

By: Thompson, Lucio III, Rodriguez, Rose,
Leibowitz

H.B. No. 3180

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the licensing and regulation of commercial dog and cat
3 breeders and the regulation of dog and cat dealers; providing
4 penalties.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. The heading to Title 4, Occupations Code, is
7 amended to read as follows:

8 TITLE 4. PROFESSIONS RELATED TO ANIMALS [~~ANIMAL HEALTH~~]

9 SECTION 2. Title 4, Occupations Code, is amended by adding
10 Chapters 802 and 803 to read as follows:

11 CHAPTER 802. COMMERCIAL DOG AND CAT BREEDERS

12 SUBCHAPTER A. GENERAL PROVISIONS

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

15 Sec. 802.002. DEFINITIONS. In this chapter:

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

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

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

21 (4) "Cat" means a mammal that is wholly or partly of
22 the species Felis domesticus.

23 (5) "Commercial breeder" means a person who possesses
24 adult intact female animals that produce 20 or more litters in one

1 calendar year and is engaged in the business of breeding animals for
2 direct or indirect sale or for exchange in return for
3 consideration.

4 (6) "Commission" means the Texas Commission of
5 Licensing and Regulation.

6 (7) "Controlling person" means an individual who:

7 (A) is a partner, manager, director, officer, or
8 member of a commercial breeder;

9 (B) possesses the authority to set policy or
10 direct management of a commercial breeder; or

11 (C) possesses a direct or indirect control of 25
12 percent or more of a commercial breeder.

13 (8) "Department" means the Texas Department of
14 Licensing and Regulation.

15 (9) "Dog" means a mammal that is wholly or partly of
16 the species Canis familiaris.

17 (10) "Executive director" means the executive
18 director of the department.

19 (11) "Facility" means the premises used by a
20 commercial breeder for keeping or breeding animals. The term
21 includes all buildings, property, and confinement areas used to
22 conduct the commercial breeding business.

23 (12) "Family member" means a person's parent, spouse,
24 child, or sibling.

25 (13) "Humane society" means a nonprofit organization
26 exempt from federal taxation under Section 501(c)(3), Internal
27 Revenue Code of 1986, that has as the organization's purpose the

1 prevention of animal cruelty or the sheltering of, caring for, and
2 providing of homes for lost, stray, and abandoned animals.

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

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

6 (16) "Local animal control authority" means a
7 municipal or county animal control office with authority over the
8 premises in which an animal is kept or, in an area that does not have
9 an animal control office, the county sheriff.

10 (17) "Possess" means to have custody of or control
11 over.

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

13 (19) "Registered breeder inspector" means an
14 individual employed and certified by the department to conduct
15 investigations and inspections under this chapter.

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

19 Sec. 802.003. APPLICABILITY OF CHAPTER. (a) This chapter
20 does not affect the applicability of any other law, rule, order,
21 ordinance, or other legal requirement of the federal government,
22 this state, or a political subdivision of this state.

23 (b) This chapter does not prevent a municipality or county
24 from prohibiting or further regulating by order or ordinance the
25 possession, breeding, or selling of dogs or cats.

26 (c) This chapter does not apply to an animal regulated under
27 The Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes).

1 [Sections 802.004-802.050 reserved for expansion]

2 SUBCHAPTER B. POWERS AND DUTIES OF COMMISSION AND DEPARTMENT

3 Sec. 802.051. GENERAL POWERS AND DUTIES; RULES. (a) The
4 department shall administer this chapter.

5 (b) The commission shall adopt the rules necessary to
6 enforce and administer this chapter, including rules to:

7 (1) establish qualifications required for licensing
8 under this chapter; and

9 (2) establish qualifications and training for
10 registered breeder inspectors.

11 Sec. 802.052. FEES. The commission shall establish
12 reasonable and necessary fees in amounts sufficient to cover the
13 costs of administering this chapter.

14 Sec. 802.053. PERSONNEL. The department may employ
15 personnel necessary to carry out the functions and duties of the
16 department under this chapter.

17 Sec. 802.054. EXPENSES. The department may authorize
18 disbursements necessary to implement this chapter, including
19 disbursements for office expenses, equipment costs, and other
20 necessary facilities.

21 Sec. 802.055. CRIMINAL BACKGROUND CHECKS. (a) The
22 department shall conduct a criminal background check on each
23 applicant who submits an application for a license under this
24 chapter and on any controlling person of the applicant. The
25 department may examine any criminal conviction, guilty plea, or
26 deferred adjudication of an applicant for issuance or renewal of a
27 license, including by obtaining any criminal history or record

1 permitted by law.

2 (b) An applicant is not eligible for a license under this
3 chapter if the applicant or any controlling person of the applicant
4 has been convicted or received deferred adjudication for animal
5 cruelty.

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

8 Sec. 802.057. DIRECTORY. The department shall maintain a
9 directory of commercial breeders licensed under this chapter.

10 Sec. 802.058. CONTRACTS FOR ENFORCEMENT. The department
11 may contract with another state agency, a political subdivision of
12 this state, a local animal control authority, or a registered
13 breeder inspector to enforce this chapter and rules adopted under
14 this chapter.

15 Sec. 802.059. INSPECTIONS AND INVESTIGATIONS. (a) The
16 department at least annually shall inspect each facility of a
17 licensed commercial breeder. The inspection must be conducted
18 during the facility's normal business hours and the commercial
19 breeder or a representative of the commercial breeder may be
20 present during the inspection. The department is not required to
21 provide advance notice to the commercial breeder before arriving at
22 the facility, but must contact the commercial breeder or
23 representative on arrival at the facility and before proceeding
24 with the inspection.

25 (b) The inspector shall submit an inspection report to the
26 department not later than the 10th day after the date of the
27 inspection on a form prescribed by the department and provide a copy

1 of the report to the commercial breeder or the representative.

2 (c) The department may contract with another state agency, a
3 local animal control authority, or a registered breeder inspector
4 to conduct or assist in an inspection or investigation. The
5 commission may adopt rules to establish methods by which another
6 state agency, a local animal control authority, or a registered
7 breeder inspector may conduct or assist in an inspection or
8 investigation on behalf of the department.

9 (d) The department, a local animal control authority, or a
10 registered breeder inspector may access the facility of a
11 commercial breeder whose license has been suspended, revoked, or
12 denied to verify that the facility is not operating as a commercial
13 breeding facility.

14 (e) On receipt of a written complaint alleging a violation
15 of this chapter, the department, a local animal control authority,
16 a trained peace officer, or a registered breeder inspector
17 designated by the department shall investigate the alleged
18 violation.

19 Sec. 802.060. CONSUMER INTEREST INFORMATION. (a) The
20 department shall prepare information of consumer interest
21 describing:

22 (1) the functions performed by the department under
23 this chapter; and

24 (2) the rights of a consumer affected by this chapter.

25 (b) The information must describe the procedure by which a
26 consumer complaint is filed with and resolved by the department.

27 (c) The department shall make the information available to

1 the public.

2 [Sections 802.061-802.100 reserved for expansion]

3 SUBCHAPTER C. DOG AND CAT BREEDERS ADVISORY COMMITTEE

4 Sec. 802.101. ADVISORY COMMITTEE MEMBERSHIP. The Dog and
5 Cat Breeders Advisory Committee consists of seven members appointed
6 by the presiding officer of the commission with the approval of the
7 commission as follows:

8 (1) two members who represent the public;

9 (2) one member who represents the interests of
10 commercial breeders;

11 (3) one member who is a licensed veterinarian whose
12 primary practice consists of the treatment of dogs and cats;

13 (4) one member who represents the American Kennel
14 Club;

15 (5) one member who represents a humane society or an
16 association of humane societies; and

17 (6) one member who represents the interests of animal
18 control authorities in this state.

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

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

26 Sec. 802.103. PRESIDING OFFICER. The presiding officer of
27 the commission shall designate one member of the advisory committee

1 to serve as presiding officer of the advisory committee for a
2 two-year term.

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

9 Sec. 802.105. MEETINGS. The advisory committee shall meet
10 at least once annually and may meet at other times at the call of the
11 presiding officer of the commission or the executive director.

12 Sec. 802.106. MEMBERSHIP ELIGIBILITY. Except for the
13 member representing the interests of commercial breeders as
14 provided by Section 802.101(2), a person may not be a member of the
15 advisory committee if the person or the person's family member:

16 (1) is required to be licensed under this chapter;

17 (2) is employed by or participates in the management
18 of a business entity or other organization required to be licensed
19 under this chapter;

20 (3) owns or controls, directly or indirectly, more
21 than a 10 percent interest in a business entity or other
22 organization required to be licensed under this chapter; or

23 (4) is an attorney, lobbyist, or veterinarian employed
24 by or under a service contract with a person required to be licensed
25 under this chapter.

26 Sec. 802.107. ADVISORY COMMITTEE DUTIES. (a) The advisory
27 committee shall advise the commission in adopting rules and in

1 administering and enforcing this chapter.

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

4 Sec. 802.108. VOTE REQUIRED FOR ACTION. A decision of the
5 advisory committee is not effective unless it receives the
6 affirmative vote of at least a majority of the members present.

7 Sec. 802.109. APPLICABILITY OF OTHER LAW. Chapter 2110,
8 Government Code, does not apply to the advisory committee.

9 [Sections 802.110-802.150 reserved for expansion]

10 SUBCHAPTER D. LICENSING OF COMMERCIAL BREEDERS

11 Sec. 802.151. LICENSE REQUIRED; QUALIFICATIONS. (a) A
12 person may not act, offer to act, or hold the person out as a
13 commercial breeder in this state unless the person holds a
14 commercial breeder license under this subchapter for each facility
15 that the person owns or operates in this state.

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

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

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

24 (1) submit to the department a completed application
25 on a form prescribed by the department;

26 (2) submit to the department any other information
27 regarding the applicant's facilities and operations as required by

1 rule;

2 (3) demonstrate to the satisfaction of the department
3 the qualifications required by this chapter and rules adopted under
4 this chapter; and

5 (4) pay the application fee.

6 (b) A license application must include a place for the
7 applicant to:

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

11 (2) indicate whether the applicant has an ownership
12 interest in any other facility and the name and location of each
13 facility in which the applicant has an interest;

14 (3) provide the number and breed of all adult animals
15 that will be kept, housed, and maintained by the applicant at the
16 facility and the estimated number of puppies or kittens to be kept,
17 housed, and maintained at the facility during the term of the
18 license;

19 (4) state whether a license held by an applicant under
20 this subchapter or under another federal, state, county, or local
21 law, ordinance, or other regulation relating to breeding, selling,
22 dealing in, or handling dogs or cats has been suspended or revoked
23 and whether a license application has been denied; and

24 (5) state whether the applicant has been charged with
25 animal cruelty or neglect in any jurisdiction and, for an applicant
26 that is a partnership, corporation, or limited liability company,
27 whether any controlling person of the applicant has been charged

1 with animal cruelty or neglect in this or any other jurisdiction.

2 Sec. 802.153. INITIAL PRELICENSE INSPECTION. (a) The
3 department shall inspect a facility before an initial commercial
4 breeder license is issued for that facility.

5 (b) The department may contract with a local animal control
6 authority or a registered breeder inspector to conduct or assist in
7 an initial prelicense inspection.

8 (c) The department may not issue a commercial breeder
9 license until the department receives an initial prelicense
10 inspection report from the inspector in a format approved by the
11 department certifying that the facility meets the requirements of
12 this chapter and rules adopted under this chapter.

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

16 Sec. 802.154. ISSUANCE. The department shall issue a
17 commercial breeder license to each commercial breeder who:

18 (1) meets the requirements of this chapter and rules
19 adopted under this chapter;

20 (2) applies to the department on the form prescribed
21 by the department; and

22 (3) pays the required fee.

23 Sec. 802.155. TERM. A license issued under this subchapter
24 is valid until the first anniversary of the date of issuance and is
25 nontransferable. The department shall include the expiration date
26 on each license issued under this subchapter.

27 Sec. 802.156. LICENSE DENIAL. The department may deny a

1 license to an applicant who:

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

4 (2) has been convicted of or received deferred
5 adjudication for cruelty to animals under the laws of this state or
6 any other jurisdiction or, for an applicant that is a partnership,
7 corporation, or limited liability company, has a controlling person
8 who has been convicted of or received deferred adjudication for
9 cruelty to animals under the laws of this state or any other
10 jurisdiction;

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

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

15 (5) was an owner or controlling person of a commercial
16 breeder whose license was revoked or suspended and was responsible
17 for or participated in the violation that resulted in a revocation
18 or suspension that is still in effect.

19 Sec. 802.157. LICENSE RENEWAL. (a) A license holder may
20 renew the person's license by:

21 (1) submitting a renewal application to the department
22 on the form prescribed by the department;

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

25 (3) paying the required fee.

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

1 renewed.

2 (c) Not later than the 60th day before the expiration of the
3 person's license, the department shall send written notice of the
4 impending license expiration to the person at the person's last
5 known address according to the records of the department.

6 [Sections 802.158-802.200 reserved for expansion]

7 SUBCHAPTER E. PRACTICE BY LICENSE HOLDER

8 Sec. 802.201. DISPLAY OF LICENSE; INCLUSION OF LICENSE
9 NUMBER AND DEPARTMENT INFORMATION. A commercial breeder shall:

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

12 (2) include the commercial breeder's license number in
13 each advertisement for the sale or transfer of an animal by the
14 commercial breeder; and

15 (3) include in each contract for the sale or transfer
16 of an animal by the commercial breeder:

17 (A) the commercial breeder's license number; and

18 (B) the following statement: "Commercial
19 breeders are regulated by the Texas Department of Licensing and
20 Regulation, P.O. Box 12157, Austin, Texas 78711, 1-800-803-9202,
21 512-463-6599" or a similar statement adopted by commission rule
22 that includes the department's name, address, and phone numbers.

23 Sec. 802.202. CHANGE IN LICENSE INFORMATION. A commercial
24 breeder shall notify the department in a manner prescribed by the
25 commission not later than the 10th day after the date any change
26 occurs in the address, name, management, substantial control, or
27 ownership of the business or operation.

1 Sec. 802.203. ANNUAL REPORT. (a) Not later than February 1
2 of each year, a commercial breeder shall submit to the department an
3 annual report on a form and in the manner prescribed by the
4 department.

5 (b) The commercial breeder shall keep a copy of the annual
6 report at the commercial breeder's facility and, on request, make
7 the report available to the department, a local animal control
8 authority, or a registered breeder inspector designated by the
9 department.

10 (c) A license holder that has more than one facility must
11 keep separate records and file a separate report for each facility.

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

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

15 (2) make the log available on request to the
16 department, a local animal control authority, or a registered
17 breeder inspector designated by the department.

18 (b) The log must include:

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

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

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

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

26 (5) the name and, if applicable, the breed registry
27 number of the sire and dam of the animal; and

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

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

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

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

10 Sec. 802.205. LIMIT ON NUMBER OF INTACT ANIMALS. A
11 commercial breeder may not possess more than 50 adult intact female
12 animals in a facility at any time.

13 [Sections 802.206-802.250 reserved for expansion]

14 SUBCHAPTER F. STANDARDS OF CARE AND CONFINEMENT

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

22 (b) The standards adopted under this section must at a
23 minimum:

24 (1) require animals to be offered food at least once
25 every 24 hours and to have continuous access to water unless
26 otherwise prescribed by a veterinarian;

27 (2) provide for safe and adequately sized indoor and

1 outdoor confinement areas;

2 (3) require daily removal of animal waste;

3 (4) include requirements for exercise, grooming, and
4 bathing;

5 (5) include requirements for socialization through
6 physical contact between animals and humans;

7 (6) include requirements to address disease and
8 illness;

9 (7) require methods of transporting animals that
10 protect the health and welfare of the animals; and

11 (8) include requirements for adequate training of
12 staff.

13 (c) The standards adopted under this section must prohibit:

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

16 (2) the placement of a primary enclosure on top of
17 another primary enclosure without an impervious barrier between
18 enclosures;

19 (3) the tethering or leashing of animals in a facility
20 as a means of confinement; and

21 (4) a commercial breeder from selling, trading, or
22 giving away an animal before the animal is six weeks of age.

23 Sec. 802.252. ADDITIONAL STANDARDS. The commission may
24 establish any additional standards considered necessary to protect
25 the public health and the welfare of animals covered under this
26 chapter.

27 Sec. 802.253. CONSIDERATION OF ANIMAL HEALTH AND WELFARE

1 STANDARDS. In adopting standards under this subchapter, the
2 commission shall consider relevant state, federal, and nationally
3 recognized standards for animal health and welfare.

4 [Sections 802.254-802.300 reserved for expansion]

5 SUBCHAPTER G. ENFORCEMENT

6 Sec. 802.301. DISCIPLINARY ACTION. A person is subject to
7 disciplinary action under Subchapter G, Chapter 51, if the person
8 violates this chapter or a rule adopted under this chapter.

9 Sec. 802.302. SUSPENSION AND REVOCATION OF LICENSE; REFUSAL
10 TO RENEW LICENSE. (a) The department may suspend, revoke, or
11 refuse to renew a license for:

12 (1) a violation of this chapter or a rule adopted under
13 this chapter;

14 (2) failure to comply with an order of the commission
15 or the executive director;

16 (3) failure to pay a civil penalty under this chapter;

17 (4) failure to meet a standard of care adopted by the
18 commission under Subchapter F;

19 (5) failure to comply with any corrective action
20 required under an inspection report in the time provided by the
21 report;

22 (6) falsification of information requested by the
23 department;

24 (7) the denial, revocation, or suspension of a similar
25 license by another federal, state, or local authority; or

26 (8) conviction or deferred adjudication for animal
27 cruelty under the laws of this state or any other jurisdiction by a

1 commercial breeder or any controlling person.

2 (b) A person whose commercial breeder license is revoked may
3 not reapply for a commercial breeder license before the first
4 anniversary of the date of revocation. The department shall
5 permanently revoke a commercial breeder license if the basis for
6 the revocation was a conviction or deferred adjudication for animal
7 cruelty.

8 Sec. 802.303. ADMINISTRATIVE SANCTIONS; ADMINISTRATIVE
9 PROCEDURE. (a) The commission shall revoke, suspend, or refuse to
10 renew a license or shall reprimand a license holder for a violation
11 of this chapter or a rule or order of the commission under this
12 chapter.

13 (b) The commission may place on probation a person whose
14 license is suspended. If a license suspension is probated, the
15 commission may require the person to report regularly to the
16 department on matters that are the basis of the probation.

17 (c) A respondent is entitled to a hearing conducted by the
18 State Office of Administrative Hearings if the department proposes
19 to deny, suspend, or revoke a license.

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

23 Sec. 802.304. INJUNCTIVE RELIEF; CIVIL PENALTY. (a) The
24 attorney general or the executive director may institute an action
25 for injunctive relief to restrain a violation by and to collect a
26 civil penalty from a person that appears to be in violation of or
27 threatening to violate this chapter or a rule or order of the

1 commission or executive director under this chapter.

2 (b) An action filed under this section must be filed in a
3 district court in Travis County.

4 (c) The attorney general and the department may recover
5 reasonable expenses incurred in obtaining injunctive relief under
6 this section including court costs, reasonable attorney's fees,
7 investigative costs, witness fees, and deposition expenses.

8 Sec. 802.305. CEASE AND DESIST; EMERGENCY ORDER. (a) The
9 executive director may issue a cease and desist order as necessary
10 to enforce this chapter if the executive director determines that
11 the action is necessary to prevent a violation of this chapter and
12 to protect public health and safety.

13 (b) The executive director may issue an emergency order as
14 necessary to enforce this chapter if the executive director
15 determines that an emergency exists requiring immediate action to
16 protect the public health and safety. The executive director may
17 issue the emergency order without notice and hearing or with any
18 notice and hearing the executive director considers practicable
19 under the circumstances. The executive director shall set the time
20 and place for a hearing to affirm, modify, or set aside an emergency
21 order that was issued without a hearing.

22 Sec. 802.306. CRIMINAL OFFENSES AND PENALTIES. (a) A
23 person commits an offense if the person violates this chapter or any
24 rule adopted under this chapter. Each animal to which a violation
25 applies and each day that violation continues constitutes a
26 separate offense. An offense under this subsection is a Class C
27 misdemeanor.

1 (b) A person commits an offense if the person knowingly
2 falsifies information in a license application, annual report, or
3 record required under this chapter. An offense under this
4 subsection is a Class C misdemeanor.

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

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

15 CHAPTER 803. DOG AND CAT DEALERS

16 SUBCHAPTER A. GENERAL PROVISIONS

17 Sec. 803.001. SHORT TITLE. This chapter may be cited as the
18 Dog and Cat Dealers Act.

19 Sec. 803.002. DEFINITIONS. In this chapter:

20 (1) "Animal" means a dog or a cat.

21 (2) "Breeder" means a person who is engaged in the
22 business of breeding animals for direct or indirect sale or for
23 exchange in return for consideration.

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

26 (4) "Cat" means a mammal that is wholly or partly of
27 the species Felis domesticus.

1 (5) "Commercial breeder" means a breeder required to
2 be licensed under Chapter 802.

3 (6) "Dealer" means a person who is required to collect
4 sales tax for the sale of animals to a retail purchaser. The term
5 does not include a humane society or local animal control
6 authority.

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

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

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

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

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

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

22 (11) "Local animal control authority" means a
23 municipal or county animal control office with authority over the
24 premises in which an animal is kept or, in an area that does not have
25 an animal control office, the county sheriff.

26 (12) "Possess" means to have custody of or control
27 over.

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

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

5 Sec. 803.003. APPLICABILITY OF CHAPTER. (a) This chapter
6 does not affect the applicability of any other law, rule, order,
7 ordinance, or other legal requirement of the federal government,
8 this state, or a political subdivision of this state.

9 (b) This chapter does not prevent a municipality or county
10 from prohibiting or further regulating by order or ordinance the
11 selling of dogs or cats.

12 [Sections 803.004-803.050 reserved for expansion]

13 SUBCHAPTER B. RETAIL SALES OF DOGS AND CATS

14 Sec. 803.051. DISCLOSURE. (a) At the time of purchase,
15 each dealer shall deliver to each retail purchaser of an animal a
16 written disclosure that includes the following:

17 (1) the breeder's name and address;

18 (2) the name and address of any broker who has had
19 possession of the animal;

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

21 (4) if the dealer is not the breeder, the date the
22 dealer received the animal;

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

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

27 (7) the name and, if applicable, the breed registry

1 number of the sire and dam and the litter number; and

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

5 (b) The written disclosure must include:

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

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

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

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

19 Sec. 803.052. RECORDS. The dealer shall retain until the
20 first anniversary of the date of issuance a copy of the statement of
21 purchaser rights delivered to the retail purchaser.

22 Sec. 803.053. REGISTRATION. (a) A dealer who represents an
23 animal as eligible for registration with an animal pedigree
24 organization shall, not later than the 90th day after the date the
25 final payment is received, provide to the retail purchaser the
26 documents necessary for registration with the organization.

27 (b) If the dealer fails to provide the registration

1 documents to the retail purchaser as required by Subsection (a),
2 the purchaser may:

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

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

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

11 Sec. 803.054. EXAMINATION BY VETERINARIAN. A dealer may
12 not offer an animal for sale to a retail purchaser unless the animal
13 has been examined by a veterinarian.

14 Sec. 803.055. RIGHTS OF PURCHASER. (a) An animal is
15 considered unfit for sale by a dealer if:

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

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

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

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

27 (b) If the dealer misrepresents the breed of the animal to

1 the purchaser, the dealer shall provide to the purchaser one of the
2 following remedies selected by the purchaser:

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

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

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

12 (1) another animal of equal value, if available, and
13 reimbursement of all reasonable veterinary fees incurred by the
14 purchaser for the deceased animal, not to exceed 300 percent of the
15 purchase price of the animal; or

16 (2) a refund of the full purchase price and
17 reimbursement of all reasonable veterinary fees incurred by the
18 purchaser for the deceased animal, not to exceed 300 percent of the
19 purchase price of the animal.

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

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

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

1 (3) retention of the animal with a health problem by
2 the purchaser for a reasonable period of time and reimbursement of
3 reasonable veterinary fees, not to exceed 300 percent of the
4 purchase price of the animal.

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

10 Sec. 803.056. RESPONSIBILITIES OF PURCHASER. (a) To be
11 eligible for the remedies provided in Section 803.055, the retail
12 purchaser of an animal with a health problem shall:

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

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

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

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

1 Sec. 803.057. RIGHTS OF DEALER. A dealer is not required to
2 provide a refund, replacement, or reimbursement of veterinary fees
3 if one or more of the following conditions exist:

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

8 (2) a veterinarian's statement was provided to the
9 purchaser under Section 803.051 that disclosed the health problem
10 for which the purchaser seeks to return the animal; or

11 (3) the purchaser failed to provide to the animal a
12 treatment recommended by the examining veterinarian under Section
13 803.051.

14 Sec. 803.058. CONTEST OF RELIEF; CIVIL ACTION. (a) A
15 dealer seeking to contest a demand for relief specified in Section
16 803.053 or 803.055 may require the retail purchaser to produce the
17 animal for examination or necropsy by a veterinarian designated by
18 the dealer. The dealer shall pay the cost of the examination or
19 necropsy. The dealer has a right of recovery against the purchaser
20 if the dealer is not obligated to provide a remedy under Section
21 803.055.

22 (b) If the dealer does not provide the relief selected by
23 the retail purchaser under Section 803.053 or 803.055, the
24 purchaser may bring a civil action against the dealer. The
25 prevailing party in the civil action has the right to recover costs
26 and reasonable attorney's fees.

27 Sec. 803.059. POSTING OF PURCHASER RIGHTS NOTICE. Each

1 dealer shall post in a prominent location in the dealer's facility a
2 notice, in 48-point boldfaced type, that states the following:

3 "Information is available on each dog or cat sold by this
4 establishment. You are entitled to a statement of purchaser rights
5 related to the sale of a dog or cat by this establishment. Please
6 ensure that you receive this statement at the time you purchase a
7 dog or cat."

8 Sec. 803.060. STATEMENT ACKNOWLEDGING RECEIPT OF PURCHASER
9 RIGHTS. (a) Each dealer shall provide each retail purchaser with a
10 written statement of the purchaser's rights under this chapter.
11 The purchaser must sign an acknowledgment that the purchaser
12 received the statement and has reviewed the statement. The dealer
13 shall certify in writing the accuracy of the information contained
14 in the statement. The dealer shall retain a copy of the signed
15 acknowledgment and provide a copy of the signed acknowledgment to
16 the purchaser.

17 (b) The statement of purchaser rights must be in 16-point
18 boldfaced type as follows:

19 "STATEMENT OF TEXAS LAW GOVERNING SALE OF DOGS AND CATS: The
20 sale of dogs and cats is subject to consumer protection
21 regulations. Texas law also provides safeguards to protect dealers
22 and animal purchasers. Attached is a copy of Subchapter B, Chapter
23 803, Occupations Code. Contained in this law is a statement of your
24 purchaser rights. These rights are not your exclusive rights and do
25 not limit the rights or remedies available to you as a purchaser
26 under any other law."

27 (c) The statement of purchaser rights must contain or have

1 attached to the statement the disclosures required under Section
2 803.051.

3 Sec. 803.061. LIMITATION; WAIVER PROHIBITED. (a) Nothing
4 in this chapter shall limit the rights or remedies otherwise
5 available to a purchaser under any other law.

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

8 [Sections 803.062-803.100 reserved for expansion]

9 SUBCHAPTER C. OFFENSES AND PENALTIES

10 Sec. 803.101. CRIMINAL OFFENSE FOR ACQUIRING ANIMAL FROM
11 UNLICENSED COMMERCIAL BREEDER. A broker or dealer commits an
12 offense if the broker or dealer knowingly acquires a dog or cat from
13 an unlicensed commercial breeder for the purpose of reselling the
14 dog or cat to another person. Each animal to which a violation
15 applies constitutes a separate offense. An offense under this
16 section is a Class C misdemeanor. It is a defense to prosecution
17 for an offense under this section that the dealer was a humane
18 society or a local animal control authority.

19 Sec. 803.102. CRIMINAL OFFENSE FOR SELLING YOUNG ANIMALS.
20 A dealer commits an offense if the dealer sells an animal under the
21 age of eight weeks to another person. Each animal to which a
22 violation applies constitutes a separate offense. An offense under
23 this section is a Class C misdemeanor. It is a defense to
24 prosecution for an offense under this section that the dealer was a
25 humane society or a local animal control authority.

26 SECTION 3. Not later than December 31, 2009, the Texas
27 Commission of Licensing and Regulation shall appoint the members of

1 the Dog and Cat Breeders Advisory Committee in accordance with
2 Chapter 802, Occupations Code, as added by this Act. In making the
3 initial appointments, the commission shall designate:

4 (1) three members for terms expiring February 1, 2011;
5 and

6 (2) four members for terms expiring February 1, 2013.

7 SECTION 4. Not later than June 1, 2010, the Texas Commission
8 of Licensing and Regulation shall adopt the rules, standards,
9 procedures, and fees necessary to implement Chapter 802,
10 Occupations Code, as added by this Act, and Section 5 of this Act.

11 SECTION 5. Notwithstanding Chapter 802, Occupations Code,
12 as added by this Act, a commercial breeder is not required to:

13 (1) hold a license under that chapter to act as a
14 commercial breeder before September 1, 2010; or

15 (2) comply with the standards adopted under Subchapter
16 F, Chapter 802, Occupations Code, as added by this Act, before
17 September 1, 2010.

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

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

26 SECTION 7. This Act takes effect immediately if it receives
27 a vote of two-thirds of all the members elected to each house, as

H.B. No. 3180

1 provided by Section 39, Article III, Texas Constitution. If this
2 Act does not receive the vote necessary for immediate effect, this
3 Act takes effect September 1, 2009.