchapter 7 – Arkansas Commercial Breeding Kennel Act of 2015*

27  
28 *20-19-701. Title.*

29 *This subchapter shall be known and may be cited as the “Arkansas*  
30 *Commercial Breeding Kennel Act of 2015”.*  
31

32 *20-19-702. Legislative findings and intent.*

33 *(a) The General Assembly finds that:*

34 *(1) A commercial breeding kennel is entrusted with the*  
35 *treatment, care, and disposition of dogs sold for commercial purposes; and*

1           (2) The treatment, care, and disposition of dogs by commercial  
2 breeding kennels is unfortunately inconsistent and may be harmful to animals.

3           (b) It is the intent of the General Assembly:

4           (1) To require the licensing of commercial breeding kennels and  
5 of dogs sold for commercial purposes to ensure humane treatment and care;

6           (2) To increase the standards for commercial breeding kennels;

7           (3) To provide consistency for the treatment, care, and  
8 disposition of dogs to ensure that the dogs are physically and  
9 temperamentally sound, healthy, and fit as companions for wholesale and  
10 retail consumers;

11           (4) To provide the means by which the standards for the  
12 acquisition and care of dogs can be improved through the licensing of  
13 commercial dog breeders; and

14           (5) To ensure that commercial breeding kennels are managed in a  
15 safe and healthy manner to prevent a health risk to the public.

16  
17           20-19-703. Definitions.

18           As used in this subchapter:

19           (1) "Adequate rest between breeding cycles" means that female  
20 dogs are not bred to produce more than two (2) litters in an eighteen-month  
21 period;

22           (2) "Authorized person" means the Department of Health, its  
23 delegate, or a law enforcement officer;

24           (3)(A) "Commercial breeding kennel" means a kennel:

25                   (i) In which the business of breeding covered dogs  
26 for the purpose of selling the offspring as pets is carried on; and

27                   (ii) That has at least ten (10) female covered dogs  
28 that are maintained for the purpose of breeding offspring to sell as pets.

29           (B) "Commercial breeding kennel" includes without  
30 limitation:

31                   (i) The owners, officers, agents, operators,  
32 managers, and employees of the kennel; and

33                   (ii) A kennel that is not registered.

34           (C) "Commercial breeding kennel" does not include:

35                   (i) A kennel that is maintained solely for grooming  
36 or boarding purposes; or

1                    (ii) An animal shelter or humane society dedicated  
2 to the care of unwanted animals that are made available for adoption  
3 regardless of whether an adoption fee is charged;

4                    (4)(A) "Covered dog" means a member of the species of the  
5 domestic dog, Canis lupus familiaris, or resultant hybrids, that is over the  
6 age of six (6) months and has intact sexual organs.

7                    (B) "Covered dog" does not include a:

8                    (i) Hunting dog;

9                    (ii) Greyhound racing dog;

10                   (iii) Livestock guardian dog that is bred for the  
11 purpose of protecting livestock from predators;

12                   (iv) Dog that is a member of a herding breed that  
13 has the ability to control the movement of other animals; or

14                   (v) Dog that is a member of a working breed that is  
15 bred to perform certain jobs, such as guarding property, pulling sleds, or  
16 performing water rescues;

17                   (5) "Hunting dog" means a dog sold for the express purpose of  
18 use in commonly accepted hunting activities;

19                   (6) "Necessary veterinary care" means:

20                   (A) Hands-on, physical examination and prompt treatment of  
21 a dog for any serious illness or injury by a licensed veterinarian; and

22                   (B) When necessary, humane euthanasia by a licensed  
23 veterinarian using lawful techniques generally practiced by licensed  
24 veterinarians;

25                   (7) "Person" means an individual, partnership, firm, joint-stock  
26 company, corporation, association, trust, estate, or other legal entity;

27                   (8) "Sufficient food and clean water" means:

28                   (A) Access to appropriate nutritious food at least one (1)  
29 time a day that is sufficient to maintain good health; and

30                   (B) Continuous access to potable water that is:

31                   (i) Not frozen; and

32                   (ii) Of sufficient and appropriate quantity and  
33 quality;

34                   (9) "Sufficient grooming" means basic grooming for each dog as  
35 necessary to prevent conditions that can hamper the dog's ability to maintain  
36 its health and cleanliness; and

1           (10) "Sufficient housing, including protection from the  
2 elements" means constant and unfettered access to an enclosure that:

3                   (A) Has a solid floor;

4                   (B) Is cleaned of waste at least one (1) time a day while  
5 the dog is outside the enclosure; and

6                   (C) Does not subject a dog to temperatures that would  
7 compromise the dog's health.

8  
9           20-19-704. Registration – Renewal of registration.

10           (a) Beginning January 1, 2016, a person who owns, operates, or  
11 establishes a commercial breeding kennel within the State of Arkansas shall  
12 register as required under this subchapter.

13           (b)(1) Registration is valid for a period of one (1) year from the  
14 date of issuance.

15           (2) Renewal of registration is required on or before the  
16 anniversary of the original date of registration.

17           (c) If the information originally reported in an application, except  
18 the number of covered dogs, changes before the date a commercial breeding  
19 kennel is required to renew its registration, the change shall be reported to  
20 the Department of Health within thirty (30) days of the change.

21  
22           20-19-705. Application.

23           (a) To register as a commercial breeding kennel, a person shall submit  
24 an application to the Department of Health on the form required by the  
25 Department of Health.

26           (b) The application shall include the following:

27                   (1) The name of the commercial breeding kennel;

28                   (2) The location of each housing facility for animals that are  
29 owned by the commercial breeding kennel or that are in its care, custody, or  
30 control;

31                   (3) The name and address of the commercial breeding kennel's  
32 principal agent;

33                   (4) The date that the commercial breeding kennel's operation  
34 began;

1           (5) The number of covered dogs kept for the purpose of breeding  
2 and selling any offspring as pets, including the breed and age of each  
3 covered dog;

4           (6) The applicant's tax identification number issued by the  
5 Department of Finance and Administration or, if a tax identification number  
6 is not available, the applicant's Social Security number;

7           (7) The name of each licensed veterinarian with whom the  
8 commercial breeding kennel contracts for services; and

9           (8) Any other information or documentation required by the  
10 Department of Health.

11           (c) The application shall reflect the name and position of the  
12 individual under whose direction it is prepared and shall be made under oath  
13 before a notary public.

14           (d) Upon receipt of a properly completed application, the Department  
15 of Health shall issue a registration number to the applicant.

16           (e) The Department of Health shall maintain a list of commercial  
17 breeding kennels, including all information reported with the initial  
18 registration, the date of registration, and the dates and information  
19 provided with each subsequent amendment and renewal of registration.

20  
21           20-19-706. Fees.

22           (a) A fee of two hundred fifty dollars (\$250) shall be submitted with  
23 the initial registration and each renewal of registration.

24           (b) A fee of one hundred dollars (\$100) shall be paid to offset the  
25 costs of an inspection conducted under this subchapter.

26  
27           20-19-707. Standards of care.

28           A commercial breeding kennel shall provide each dog in the kennel's  
29 care:

30           (1) Sufficient food and clean water;

31           (2) Necessary veterinary care;

32           (3) Sufficient grooming;

33           (4) Sufficient housing, including protection from the elements;

34           (5) Regular exercise; and

35           (6) Adequate rest between breeding cycles.

36

1           20-19-708. Inspection.

2           (a)(1) An authorized person shall inspect the records of and any  
3 physical premises of each commercial breeding kennel upon receipt of a  
4 credible complaint against the commercial breeding kennel.

5           (2) The inspection required under this section shall be  
6 conducted during reasonable hours, and a representative of the commercial  
7 breeding kennel may be present during the inspection.

8           (3) Upon request by the person conducting the inspection, a  
9 representative of the commercial breeding kennel shall provide assistance in  
10 making the inspection.

11           (b) If the person conducting the inspection finds evidence of animal  
12 cruelty, neglect, or abuse, the person conducting the inspection shall notify  
13 the local law enforcement agency in writing as soon as possible but no later  
14 than twenty-four (24) hours from the time the person finds evidence of animal  
15 cruelty, neglect, or abuse.

16           (c) If an inspection under this section reveals inhumane conditions at  
17 a commercial breeding kennel, the commercial breeding kennel's registration  
18 shall be revoked and the commercial breeding kennel's operations shall cease  
19 immediately until a hearing has been held on the revocation under the  
20 Arkansas Administrative Procedure Act, § 25-15-201 et seq.

21           (d) An inspection report under this section shall be made available to  
22 the public upon request under the Freedom of Information Act of 1967, § 25-  
23 19-101 et seq.

24  
25           20-19-709. Notice requirement.

26           (a) A commercial breeding kennel required to be registered under this  
27 subchapter shall post a public notice on each of its premises or sales venues  
28 that complaints regarding treatment or care of its animals may be made to the  
29 Department of Health or to any law enforcement officer.

30           (b) The public notice required under this section shall cite this  
31 subchapter and include the commercial breeding kennel's registration number.

32           (c)(1) The public notices posted on physical premises under this  
33 section shall be in type not less than one inch (1") in height and placed in  
34 a location conspicuous to the public.

1           (2) The department shall provide the public notice that is  
2 required to be posted on each commercial breeding kennel's premises under  
3 this section.

4  
5           20-19-710. Penalties.

6           (a)(1) In addition to any other civil or criminal penalty provided by  
7 law, whenever the Department of Health, after a hearing conducted in  
8 accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et  
9 seq., determines that a person has violated this subchapter or rules  
10 promulgated under this subchapter, the department may impose a civil penalty  
11 of up to one hundred dollars (\$100) for each violation.

12           (2)(A) Each violation of this subchapter is a separate offense.

13                   (B) However, civil penalties may not exceed one thousand  
14 dollars (\$1,000) for the total of offenses recorded within a twenty-four-hour  
15 period.

16           (b)(1) If a person against whom a civil penalty has been imposed by  
17 the department fails to pay the penalty, the department may file an action in  
18 circuit court of the jurisdiction in which the violations are alleged to have  
19 occurred to collect the civil penalty.

20           (2) If the department prevails in the action, the court may  
21 award reasonable attorney's fees and costs incurred by the department in  
22 prosecuting the action.

23           (c) This section does not supersede or limit the application of other  
24 local, state, or federal law regarding animal cruelty or the humane treatment  
25 of animals.

26  
27           20-19-711. Uncorrected violations – Canine cruelty.

28           (a)(1) If the Department of Health finds past violations of this  
29 subchapter have occurred and have not been corrected or addressed, the  
30 department may request the Attorney General or the county prosecuting  
31 attorney to bring an action in circuit court in the county in which the  
32 violations have occurred for a temporary restraining order, preliminary  
33 injunction, permanent injunction, or a remedial order enforceable in a  
34 circuit court to address the violations, and the court may impose a civil  
35 penalty in an amount up to one thousand dollars (\$1,000) for each violation.

36           (2) Each violation shall constitute a separate offense.

1 (b)(1) A person commits the crime of canine cruelty if the person:

2 (A) Repeatedly and knowingly violates this subchapter so  
3 as to pose a substantial risk to the health and welfare of dogs in the  
4 person's custody; or

5 (B) Knowingly violates an agreed-to remedial order  
6 involving the safety and welfare of dogs under this section.

7 (2) A person who pleads guilty or nolo contendere or is found  
8 guilty of canine cruelty is guilty of an unclassified misdemeanor and shall  
9 be either:

10 (A) Imprisoned for at least one (1) day and no more than  
11 one (1) year in jail; or

12 (B) Ordered to complete community service.

13 (3) However, if the person has previously pleaded guilty or nolo  
14 contendere or been found guilty of canine cruelty, the person upon conviction  
15 is guilty of an unclassified misdemeanor and shall be imprisoned for at least  
16 ninety (90) days and no more than one (1) year in jail.

17 (c) The Attorney General or the county prosecuting attorney may bring  
18 an action under this section in the circuit court in the county in which the  
19 crime has occurred for criminal punishment.

20 (d) An action under this section shall not prevent or preclude the  
21 application of other applicable civil or criminal penalties.

22  
23 20-19-712. Disposition of funds.

24 Fees and funds received under § 20-19-710 shall be deposited as special  
25 revenues into the Arkansas Commercial Breeding Kennel Fund to be used by the  
26 Department of Health for the administration of this subchapter.

27  
28 20-19-713. Denial, revocation, and suspension of registration.

29 (a) The Department of Health shall deny, revoke, or refuse to renew  
30 registration to a commercial breeding kennel if the commercial breeding  
31 kennel or an owner, operator, or agent of the commercial breeding kennel has  
32 pleaded guilty or nolo contendere to, been convicted of, or received deferred  
33 adjudication for animal cruelty, neglect, or abuse in this state or any other  
34 jurisdiction within five (5) years of the commercial breeding kennel's  
35 initial or renewal application.



1           (b) The department may deny, suspend, revoke, or refuse to renew  
2 registration to a person who has:

3                   (1) Failed to meet the requirements of and qualifications  
4 required by this subchapter;

5                   (2) Had a similar registration or license by a federal, state,  
6 or local authority denied, revoked, or suspended;

7                   (3) Falsified any material information requested by the  
8 department; or

9                   (4) Failed to comply with any corrective action required by an  
10 inspection report within the time provided in the report.

11  
12           20-19-714. Construction – Application.

13           (a) This subchapter is supplemental to and does not replace other  
14 state and federal laws that protect animal welfare.

15           (b) This subchapter does not:

16                   (1) Limit state law or rules protecting the welfare of animals;  
17 or

18                   (2) Prevent a local governing body from adopting and enforcing  
19 its own animal welfare laws and regulations in addition to this subchapter.

20           (c) This subchapter does not apply to:

21                   (1) A retail pet store;

22                   (2) An animal shelter or humane society;

23                   (3) A dog trainer who does not breed and sell dogs for use as  
24 pets;

25                   (4) A person who breeds and sells hunting dogs; or

26                   (5) A dog during the following:

27                           (A) Individual treatment for veterinary purposes;

28                           (B) Lawful scientific research;

29                           (C) Transportation;

30                           (D) Grooming;

31                           (E) Cleaning of the dog's enclosure; or

32                           (F) An emergency that places the dog's life in imminent  
33 danger.

34  
35           20-19-715. Rules.

1           The Department of Health shall promulgate rules necessary to implement  
2 and administer this subchapter.

3  
4           SECTION 2. Arkansas Code Title 19, Chapter 5, Subchapter 12, is  
5 amended to add an additional section to read as follows:

6           19-5-1255. Arkansas Commercial Breeding Kennel Fund.

7           (a) There is created on the books of the Treasurer of State, the  
8 Auditor of State, and the Chief Fiscal Officer of the State a miscellaneous  
9 fund to be known as the “Arkansas Commercial Breeding Kennel Fund”.

10          (b) The fund shall consist of:

11                  (1) Grants made by any person or federal government agency;

12                  (2) Fees and penalties collected under the Arkansas Commercial  
13 Breeding Kennel Act of 2015, § 20-19-701 et seq.; and

14                  (3) Any other funds authorized or provided by law.

15          (c) The fund shall be used by the Department of Health to administer  
16 the Arkansas Commercial Breeding Kennel Act of 2015, § 20-19-701 et seq.

17  
18    /s/Sorvillo

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21 Referred by the Arkansas House of Representatives

22 Prepared by: VJF

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