

Amend CSHB 2310 (Senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering remaining SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. The heading to Title 4, Occupations Code, is amended to read as follows:

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

SECTION \_\_\_\_\_. Title 4, Occupations Code, is amended by adding Chapter 802 to read as follows:

CHAPTER 802. COMMERCIAL DOG AND CAT BREEDERS

SUBCHAPTER A. GENERAL PROVISIONS

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

Sec. 802.002. DEFINITIONS. In this chapter:

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

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

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

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

(5) "Commercial breeder" means a person who possesses 11 or more adult intact female animals and is engaged in the business of breeding animals for direct or indirect sale or for exchange in return for consideration.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) This chapter does not apply to an animal regulated under

the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes).

[Sections 802.004-802.050 reserved for expansion]

SUBCHAPTER B. POWERS AND DUTIES OF COMMISSION AND DEPARTMENT

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The inspector shall submit an inspection report to the department not later than the 10th day after the date of the inspection on a form prescribed by the department and provide a copy of the report to the commercial breeder or the representative.

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

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

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

Sec. 802.060. CONSUMER INTEREST INFORMATION. (a) The

department shall prepare information of consumer interest describing:

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

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

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

(c) The department shall make the information available to the public.

[Sections 802.061-802.100 reserved for expansion]

SUBCHAPTER C. DOG AND CAT BREEDERS ADVISORY COMMITTEE

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

(1) two members who represent the public;

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

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

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

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

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

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

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

Sec. 802.103. PRESIDING OFFICER. The presiding officer of the commission shall designate one member of the advisory committee to serve as presiding officer of the advisory committee for a two-year term.

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

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

Sec. 802.106. ADVISORY COMMITTEE DUTIES. (a) The advisory committee shall advise the commission in adopting rules and in administering and enforcing this chapter.

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

Sec. 802.107. VOTE REQUIRED FOR ACTION. A decision of the advisory committee is not effective unless it receives the affirmative vote of at least a majority of the members present.

Sec. 802.108. APPLICABILITY OF OTHER LAW. Chapter 2110, Government Code, does not apply to the advisory committee.

[Sections 802.109-802.150 reserved for expansion]

SUBCHAPTER D. LICENSING OF COMMERCIAL BREEDERS

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

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

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

Sec. 802.152. APPLICATION. An applicant for a license under this subchapter must:

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

(2) submit to the department any other information

regarding the applicant's facilities and operations as required by rule;

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

(4) pay the application fee.

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

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

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

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

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

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

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

(3) pays the required fee.

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

Sec. 802.156. LICENSE DENIAL. The department may deny a license to an applicant who:

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

(2) has been convicted of or received deferred adjudication for cruelty to animals under the laws of this state or

any other jurisdiction or, for an applicant that is a partnership, corporation, or limited liability company, has a controlling person who has been convicted of or received deferred adjudication for cruelty to animals under the laws of this state or any other jurisdiction;

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

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

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

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

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

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

(3) paying the required fee.

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

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

[Sections 802.158-802.200 reserved for expansion]

#### SUBCHAPTER E. PRACTICE BY LICENSE HOLDER

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

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

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

(3) include in each contract for the sale or transfer



of an animal by the commercial breeder:

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

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

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

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

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

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

Sec. 802.204. LIMIT ON NUMBER OF INTACT ANIMALS. A commercial breeder may not possess more than 50 adult intact female animals in a facility at any time.

[Sections 802.205-802.250 reserved for expansion]

SUBCHAPTER F. STANDARDS OF CARE AND CONFINEMENT

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

Sec. 802.252. ADDITIONAL STANDARDS. The commission may establish any additional standards considered necessary to protect

the public health and the welfare of animals covered under this chapter.

Sec. 802.253. CONSIDERATION OF ANIMAL HEALTH AND WELFARE STANDARDS. In adopting standards under this subchapter, the commission shall consider relevant state, federal, and nationally recognized standards for animal health and welfare.

[Sections 802.254-802.300 reserved for expansion]

SUBCHAPTER G. ENFORCEMENT

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

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

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

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

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

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

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

(6) falsification of information requested by the department;

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

(8) conviction or deferred adjudication for animal cruelty under the laws of this state or any other jurisdiction by a commercial breeder or any controlling person.

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

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

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

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

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

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

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

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

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

(b) The executive director may issue an emergency order as necessary to enforce this chapter if the executive director determines that an emergency exists requiring immediate action to protect the public health and safety. The executive director may issue the emergency order without notice and hearing or with any

notice and hearing the executive director considers practicable under the circumstances. The executive director shall set the time and place for a hearing to affirm, modify, or set aside an emergency order that was issued without a hearing.

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

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

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

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

SECTION \_\_\_\_\_. Not later than December 31, 2009, the Texas Commission of Licensing and Regulation shall appoint the members of the Dog and Cat Breeders Advisory Committee in accordance with Chapter 802, Occupations Code, as added by this Act. In making the initial appointments, the commission shall designate:

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

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

SECTION \_\_\_\_\_. (a) Not later than June 1, 2010, the Texas Commission of Licensing and Regulation shall adopt the rules, standards, procedures, and fees necessary to implement Chapter 802, Occupations Code, as added by this Act, and Subsection (b) of this section.

(b) Notwithstanding Chapter 802, Occupations Code, as added by this Act, a commercial breeder is not required to:

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

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

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

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