

1 HB45
2 175105-2
3 By Representative Brown
4 RFD: Agriculture and Forestry
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8 SYNOPSIS: This bill would create the Alabama Dog and
9 Cat Breeders Commission and would give the
10 commission the authority to license dog or cat
11 breeders in this state.

12 This bill would exempt certain animals and
13 breeders under certain conditions.

14 This bill would authorize the commission, by
15 rule, to do all of the following: Set certain
16 standards for breeding and the minimum standard of
17 care for certain animals, perform inspections and
18 investigations on the facility of a dog or cat
19 breeder, set licensing requirements and fees,
20 require certain notifications to the commission and
21 to local law enforcement, perform criminal
22 background checks on applicants, contract with
23 third party inspectors, establish a breeders and
24 inspectors directory and a disciplinary database,
25 provide certain consumer interest information,
26 require breeders submit an annual inventory and
27 keep certain records, require the breeder license

1 be displayed at each facility, and require certain
2 advertising and sales contract notifications be
3 made by breeders.

4 This bill would also allow the commission to
5 deny, revoke, or suspend a dog or cat breeder
6 license under certain conditions and would provide
7 civil penalties for violations of this bill.

8
9 A BILL

10 TO BE ENTITLED

11 AN ACT

12
13 Relating to dog or cat breeders; to establish the
14 Alabama Dog and Cat Breeders Commission; to give the
15 commission the authority to license dog and cat breeders; to
16 provide exemptions of certain animals and breeders; to
17 authorize the commission, by rule, to set certain standards
18 for breeding and the minimum standard of care for certain
19 animals, perform inspections and investigations, set licensing
20 requirements and fees, require certain notifications, perform
21 criminal background checks, contract with third party
22 inspectors, establish certain directories and publish certain
23 consumer information, require an annual inventory and keeping
24 of certain records, require the breeder license be displayed,
25 and require certain advertising and sales contract
26 notifications; to provide for the denial, revocation, or

1 suspension of a license under certain conditions; and to
2 provide civil penalties.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. For the purposes of this act, the
5 following terms shall have the following meanings:

6 (1) ADULT ANIMAL. An animal six months of age or
7 older.

8 (2) ANIMAL. A dog or cat.

9 (3) CAT. A mammal that is wholly or partly of the
10 species *Felis domesticus*.

11 (4) COMMISSION. The Alabama Dog and Cat Breeders
12 Commission.

13 (5) CONTROLLING PERSON. An individual who meets any
14 of the following conditions:

15 a. Is a partner, manager, director, officer, or
16 member of a dog or cat breeder.

17 b. Possesses the authority to set policy or direct
18 management of a dog or cat breeder.

19 c. Possesses a direct or indirect control of 25
20 percent or more of a dog or cat breeder.

21 (6) DEPARTMENT. The Department of Agriculture and
22 Industries.

23 (7) DOG. A mammal that is wholly or partly of the
24 species *Canis familiaris*.

25 (8) DOG or CAT BREEDER. A person who possesses 11 or
26 more adult intact female animals, is engaged in the business
27 of breeding those animals for direct or indirect sale or for

1 exchange in return for consideration, and who sells or
2 exchanges, or offers to sell or exchange, 20 or more animals
3 in a calendar year.

4 (9) FACILITY. The premises used by a dog or cat
5 breeder for keeping or breeding animals, including all
6 buildings, property, and confinement areas used to conduct the
7 breeding business.

8 (10) FEDERAL REGULATIONS. The specifications for the
9 humane handling, care, treatment, and transportation of dogs
10 and cats pursuant to 9 C.F.R. Part 3, Subpart A.

11 (11) INTACT FEMALE ANIMAL. A female animal that has
12 not been spayed and is capable of reproduction.

13 (12) KITTEN. A cat less than six months old.

14 (13) LICENSED BREEDER. A dog or cat breeder who
15 holds a license issued under this act.

16 (14) POSSESS. To have custody of or control over.

17 (15) PRIMARY ENCLOSURE. Any structure used to
18 restrict an animal to a limited amount of space, including,
19 but not limited to, a room, pen, run, cage, or compartment.

20 (16) PUPPY. A dog less than six months old.

21 (17) THIRD-PARTY INSPECTOR. Any of the following
22 entities with which the commission contracts under this act,
23 including an employee of the entity:

24 a. A state agency.

25 b. A local law enforcement agency.

26 c. A local fire department.

1 (18) VETERINARIAN. A veterinarian in good standing
2 and licensed to practice veterinary medicine in this state.

3 Section 2. (a) This act does not affect the
4 applicability of any other law, rule, order, ordinance, or
5 other legal requirement of the federal government, this state,
6 or a political subdivision of this state.

7 (b) This act does not prevent a municipality or
8 county from prohibiting or further regulating by order or
9 ordinance the possession, breeding, or selling of dogs or
10 cats.

11 (c) This act does not apply to an animal regulated
12 under any racing commission legally operating in this state.

13 (d) This act shall not apply to any animal under the
14 care or control of an accredited college of veterinary
15 medicine or to any activities conducted by an accredited
16 college of veterinary medicine.

17 Section 3. For the purposes of this act, an adult
18 intact female animal possessed by a person engaged in the
19 business of breeding animals for direct or indirect sale or
20 for exchange in return for consideration is presumed to be
21 used for breeding purposes unless the person establishes to
22 the satisfaction of the commission, based on the breeding
23 records of the person or other evidence reasonably acceptable
24 to the commission, that the animal is not used for breeding.

25 Section 4. (a) This act does not apply to a dog bred
26 with the intent that it be used primarily for any of the
27 following reasons:

1 (1) Herding livestock, as defined by Section 2-15-20
2 of the Code of Alabama 1975, or other agricultural uses.

3 (2) Hunting, including tracking, chasing, pointing,
4 flushing, or retrieving game.

5 (3) Competing in field trials, hunting tests, or
6 similar organized performance events.

7 (4) Working with, or performing tasks for, people
8 with disabilities as defined under the Americans with
9 Disabilities Act (ADA) and accredited by a nationally
10 recognized organization that accredits or certifies service
11 dogs.

12 (b) This act does not apply to a person to the
13 extent the person breeds dogs described by subsection (a) for
14 personal use. A person described by this subsection may
15 conduct direct or indirect sales or exchanges in return for
16 consideration of dogs described by subsection (a).

17 (c) Notwithstanding subsection (b), a person
18 described by subsection (b) is subject to the requirements of
19 this act based on the activities of the person with respect to
20 animals other than dogs that are bred and used as described by
21 this act.

22 (d) Dogs described by subsection (a) may not be
23 counted for purposes of determining the number of adult intact
24 female animals possessed by a person so as to qualify as a dog
25 or cat breeder under this act.

26 Section 5. (a) The Alabama Dog and Cat Breeders
27 Commission is hereby established.

1 (b) The commission shall consist of the following
2 members appointed by the commissioner of the department:

3 (1) Two members who are licensed breeders.

4 (2) Two members who are veterinarians.

5 (3) Two members who represent animal welfare
6 organizations, each of whom has an office in this state.

7 (4) Two members who represent the public.

8 (5) One member who is an animal control officer.

9 (6) The State Veterinarian who shall serve in a
10 nonvoting ex officio capacity.

11 (c) (1) One licensed breeder, one veterinarian, one
12 representative of an animal welfare organization, and one
13 member of the public shall serve an initial term of two years
14 and the remaining members shall serve an initial term of four
15 years. Thereafter, the members of the commission shall serve
16 four-year terms.

17 (2) If a vacancy occurs during the term of a member,
18 the commissioner of the department shall appoint a replacement
19 member to serve for the remainder of the unexpired term.

20 (d) (1) The commission, by majority vote, shall elect
21 a chair.

22 (2) A member may serve as chair for more than one
23 term.

24 (e) (1) The commission shall meet at least quarterly
25 and at the call of the chair of the commission or the
26 commissioner of the department.

1 (2) A decision of the commission is effective only
2 on a majority vote of the members present.

3 (f) Except for the members described by subsection
4 (b) (1), a person may not be a member of the commission if the
5 person or a member of the household of the person meets any of
6 the following criteria:

7 (1) Is required to be licensed under this act.

8 (2) Is an officer, employee, or paid consultant of
9 an entity required to be licensed under this act.

10 (3) Owns or controls, either directly or indirectly,
11 more than a 10 percent interest in an entity required to be
12 licensed under this act.

13 (4) Is required to register as a lobbyist under
14 state law because of the activities of the person for
15 compensation on behalf of an entity required to be licensed
16 under this act.

17 (g) The commissioner of the department may remove
18 from the commission a member who is ineligible for membership
19 under subsection (f).

20 (h) (1) Out of the funds of the commission, the
21 members shall receive as compensation a sum to be fixed by the
22 commission for each day the member is actively engaged in the
23 duties of the commission.

24 (2) In addition to the compensation provided in this
25 subsection, a member may receive reimbursement for the actual
26 and necessary expenses incurred while performing the duties of
27 the commission.

1 Section 6. (a) The commission shall administer and
2 enforce this act and shall adopt rules necessary for the
3 administration and enforcement of this act.

4 (b) The commission, by rule, shall establish
5 reasonable and necessary fees in amounts sufficient to cover
6 the costs of administering and enforcing this act.

7 (c) In setting the fee for inspecting or licensing a
8 facility, the commission may consider the number of adult
9 intact female animals used for breeding at the facility.

10 (d) The commission may employ personnel necessary to
11 carry out the functions and duties of the commission under
12 this act.

13 (e) The commission may authorize disbursements
14 necessary to implement this act, including disbursements for
15 office expenses, equipments costs, and other necessary
16 facilities.

17 Section 7. The commission shall conduct a criminal
18 background check on each applicant who submits an application
19 for a license under this act and on any controlling person of
20 the applicant. The commission, as permitted by law, may do
21 either of the following:

22 (1) Examine any criminal conviction, guilty plea, or
23 deferred adjudication of the applicant or controlling person.

24 (2) Obtain any criminal history or record of the
25 applicant or controlling person.

1 Section 8. (a) (1) The commission shall maintain a
2 directory of licensed breeders and of third-party inspectors
3 registered under this act.

4 (2) The commission shall make the directory
5 available to the public.

6 (b) (1) The commission shall maintain a database of
7 dog or cat breeders who have been subject to disciplinary
8 action under this act.

9 (2) The commission shall make the information
10 maintained in the database available to the public.

11 (c) (1) The commission shall prepare information of
12 consumer interest describing both of the following:

13 a. The functions performed by the commission under
14 this act.

15 b. The rights of a consumer affected by this act.

16 (2) The information shall describe the procedure by
17 which a consumer complaint is filed with and resolved by the
18 commission.

19 (3) The commission shall make the information
20 available to the public.

21 Section 9. (a) There is established a separate fund
22 in the State Treasury to be known as the Alabama Dog and Cat
23 Breeders Commission Fund.

24 (b) All receipts and administrative penalties
25 collected by the commission pursuant to this act shall be
26 deposited in the fund and used only to administer and enforce
27 this act.

1 (c) The funds shall only be disbursed by warrant of
2 the state Comptroller, upon itemized vouchers approved by the
3 chair of the commission.

4 (d) Funds shall be withdrawn or expended pursuant to
5 Sections 41-4-80 to 41-4-96, inclusive, and 41-19-1 to
6 41-19-12, inclusive, of the Code of Alabama 1975, and only in
7 amounts as stipulated in the general appropriations bill or
8 other appropriations bills.

9 (e) In addition to paying for the compensation and
10 the expenses of the commission, funds in the account may be
11 disbursed to the commission for any of the following:

12 (1) Promoting consumer awareness of this act and
13 rules adopted under this act.

14 (2) Supporting educational seminars, training
15 activities, or other actions designed to benefit the ability
16 of the commission to administer and enforce this act.

17 (3) Paying for information resulting in disciplinary
18 action under this act against a person for acting as a dog or
19 cat breeder without holding a license issued under this act.

20 (f) (1) The commission, by rule, may provide for a
21 system to pay for information described by subsection (e) (3).

22 (2) Rules adopted under this subsection shall ensure
23 that a public purpose is accomplished through the use of the
24 payment system.

25 (g) The commission may solicit and accept gifts,
26 grants, and other donations from any source for deposit into
27 the account.

1 (h) The commission shall report its use of the fund
2 in a quarterly financial report submitted to the commissioner
3 of the department.

4 Section 10. (a) A dog or cat breeder shall apply to
5 the commission for a license for each facility that the dog or
6 cat breeder operates and shall annually renew its license for
7 each facility, subject to the rules established by the
8 commission for issuance or renewal of a license issued to a
9 dog or cat breeder pursuant to this act.

10 (b) (1) A person may not act as, offer to act as, or
11 represent that the person is a dog or cat breeder in this
12 state unless the person holds a license under this act for
13 each facility that the person owns or operates in this state.

14 (2) A license for a single facility may cover more
15 than one building on the same premises.

16 Section 11. (a) An applicant for a license under
17 this act shall do all of the following:

18 (1) Submit to the commission a completed application
19 on a form prescribed by the commission.

20 (2) Submit to the commission the information
21 regarding the facilities and operations of the applicant as
22 requested by the commission.

23 (3) Submit to a prelicense inspection pursuant to
24 this act.

25 (4) Demonstrate that the applicant has satisfied the
26 requirements of this act and rules adopted under this act.

27 (5) Pay to the commission the required fee.

1 (b) Upon an applicant meeting the criteria of
2 subsection (a), the commission shall issue a license to the
3 applicant.

4 (c) A license issued under this act is valid until
5 the first anniversary of the date of issuance and is
6 nontransferable.

7 (d) The commission shall include the expiration date
8 on each license issued under this act.

9 (e) A licensed dog or cat breeder shall notify the
10 commission in a manner prescribed by the commission not later
11 than the tenth day after the date any change occurs in the
12 address, name, management, or controlling person of the
13 business or operation.

14 Section 12. (a) Except as provided by subsection
15 (e), the commission shall conduct a prelicense inspection of a
16 facility before a license is issued for the facility.

17 (b) The commission may not issue a license to a dog
18 or cat breeder until the commission receives a prelicense
19 inspection report from the inspector in a format approved by
20 the commission certifying that the facility meets the
21 requirements of this act and the rules adopted under this act.

22 (c) Before the prelicense inspection may be
23 conducted, each applicant shall pay to the commission a
24 required inspection fee to be used to pay third-party
25 inspectors and the reasonable expenses of the commission
26 related to its licensing and inspection duties under this act.

1 (d) An applicant whose facility does not meet the
2 requirements of this act and rules adopted under this act as
3 revealed by a prelicense inspection, after correcting
4 deficiencies noted in the inspection report, may request
5 another prelicense inspection by paying the required
6 inspection fee to the commission.

7 (e) The commission may not require a prelicense
8 inspection of a facility for an applicant who meets either of
9 the following criteria:

10 (1) Holds a current Class A animal dealers license
11 issued under the Animal Welfare Act, 7 U.S.C. Section 2131, et
12 seq.

13 (2) Submits to the commission a copy of the license
14 under subdivision (1) and on a form prescribed by the
15 commission makes a statement certifying that the facility
16 meets the requirements of this act and the rules adopted under
17 this act.

18 Section 13. (a) A licensed breeder may renew his or
19 her license by doing all of the following:

20 (1) Submitting a renewal application to the
21 commission on the form prescribed by the commission.

22 (2) Complying with any other renewal requirements
23 adopted by the commission.

24 (3) Paying the required fee.

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

1 (c) The commission may not renew the license of a
2 person if the person is in violation of this act or any rule
3 adopted under this act at the time of renewal.

4 Section 14. (a) The commission may contract with a
5 third-party inspector to enforce or assist in the enforcement
6 of this act and rules adopted under this act, including the
7 performance of any inspections and investigations required
8 under this act.

9 (b) The commission, by rule, shall establish all of
10 the following:

11 (1) Training requirements for a third-party
12 inspector.

13 (2) Registration procedures for a third-party
14 inspector.

15 (3) Policies governing the acts of a third-party
16 inspector in conducting an inspection or investigation.

17 Section 15. (a) The commission or a third-party
18 inspector shall inspect each facility of a licensed breeder at
19 least once in every 18-month period and at other times as
20 necessary to ensure compliance with this act and rules adopted
21 under this act.

22 (b) The inspection shall be conducted during the
23 normal business hours of the facility, and the licensed
24 breeder or a representative of the licensed breeder shall be
25 given a reasonable opportunity to be present during the
26 inspection.

1 (c) (1) If necessary to adequately perform the
2 inspection, the commission or third-party inspector may
3 determine it is appropriate to not provide advance notice to
4 the licensed breeder or a representative of the licensed
5 breeder before arriving at the facility.

6 (2) The licensed breeder or its representative, upon
7 the request of an inspector, shall assist the inspector in
8 performing the inspection.

9 (d) (1) In conducting an inspection under this
10 section, an inspector may not enter or access any portion of a
11 private residence of a licensed breeder except as necessary to
12 access animals or other property relevant to the care of the
13 animals.

14 (2) The inspector may request that relevant
15 documents or records be provided for inspection.

16 (e) The inspector shall submit an inspection report
17 to the commission not later than the tenth day after the date
18 of the inspection on a form prescribed by the commission and
19 provide a copy of the report to the licensed breeder or its
20 representative.

21 (f) On receipt of a complaint alleging a violation
22 of this act or a rule adopted under this act, the commission
23 or a third-party inspector designated by the commission shall
24 conduct an investigation of the alleged violation by
25 performing an inspection pursuant to this act.

26 (g) A person conducting an inspection or an
27 investigation pursuant to this act shall notify the

1 appropriate local law enforcement agency not later than 24
2 hours after discovering evidence of animal cruelty or any
3 other crime against an animal during the inspection or
4 investigation.

5 Section 16. (a) The commission shall deny issuance
6 of a license to or refuse to renew the license of a dog or cat
7 breeder if the dog or cat breeder or a controlling person of
8 the dog or cat breeder has pled guilty to, been convicted of,
9 or received deferred adjudication for animal cruelty or any
10 other crime against an animal in this state or any other
11 jurisdiction in the five years preceding the initial or
12 renewal application of the dog or cat breeder for a license.

13 (b) The commission shall revoke a license if after
14 the license is issued the dog or cat breeder or a controlling
15 person of the dog or cat breeder pleads guilty to, is
16 convicted of, or receives deferred adjudication for animal
17 cruelty or any other crime against an animal in this state or
18 any other jurisdiction.

19 (c) The commission may deny issuance of a license
20 to, refuse to renew the license of, or revoke or suspend a
21 license held by a dog or cat breeder who meets any of the
22 following criteria:

23 (1) Fails to meet the requirements of this act and
24 the rules adopted under this act.

25 (2) Has had a similar license issued by a federal,
26 state, or local authority denied, revoked, or suspended.

1 (3) Has falsified any material information requested
2 by the commission.

3 (4) Has failed to comply with any corrective action
4 required under an inspection report in the time provided by
5 the report.

6 (d)(1) In addition to the licensing penalties under
7 this section, the commission may impose a civil penalty not to
8 exceed one thousand dollars (\$1,000) for each violation of
9 this act.

10 (2) Each day of a continued violation constitutes a
11 separate violation.

12 Section 17. A licensed breeder shall do all of the
13 following:

14 (1) Prominently display a copy of the license at the
15 facility of the licensed breeder.

16 (2) Maintain at the facility of the licensed breeder
17 a printed copy of this act and rules adopted under this act as
18 made available by the commission.

19 (3) Include the license number in each advertisement
20 of the licensed breeder.

21 (4) Include in each contract for the sale or
22 transfer of an animal by the licensed breeder both of the
23 following:

24 a. The license number.

25 b. The following statement: "Dog and cat breeders
26 are regulated by the Alabama Dog and Cat Breeders Commission,
27 Montgomery, Alabama" or a similar statement adopted by rule of

1 the commission that includes the name, mailing address,
2 telephone number, and Internet website address of the
3 commission.

4 Section 18. (a) Not later than February 1 of each
5 year, a licensed breeder shall submit to the commission, on a
6 form prescribed by the commission, an accounting of all
7 animals held at the facility at any time during the preceding
8 calendar year.

9 (b) The licensed breeder shall keep copies of the
10 items described by subsection (a) at the facility of the
11 licensed breeder and shall make the annual inventory available
12 upon request to the commission or a third-party inspector
13 designated by the commission.

14 (c) A licensed breeder that has more than one
15 facility shall do both of the following:

16 (1) Keep separate records for each facility.

17 (2) Submit a separate accounting of animals for each
18 facility.

19 Section 19. (a) (1) The commission shall adopt rules
20 establishing the minimum information that a licensed breeder
21 shall maintain for each animal in the facility of the licensed
22 breeder.

23 (2) A licensed breeder shall maintain a separate
24 record for each animal in the facility of the licensed breeder
25 documenting the care of the animal.

1 (b) The licensed breeder shall make the animal
2 records available, upon request, to the commission or a
3 third-party inspector designated by the commission.

4 (c) The commission, by rule, shall establish the
5 retention period for records required under this section.

6 Section 20. (a) The commission shall adopt rules
7 establishing minimum standards for the humane handling, care,
8 housing, and transportation of animals by a dog or cat breeder
9 to ensure the overall health, safety, and well-being of each
10 animal in the possession of the dog or cat breeder.

11 (b) The standards adopted under this section shall
12 meet all of the following criteria:

13 (1) At a minimum, meet federal regulations.

14 (2) Unless otherwise certified by a veterinarian in
15 the manner prescribed by the commission, require that a
16 licensed breeder, if applicable, provide each animal 12 weeks
17 of age or older with at least one hour of daily exercise in an
18 area that meets all of the following criteria:

19 a. Has a surface that has adequate drainage and that
20 will not adversely affect the health or well-being of the
21 animal and that may be composed of natural turf or soil.

22 b. Provides adequate protection against harsh
23 weather, including exposure to the sun.

24 c. Has at least three times more square feet than
25 the primary enclosure of the animal.

1 (3) Require that an adequate period consistent with
2 breed standards elapse between the breeding cycles of each
3 adult intact female animal.

4 (4) Require that a dog or cat breeder provide basic
5 grooming to each animal, including bathing and nail trimming,
6 to the extent required to maintain the animal in a state of
7 good health.

8 (5) Require that all primary enclosures meet all of
9 the following criteria:

10 a. Be composed of materials that are safe for the
11 animal based on the breed, size, and age of the animal.

12 b. Have adequate space to allow the animal to
13 comfortably stand, sit, turn around, and lie down in a natural
14 position.

15 c. Have adequate drainage.

16 d. If any portion of the floor surface is composed
17 of wire or of a slatted material, be free from any protruding,
18 sharp surfaces and be designed so that the paws of the animal
19 are unable to extend through, or become caught in the floor.

20 (6) Prohibit the placement of a primary enclosure of
21 an animal on top of the primary enclosure of another animal,
22 unless an impervious barrier designed to prevent the transfer
23 of any liquid or animal waste from one enclosure to the other
24 is placed between the enclosures.

25 (7) Prohibit the stacking of the primary enclosures
26 of dogs above three vertical levels.

1 (8) Require at least one regular veterinary
2 examination a year for a breeding animal.

3 (9) Require that a dog or cat breeder maintain at
4 each of the facilities of the dog or cat breeder a written
5 health care management protocol that addresses routine and
6 preventive care.

7 (10) Ensure that necessary routine and preventive
8 care is provided to each animal and that each animal receives
9 appropriate care and treatment for any disease or illness, to
10 the extent required to maintain the animal in a state of good
11 health.

12 (11) Prohibit a person from euthanizing an adult
13 animal or performing a surgical birth of an animal unless the
14 person is a veterinarian, or the person is the owner of the
15 animal and is euthanizing the animal for humane purposes.

16 (12) Require appropriate training for any person
17 whose duties and responsibilities include the handling of or
18 caring for an animal in the facility of a dog or cat breeder.

19 (13) Prohibit a dog or cat breeder from selling,
20 trading, or giving away an animal before the animal is eight
21 weeks of age.

22 (c) The commission, by rule, may modify existing
23 standards as necessary to protect or improve the health and
24 well-being of animals or to protect the health and safety of
25 the public.

1 Section 21. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.