

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

A Bill

HOUSE BILL 1620

5 By: Representative Sorvillo
6

For An Act To Be Entitled

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

Subtitle

15 TO REGULATE THE BREEDING OF CERTAIN
16 ANIMALS; TO CREATE THE ARKANSAS
17 COMMERCIAL BREEDING KENNEL ACT OF 2015;
18 AND TO DECLARE AN EMERGENCY.
19
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21

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

24 SECTION 1. Arkansas Code Title 17, Chapter 101, is amended to add an
25 additional subchapter to read as follows:

26 Subchapter 4 – Arkansas Commercial Breeding Kennel Act of 2015

27
28 17-101-401. Title.

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

32 17-101-402. 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

36 (2) The treatment, care, and disposition of dogs by commercial



1 breeding kennels is unfortunately inconsistent and may be harmful to animals.

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

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

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

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

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

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

15
 16 17-101-403. Definitions.

17 As used in this subchapter:

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

21 (2) "Authorized person" means the Veterinary Medical Examining
 22 Board, its delegate, or a law enforcement officer;

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

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

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

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

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

32 (ii) A kennel that is not registered.

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

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

36 (ii) An animal shelter or humane society dedicated

1 to the care of unwanted animals that are made available for adoption
2 regardless of whether an adoption fee is charged;

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

6 (B) "Covered dog" does not include a hunting dog;

7 (5)(A) "Hunting dog" means a dog sold for the express purpose of
8 use in commonly accepted hunting activities.

9 (B) "Hunting dog" does not include a traditional hunting
10 breed of dog if the dog is sold as a household pet and not for the purpose of
11 commonly accepted hunting activities;

12 (6) "Necessary veterinary care" means:

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

15 (B) When necessary, humane euthanasia by a licensed
16 veterinarian using lawful techniques generally practiced by licensed
17 veterinarians;

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

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

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

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

24 (i) Not frozen; and

25 (ii) Of sufficient and appropriate quantity and
26 quality;

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

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

32 (A) Has a solid floor;

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

35 (C) Does not subject a dog to temperatures lower than
36 thirty-nine degrees Fahrenheit (39°F) or higher than eighty-six degrees

1 Fahrenheit (86°F).

3 17-101-404. Registration – Renewal of registration.

4 (a) Beginning ninety (90) days after the effective date of this act, a
 5 person who owns, operates, or establishes a commercial breeding kennel within
 6 the State of Arkansas shall register as required under this subchapter.

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

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

11 (c) If the information originally reported in an application, except
 12 the number of covered dogs, changes before the date a commercial breeding
 13 kennel is required to renew its registration, the change shall be reported to
 14 the Veterinary Medical Examining Board within thirty (30) days of the change.

16 17-101-405. Application.

17 (a) To register as a commercial breeding kennel, a person shall submit
 18 an application to the Veterinary Medical Examining Board on the form required
 19 by the board.

20 (b) The application shall include the following:

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

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

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

27 (4) The date that the commercial breeding kennel's operation
 28 began;

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

32 (6) The applicant's tax identification number issued by the
 33 Department of Finance and Administration;

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

36 (8) Any other information or documentation required by the

1 board.

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

5 (d) Upon receipt of a properly completed application, the board shall
6 issue a registration number to the applicant.

7 (e) The board shall maintain a list of commercial breeding kennels,
8 including all information reported with the initial registration, the date of
9 registration, and the dates and information provided with each subsequent
10 amendment and renewal of registration.

11
12 17-101-406. Fees.

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

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

17
18 17-101-407. Standards of care.

19 A commercial breeding kennel shall provide each dog in the kennel's
20 care:

21 (1) Sufficient food and clean water;

22 (2) Necessary veterinary care;

23 (3) Sufficient grooming;

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

25 (5) Regular exercise; and

26 (6) Adequate rest between breeding cycles.

27
28 17-101-408. Inspection.

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

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

35 (3) Upon request by the person conducting the inspection, a
36 representative of the commercial breeding kennel shall provide assistance in

1 making the inspection.

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

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

12 (d) An inspection report under this section shall be made available to
13 the public upon request under the Freedom of Information Act of 1967, § 25-
14 19-101 et seq.

15
16 17-101-409. Notice requirement.

17 (a) A commercial breeding kennel required to be registered under this
18 subchapter shall post a public notice on each of its premises or sales venues
19 and in its commercial advertisements that complaints regarding treatment or
20 care of its animals may be made to the Veterinary Medical Examining Board or
21 to any law enforcement officer.

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

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

27 (B) The Veterinary Medical Examining Board shall provide
28 the public notice that is required to be posted on each commercial breeding
29 kennel's premises under this section.

30 (2) The public notice included in a commercial advertisement
31 shall be easily readable.

32
33 17-101-410. Penalties.

34 (a) Each failure to register or report as required by this subchapter
35 is a Class A misdemeanor.

36 (b)(1)(A) In addition to any other civil or criminal penalty provided

1 by law, whenever the Veterinary Medical Examining Board, after a hearing
2 conducted in accordance with the Arkansas Administrative Procedure Act, § 25-
3 15-201 et seq., determines that a person has violated this subchapter or
4 rules promulgated under this subchapter, the board may impose a civil penalty
5 of up to one hundred dollars (\$100) for each violation.

6 (B)(i) Each violation of this subchapter is a separate
7 offense.

8 (ii) However, civil penalties may not exceed one
9 thousand dollars (\$1,000) for the total of offenses recorded within a twenty-
10 four-hour period.

11 (2)(A) If a person against whom a civil penalty has been imposed
12 by the board fails to pay the penalty, the board may file an action in
13 circuit court of the jurisdiction in which the violations are alleged to have
14 occurred to collect the civil penalty.

15 (B) If the board prevails in the action, the court may
16 award reasonable attorney's fees and costs incurred by the board in
17 prosecuting the action.

18 (3) This section does not supersede or limit the application of
19 other local, state, or federal law regarding animal cruelty or the humane
20 treatment of animals.

21
22 17-101-411. Uncorrected violations – Canine cruelty.

23 (a)(1) If the Veterinary Medical Examining Board finds past violations
24 of this subchapter have occurred and have not been corrected or addressed,
25 the board may request the Attorney General or the county prosecuting attorney
26 to bring an action in circuit court in the county in which the violations
27 have occurred for a temporary restraining order, preliminary injunction,
28 permanent injunction, or a remedial order enforceable in a circuit court to
29 address the violations, and the court may impose a civil penalty in an amount
30 up to one thousand dollars (\$1,000) for each violation.

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

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

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

36 (B) Knowingly violates an agreed-to remedial order

1 involving the safety and welfare of dogs under this section.

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

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

7 (B) Ordered to complete community service.

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

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

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

17
18 17-101-412. Disposition of funds.

19 Fees and funds received under § 17-101-410 shall be deposited as
20 special revenues into the Arkansas Commercial Breeding Kennel Fund to be used
21 by the Veterinary Medical Examining Board for the administration of this
22 subchapter.

23
24 17-101-413. Denial, revocation, and suspension of registration.

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

32 (b) The board may deny, suspend, revoke, or refuse to renew
33 registration to a person who has:

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

36 (2) Had a similar registration or license by a federal, state,

1 or local authority denied, revoked, or suspended;

2 (3) Falsified any material information requested by the
 3 Veterinary Medical Examining Board; or

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

6
 7 17-101-414. Construction – Application.

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

10 (b) This subchapter does not:

11 (1) Limit state law or rules protecting the welfare of animals;
 12 or

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

15 (c) This subchapter does not apply to:

- 16 (1) A retail pet store;
- 17 (2) An animal shelter or humane society;
- 18 (3) A dog trainer who does not breed and sell dogs for use as
 19 pets;

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

21 (5) A dog during the following:

- 22 (A) Individual treatment for veterinary purposes;
- 23 (B) Lawful scientific research;
- 24 (C) Transportation;
- 25 (D) Grooming;
- 26 (E) Cleaning of a dog’s enclosure; or
- 27 (F) An emergency that places a dog’s life in imminent
 28 danger.

29
 30 17-101-415. Rules.

31 The Veterinary Medical Examining Board shall promulgate rules necessary
 32 to implement and administer this subchapter.

33
 34 SECTION 2. Arkansas Code § 17-101-203, concerning the powers and
 35 duties of the Veterinary Medical Examining Board, is amended to add an
 36 additional subdivision to read as follows:

1 (12) Perform all powers and duties assigned to the board under
2 the Arkansas Commercial Breeding Kennel Act of 2015, § 17-101-401 et seq.

3
4 SECTION 3. 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, § 17-101-401 et seq.; and

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

15 (c) The fund shall be used by the Veterinary Medical Examining Board
16 to administer the Arkansas Commercial Breeding Kennel Act of 2015, § 17-101-
17 401 et seq.

18
19 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the
20 General Assembly of the State of Arkansas that the treatment, care, and
21 disposition of animals by commercial breeding kennels is inconsistent and may
22 be harmful to animals; that increased regulation of commercial breeding
23 kennels is necessary to protect the welfare of the animals in the care of
24 commercial breeding kennels and to protect consumers of these animals; and
25 that this act is immediately necessary because the need to protect the
26 animals and consumers of this state is imminent and it is essential that the
27 state immediately establish the procedures necessary to adequately register
28 commercial breeding kennels. Therefore, an emergency is declared to exist,
29 and this act being immediately necessary for the preservation of the public
30 peace, health, and safety shall become effective on:

31 (1) The date of its approval by the Governor;

32 (2) If the bill is neither approved nor vetoed by the Governor,
33 the expiration of the period of time during which the Governor may veto the
34 bill; or

35 (3) If the bill is vetoed by the Governor and the veto is
36 overridden, the date the last house overrides the veto.