

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Thompson, Pitts, Rodriguez, Lucio III,  
Branch, et al.

H.B. No. 1451

A BILL TO BE ENTITLED

AN ACT

relating to the licensing and regulation of certain dog and cat  
breeders; providing penalties.

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

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

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

SECTION 2. Title 4, Occupations Code, is amended by adding  
Chapter 802 to read as follows:

CHAPTER 802. DOG OR CAT BREEDERS

SUBCHAPTER A. GENERAL PROVISIONS

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

Sec. 802.002. DEFINITIONS. In this chapter:

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

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

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

(4) "Commission" means the Texas Commission of  
Licensing and Regulation under Chapter 51.

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

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

1                   (B) possesses the authority to set policy or  
2 direct management of a dog or cat breeder; or

3                   (C) possesses a direct or indirect control of 25  
4 percent or more of a dog or cat breeder.

5                   (6) "Department" means the Texas Department of  
6 Licensing and Regulation under Chapter 51.

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

9                   (8) "Dog or cat breeder" means a person who possesses  
10 11 or more adult intact female animals and is engaged in the  
11 business of breeding those animals for direct or indirect sale or  
12 for exchange in return for consideration.

13                   (9) "Facility" means the premises used by a dog or cat  
14 breeder for keeping or breeding animals. The term includes all  
15 buildings, property, and confinement areas used to conduct the  
16 breeding business.

17                   (10) "Federal regulations" means the specifications  
18 for the humane handling, care, treatment, and transportation of  
19 dogs and cats set forth in 9 C.F.R. Part 3, Subpart A.

20                   (11) "Intact female animal" means a female animal that  
21 has not been spayed and is capable of reproduction.

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

23                   (13) "Licensed breeder" means a dog or cat breeder who  
24 holds a license issued under this chapter.

25                   (14) "Possess" means to have custody of or control  
26 over.

27                   (15) "Primary enclosure" means any structure used to

1 restrict an animal to a limited amount of space. The term includes  
2 a room, pen, run, cage, or compartment.

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

4 (17) "Third-party inspector" means any of the  
5 following entities with which the department contracts under  
6 Section 802.062, including an employee of the entity:

7 (A) a state agency; or

8 (B) a local law enforcement agency or fire  
9 department.

10 (18) "Veterinarian" means a veterinarian in good  
11 standing and licensed to practice veterinary medicine in this  
12 state.

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

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

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

22 Sec. 802.004. PRESUMPTION OF USE FOR BREEDING. For  
23 purposes of this chapter, each adult intact female animal possessed  
24 by a person engaged in the business of breeding animals for direct  
25 or indirect sale or for exchange in return for consideration is  
26 presumed to be used for breeding purposes unless the person  
27 establishes to the satisfaction of the department, based on the

1 person's breeding records or other evidence reasonably acceptable  
2 to the department, that the animal is not used for breeding.

3 [Sections 802.005-802.050 reserved for expansion]

4 SUBCHAPTER B. POWERS AND DUTIES OF COMMISSION AND DEPARTMENT

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

7 (b) The commission shall adopt rules necessary to  
8 administer and enforce this chapter.

9 Sec. 802.052. FEES. The commission by rule shall establish  
10 reasonable and necessary fees in amounts sufficient to cover the  
11 costs of administering and enforcing this chapter. In setting the  
12 fee for inspecting or licensing a facility, the commission may  
13 consider the number of adult intact female animals used for  
14 breeding at the facility.

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

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

22 Sec. 802.055. CRIMINAL BACKGROUND CHECKS. The department  
23 shall conduct a criminal background check on each applicant who  
24 submits an application for a license under this chapter and on any  
25 controlling person of the applicant. The department may, as  
26 permitted by law:

27 (1) examine any criminal conviction, guilty plea, or

1 deferred adjudication of the applicant or controlling person; and  
2 (2) obtain any criminal history or record of the  
3 applicant or controlling person.

4 Sec. 802.056. DIRECTORY. (a) The department shall  
5 maintain a directory of licensed breeders and of third-party  
6 inspectors registered under this chapter.

7 (b) The department shall make the directory available to the  
8 public.

9 Sec. 802.057. DISCIPLINARY DATABASE. (a) The department  
10 shall maintain a database of dog or cat breeders who have been  
11 subject to disciplinary action as provided by Subchapter F.

12 (b) The department shall make the information maintained in  
13 the database available to the public.

14 Sec. 802.058. CONSUMER INTEREST INFORMATION. (a) The  
15 department shall prepare information of consumer interest  
16 describing:

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

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

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

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

24 Sec. 802.059. DOG OR CAT BREEDER TRAINING AND ENFORCEMENT  
25 ACCOUNT. (a) The dog or cat breeder training and enforcement  
26 account is an account in the general revenue fund. Administrative  
27 penalties collected under Subchapter F shall be deposited to the

1 credit of the account.

2 (b) Funds in the account may be appropriated only to the  
3 department for:

4 (1) promoting consumer awareness of this chapter and  
5 rules adopted under this chapter;

6 (2) supporting educational seminars, training  
7 activities, or other projects designed to benefit the department's  
8 ability to administer this chapter;

9 (3) paying for information resulting in disciplinary  
10 action under Subchapter F against a person for acting as a dog or  
11 cat breeder without holding a license issued under this chapter;  
12 and

13 (4) taking any other action to improve the  
14 department's ability to investigate violations of and enforce this  
15 chapter.

16 (c) The commission by rule may provide for a system to pay  
17 for information described by Subsection (b)(3). Rules adopted  
18 under this subsection must ensure that a public purpose is  
19 accomplished through the use of the payment system.

20 (d) The department may solicit and accept gifts, grants, and  
21 other donations from any source for deposit into the account.

22 (e) The account is exempt from the application of Section  
23 403.095, Government Code.

24 Sec. 802.060. REGULATION OF THIRD-PARTY INSPECTORS. The  
25 commission by rule shall establish:

26 (1) training requirements for a third-party  
27 inspector;

1           (2) registration procedures for a third-party  
2 inspector; and

3           (3) policies governing the acts of a third-party  
4 inspector in conducting an inspection or investigation.

5           Sec. 802.061. REGISTRATION OF CERTAIN EMPLOYEES OF LICENSED  
6 BREEDERS. The commission by rule may establish registration  
7 procedures for any person whose duties and responsibilities include  
8 the handling of or caring for an animal in a licensed breeder's  
9 facility.

10          Sec. 802.062. CONTRACTS FOR ENFORCEMENT. The department  
11 may contract with a third-party inspector to enforce or assist in  
12 the enforcement of this chapter and rules adopted under this  
13 chapter, including the performance of inspections and  
14 investigations required under this chapter.

15          Sec. 802.063. INSPECTIONS. (a) The department shall  
16 inspect each facility of a licensed breeder at least once in every  
17 18-month period and at other times as necessary to ensure  
18 compliance with this chapter and rules adopted under this chapter.

19          (b) The inspection must be conducted during the facility's  
20 normal business hours, and the licensed breeder or a representative  
21 of the licensed breeder may be present during the inspection.

22          (c) The department or third-party inspector may not provide  
23 advance notice to the licensed breeder or a representative of the  
24 licensed breeder before arriving at the facility. The licensed  
25 breeder or its representative shall, on request of an inspector,  
26 assist the inspector in performing the inspection.

27          (d) In conducting an inspection under this section, an

1 inspector may not enter or access any portion of a private residence  
2 of a licensed breeder except as necessary to access animals,  
3 documents, records, or other property relevant to the inspection.

4 (e) The inspector shall submit an inspection report to the  
5 department not later than the 10th day after the date of the  
6 inspection on a form prescribed by the department and provide a copy  
7 of the report to the licensed breeder or its representative.

8 Sec. 802.064. INVESTIGATIONS. On receipt of a complaint  
9 alleging a violation of this chapter or a rule adopted under this  
10 chapter, the department or a third-party inspector designated by  
11 the department shall investigate the alleged violation.

12 Sec. 802.065. REPORTING ANIMAL CRUELTY. A person  
13 conducting an inspection under Section 802.063 or 802.103 or an  
14 investigation under Section 802.064 shall notify the appropriate  
15 local law enforcement agency not later than 24 hours after  
16 discovering evidence of animal cruelty or neglect during the  
17 inspection or investigation.

18 Sec. 802.066. ADVISORY COMMITTEE. (a) The commission  
19 shall establish an advisory committee to advise the commission and  
20 make recommendations on matters related to the administration and  
21 enforcement of this chapter, including licensing fees and standards  
22 adopted under Subchapter E.

23 (b) The advisory committee consists of nine members  
24 appointed by the presiding officer of the commission with the  
25 approval of the commission as follows:

26 (1) two members who are licensed breeders;

27 (2) two members who are veterinarians;



1           (3) two members who represent animal welfare  
2 organizations;

3           (4) two members who represent the public; and

4           (5) one member who is an animal control officer as  
5 defined in Section 829.001, Health and Safety Code.

6           (c) Members of the advisory committee serve staggered  
7 four-year terms. The terms of four or five members expire on  
8 February 1 of each odd-numbered year. If a vacancy occurs during a  
9 member's term, the presiding officer of the commission, with the  
10 approval of the commission, shall appoint a replacement member to  
11 serve for the remainder of the unexpired term.

12           (d) The presiding officer of the commission shall designate  
13 one member of the advisory committee to serve as presiding officer  
14 of the advisory committee for a two-year term. A member may serve  
15 more than one term as presiding officer.

16           (e) The advisory committee shall meet annually and at the  
17 call of the presiding officer of the advisory committee, the  
18 presiding officer of the commission, or the executive director of  
19 the department.

20           (f) Except for the members described by Subsection (b)(1), a  
21 person may not be a member of the advisory committee if the person  
22 or a member of the person's household:

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

24                   (2) is an officer, employee, or paid consultant of an  
25 entity required to be licensed under this chapter;

26                   (3) owns or controls, either directly or indirectly,  
27 more than a 10 percent interest in an entity required to be licensed

1 under this chapter; or

2 (4) is required to register as a lobbyist under  
3 Chapter 305, Government Code, because of the person's activities  
4 for compensation on behalf of an entity required to be licensed  
5 under this chapter.

6 (g) The presiding officer of the commission may remove from  
7 the advisory committee a member who is ineligible for membership  
8 under Subsection (f).

9 (h) A member may not receive compensation for service on the  
10 advisory committee. Subject to the department's budget and any  
11 limitation provided by the General Appropriations Act, a committee  
12 member may receive reimbursement for the actual and necessary  
13 expenses incurred while performing advisory committee duties.

14 (i) A decision of the advisory committee is effective only  
15 on a majority vote of the members present.

16 (j) Chapter 2110, Government Code, does not apply to the  
17 size, composition, or duration of the advisory committee or to the  
18 appointment of the committee's presiding officer.

19 [Sections 802.067-802.100 reserved for expansion]

20 SUBCHAPTER C. LICENSING OF DOG OR CAT BREEDERS

21 Sec. 802.101. LICENSE REQUIRED. (a) A person may not act  
22 as, offer to act as, or represent that the person is a dog or cat  
23 breeder in this state unless the person holds a license under this  
24 chapter for each facility that the person owns or operates in this  
25 state. A license for a single facility may cover more than one  
26 building on the same premises.

27 (b) The commission by rule may establish requirements for

1 issuance or renewal of a license issued to a dog or cat breeder  
2 under this chapter.

3 Sec. 802.102. APPLICATION. An applicant for a license  
4 under this chapter must:

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

7 (2) submit to the department the information regarding  
8 the applicant's facilities and operations requested by the  
9 department;

10 (3) demonstrate that the applicant has satisfied the  
11 requirements of this chapter and rules adopted under this chapter;  
12 and

13 (4) pay to the department the required fee.

14 Sec. 802.103. PRELICENSE INSPECTION. (a) Except as  
15 provided by Subsection (e), the department must inspect a facility  
16 before a license is issued for the facility.

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

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

27 (d) An applicant whose facility does not meet the

requirements of this chapter and rules adopted under this chapter as revealed by a prelicense inspection may, after correcting deficiencies noted in the inspection report, request another prelicense inspection by paying the required fee to the department.

(e) The department may not require a prelicense inspection of a facility for an applicant who:

(1) holds a current Class A animal dealers license issued under the Animal Welfare Act (7 U.S.C. Section 2131 et seq.); and

(2) submits to the department:

(A) a copy of the license; and

(B) on a form prescribed by the department, a statement certifying that the facility meets the requirements of this chapter and rules adopted under this chapter.

Sec. 802.104. INITIAL LICENSE. The department shall issue a license to each dog or cat 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. 802.105. TERM; NONTRANSFERABILITY. A license issued under this chapter 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 chapter.

Sec. 802.106. LICENSE RENEWAL. (a) A licensed breeder may renew the person's license by:

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

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

5           (3) paying the required fee.

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

9           (c) The department may not renew the license of a person if  
10 the person is in violation of this chapter or any rule adopted under  
11 this chapter at the time of renewal.

12           Sec. 802.107. LICENSE DENIAL, REVOCATION, AND SUSPENSION.

13           (a) The department shall deny issuance of a license to, or refuse  
14 to renew the license of, a person if the person or a controlling  
15 person of the dog or cat breeder has pled guilty to, been convicted  
16 of, or received deferred adjudication for animal cruelty or neglect  
17 in this state or any other jurisdiction in the five years preceding  
18 the person's initial or renewal application for a license.

19           (b) The department shall revoke a license if, after the  
20 license is issued, the person or a controlling person of the dog or  
21 cat breeder pleads guilty to, is convicted of, or receives deferred  
22 adjudication for animal cruelty or neglect in this state or any  
23 other jurisdiction.

24           (c) The department may deny issuance of a license to, refuse  
25 to renew the license of, or revoke or suspend a license held by a  
26 person who:

27           (1) fails to meet the requirements of this chapter and

rules adopted under this chapter;

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

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

(4) has failed to meet a standard adopted by rule under this chapter; or

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

[Sections 802.108-802.150 reserved for expansion]

SUBCHAPTER D. PRACTICE BY LICENSED BREEDER

Sec. 802.151. DISPLAY OF LICENSE; APPLICABLE LAWS AND RULES; INCLUSION OF LICENSE NUMBER AND DEPARTMENT INFORMATION. A licensed breeder shall:

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

(2) maintain at the breeder's facility a printed copy of this chapter and rules adopted under this chapter as made available by the department;

(3) include the license number in each advertisement of the licensed breeder; and

(4) include in each contract for the sale or transfer of an animal by the licensed breeder:

(A) the license number; and

(B) the following statement: "Dog and cat breeders are regulated by the Texas Department of Licensing and

1 Regulation, P.O. Box 12157, Austin, Texas 78711, 1-800-803-9202,  
2 512-463-6599, [www.license.state.tx.us](http://www.license.state.tx.us)" or a similar statement  
3 adopted by commission rule that includes the department's name,  
4 mailing address, telephone numbers, and Internet website address.

5 Sec. 802.152. CHANGE IN LICENSE INFORMATION. A licensed  
6 breeder shall notify the department in a manner prescribed by the  
7 department not later than the 10th day after the date any change  
8 occurs in the address, name, management, or controlling person of  
9 the business or operation.

10 Sec. 802.153. ANNUAL INVENTORY. (a) Not later than  
11 February 1 of each year, a licensed breeder shall submit to the  
12 department, on a form prescribed by the department, an accounting  
13 of all animals held at the facility at any time during the preceding  
14 calendar year.

15 (b) The licensed breeder shall keep copies of the items  
16 described by Subsection (a) at the licensed breeder's facility and  
17 shall make them available on request to the department or a  
18 third-party inspector designated by the department.

19 (c) A licensed breeder that has more than one facility  
20 shall:

21 (1) keep separate records for each facility; and  
22 (2) submit a separate accounting of animals for each  
23 facility.

24 Sec. 802.154. ANIMAL RECORDS. (a) A licensed breeder shall  
25 maintain a separate record for each animal in the breeder's  
26 facility documenting the animal's care.

27 (b) The record must include:

- 1           (1) the date the animal entered the facility;
- 2           (2) if applicable, the name, address, and telephone
- 3 number of the person from whom the animal was purchased or obtained;
- 4           (3) a description of the animal, including the
- 5 animal's breed, sex, color, identifying marks, and weight;
- 6           (4) the date of birth of the animal or approximate age
- 7 if the date of birth is unknown;
- 8           (5) any tattoo, microchip, or other identification
- 9 number carried by or appearing on the animal;
- 10          (6) if the animal is a breeding female:
- 11               (A) breeding dates;
- 12               (B) dates the animal gave birth to a litter;
- 13               (C) number of puppies or kittens for each litter
- 14 of the animal; and
- 15               (D) the name and identification of the sire or
- 16 tom for each litter;
- 17          (7) all veterinary care provided for the animal,
- 18 including a record of all inoculations, medications, and other
- 19 veterinary medical treatment received by the animal while in the
- 20 possession of the licensed breeder; and
- 21          (8) for an animal that was at the facility but is no
- 22 longer at the facility:
- 23               (A) the date of disposition or death of the
- 24 animal; and
- 25               (B) as applicable:
- 26                       (i) the name and address of the person to
- 27 whom the animal was transferred; or



1                   (ii) the animal's cause of death.

2           (c) The licensed breeder shall make the animal records  
3 available on request to the department or a third-party inspector  
4 designated by the department.

5           (d) The commission by rule shall establish the retention  
6 period for records required under this section.

7           [Sections 802.155-802.200 reserved for expansion]

8           SUBCHAPTER E. STANDARDS OF CARE AND CONFINEMENT

9           Sec. 802.201. ADOPTION OF STANDARDS. (a) The commission  
10 shall adopt rules establishing minimum standards for the humane  
11 handling, care, housing, and transportation of dogs and cats by a  
12 dog or cat breeder to ensure the overall health, safety, and  
13 well-being of each animal in the breeder's possession.

14           (b) The standards adopted under this section must:

15                   (1) at a minimum, meet federal regulations;

16                   (2) require that, unless otherwise certified by a  
17 veterinarian in the manner prescribed by the department, a licensed  
18 breeder, if applicable, provide each dog 12 weeks of age and older  
19 with at least one hour of daily exercise in an area that:

20                           (A) has a surface that has adequate drainage and  
21 that will not adversely affect the dog's health or well-being, and  
22 that may be composed of natural turf or soil;

23                           (B) provides adequate protection against harsh  
24 weather, including exposure to the sun; and

25                           (C) has at least three times more square feet  
26 than the dog's primary enclosure;

27                   (3) require that an adequate period consistent with

1 breed standards elapse between the breeding cycles of each adult  
2 intact female animal;

3       (4) require that a dog or cat breeder provide basic  
4 grooming to each animal, including bathing and nail trimming, as  
5 needed to prevent any condition that adversely affects the animal's  
6 health and cleanliness;

7       (5) require that all primary enclosures:

8               (A) be composed of materials that are safe for  
9 the animal based on the animal's breed, size, and age;

10              (B) have adequate space to allow the animal to  
11 comfortably stand, sit, turn around, and lie down in a natural  
12 position;

13              (C) have adequate drainage; and

14              (D) if any portion of the floor surface is  
15 composed of wire or a slatted material, be free from any protruding,  
16 sharp surfaces and be designed so the animal's paws are unable to  
17 extend through, or become caught in, the floor;

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

23       (7) prohibit the stacking of the primary enclosures of  
24 dogs above three vertical levels;

25       (8) require at least one regular veterinary  
26 examination a year for a breeding animal;

27       (9) require that a dog or cat breeder maintain at each

1 of the breeder's facilities a written health care management  
2 protocol that addresses routine and preventive care;

3 (10) ensure that necessary routine and preventive care  
4 is provided to each animal and that each animal receives  
5 appropriate care and treatment for any disease or illness that  
6 affects the animal's health or well-being;

7 (11) prohibit a person from euthanizing an animal or  
8 performing a surgical birth of an animal unless the person is a  
9 veterinarian;

10 (12) require appropriate training for any person whose  
11 duties and responsibilities include the handling of or caring for  
12 an animal in a dog or cat breeder's facility; and

13 (13) prohibit a dog or cat breeder from selling,  
14 trading, or giving away an animal before the animal is eight weeks  
15 of age.

16 (c) The commission by rule may modify existing standards and  
17 establish additional standards or requirements as necessary to  
18 protect or improve the health and well-being of animals or to  
19 protect the health and safety of the public.

20 [Sections 802.202-802.250 reserved for expansion]

21 SUBCHAPTER F. ENFORCEMENT

22 Sec. 802.251. DISCIPLINARY ACTION; ADMINISTRATIVE PENALTY.

23 If a person violates this chapter or a rule adopted under this  
24 chapter, the person is subject to any action or penalty under  
25 Subchapter F or G, Chapter 51.

26 SECTION 3. Not later than January 1, 2012, the presiding  
27 officer of the Texas Commission of Licensing and Regulation shall

1 appoint the members of the advisory committee established under  
2 Section 802.066, Occupations Code, as added by this Act.

3 SECTION 4. Not later than March 31, 2012, the Texas  
4 Commission of Licensing and Regulation shall adopt the rules,  
5 standards, procedures, and fees necessary to implement Chapter 802,  
6 Occupations Code, as added by this Act, and Section 5 of this Act.

7 SECTION 5. Notwithstanding Chapter 802, Occupations Code,  
8 as added by this Act, a dog or cat breeder is not required to:

9 (1) hold a license under that chapter to act as a dog  
10 or cat breeder before September 1, 2012; or

11 (2) comply with the standards adopted under Subchapter  
12 E, Chapter 802, Occupations Code, as added by this Act, before  
13 September 1, 2012.

14 SECTION 6. This Act takes effect immediately if it receives  
15 a vote of two-thirds of all the members elected to each house, as  
16 provided by Section 39, Article III, Texas Constitution. If this  
17 Act does not receive the vote necessary for immediate effect, this  
18 Act takes effect September 1, 2011.

ADOPTED

MAY 23 2011

*Atty Gen*  
Secretary of the Senate

By: Whitman

H.B. No. 1451

Substitute the following for H.B. No. 1451:

By: John Whitman

C.S. H.B. No. 1451

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CHAPTER 802. DOG OR CAT BREEDERS

SUBCHAPTER A. GENERAL PROVISIONS

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

Sec. 802.002. DEFINITIONS. In this chapter:

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

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

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

(4) "Commission" means the Texas Commission of Licensing and Regulation under Chapter 51.

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

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

1                   (B) possesses the authority to set policy or  
2 direct management of a dog or cat breeder; or

3                   (C) possesses a direct or indirect control of 25  
4 percent or more of a dog or cat breeder.

5                   (6) "Department" means the Texas Department of  
6 Licensing and Regulation under Chapter 51.

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

9                   (8) "Dog or cat breeder" means a person who possesses  
10 11 or more adult intact female animals and is engaged in the  
11 business of breeding those animals for direct or indirect sale or  
12 for exchange in return for consideration.

13                   (9) "Facility" means the premises used by a dog or cat  
14 breeder for keeping or breeding animals. The term includes all  
15 buildings, property, and confinement areas used to conduct the  
16 breeding business.

17                   (10) "Federal regulations" means the specifications  
18 for the humane handling, care, treatment, and transportation of  
19 dogs and cats set forth in 9 C.F.R. Part 3, Subpart A.

20                   (11) "Intact female animal" means a female animal that  
21 has not been spayed and is capable of reproduction.

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

23                   (13) "Licensed breeder" means a dog or cat breeder who  
24 holds a license issued under this chapter.

25                   (14) "Possess" means to have custody of or control  
26 over.

27                   (15) "Primary enclosure" means any structure used to

1 restrict an animal to a limited amount of space. The term includes  
2 a room, pen, run, cage, or compartment.

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

4 (17) "Third-party inspector" means any of the  
5 following entities with which the department contracts under  
6 Section 802.062, including an employee of the entity:

7 (A) a state agency; or

8 (B) a local law enforcement agency or fire  
9 department.

10 (18) "Veterinarian" means a veterinarian in good  
11 standing and licensed to practice veterinary medicine in this  
12 state.

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

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

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

22 Sec. 802.004. PRESUMPTION OF USE FOR BREEDING. For  
23 purposes of this chapter, each adult intact female animal possessed  
24 by a person engaged in the business of breeding animals for direct  
25 or indirect sale or for exchange in return for consideration is  
26 presumed to be used for breeding purposes unless the person  
27 establishes to the satisfaction of the department, based on the

1 person's breeding records or other evidence reasonably acceptable  
2 to the department, that the animal is not used for breeding.

3 Sec. 802.005. EXEMPTION FOR CERTAIN PERSONS WHO BREED DOGS.

4 (a) This section applies only to a dog bred to be used exclusively  
5 for:

6 (1) herding livestock, as defined by Section 1.003,  
7 Agriculture Code, or other agricultural uses;

8 (2) hunting, including pointing, flushing, or  
9 retrieving game; or

10 (3) competing in field trials.

11 (b) This chapter does not apply to a person to the extent the  
12 person breeds dogs described by Subsection (a) for:

13 (1) personal use; and

14 (2) incidental direct or indirect sale or exchange in  
15 return for consideration.

16 (c) Notwithstanding Subsection (b), a person described by  
17 Subsection (b) may be subject to the requirements of this chapter  
18 based on the person's activities with respect to animals other than  
19 dogs that are bred and used as described by this section.

20 [Sections 802.006-802.050 reserved for expansion]

21 SUBCHAPTER B. POWERS AND DUTIES OF COMMISSION AND DEPARTMENT

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

24 (b) The commission shall adopt rules necessary to  
25 administer and enforce this chapter.

26 Sec. 802.052. FEES. The commission by rule shall establish  
27 reasonable and necessary fees in amounts sufficient to cover the



1 costs of administering and enforcing this chapter. In setting the  
2 fee for inspecting or licensing a facility, the commission may  
3 consider the number of adult intact female animals used for  
4 breeding at the facility.

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

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

12 Sec. 802.055. CRIMINAL BACKGROUND CHECKS. The department  
13 shall conduct a criminal background check on each applicant who  
14 submits an application for a license under this chapter and on any  
15 controlling person of the applicant. The department may, as  
16 permitted by law:

17 (1) examine any criminal conviction, guilty plea, or  
18 deferred adjudication of the applicant or controlling person; and

19 (2) obtain any criminal history or record of the  
20 applicant or controlling person.

21 Sec. 802.056. DIRECTORY. (a) The department shall  
22 maintain a directory of licensed breeders and of third-party  
23 inspectors registered under this chapter.

24 (b) The department shall make the directory available to the  
25 public.

26 Sec. 802.057. DISCIPLINARY DATABASE. (a) The department  
27 shall maintain a database of dog or cat breeders who have been

1 subject to disciplinary action as provided by Subchapter F.

2 (b) The department shall make the information maintained in  
3 the database available to the public.

4 Sec. 802.058. CONSUMER INTEREST INFORMATION. (a) The  
5 department shall prepare information of consumer interest  
6 describing:

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

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

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

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

14 Sec. 802.059. DOG OR CAT BREEDER TRAINING AND ENFORCEMENT  
15 ACCOUNT. (a) The dog or cat breeder training and enforcement  
16 account is an account in the general revenue fund. Administrative  
17 penalties collected under Subchapter F shall be deposited to the  
18 credit of the account.

19 (b) Funds in the account may be appropriated only to the  
20 department for:

21 (1) promoting consumer awareness of this chapter and  
22 rules adopted under this chapter;

23 (2) supporting educational seminars, training  
24 activities, or other projects designed to benefit the department's  
25 ability to administer this chapter;

26 (3) paying for information resulting in disciplinary  
27 action under Subchapter F against a person for acting as a dog or

1 cat breeder without holding a license issued under this chapter;  
2 and

3 (4) taking any other action to improve the  
4 department's ability to investigate violations of and enforce this  
5 chapter.

6 (c) The commission by rule may provide for a system to pay  
7 for information described by Subsection (b)(3). Rules adopted  
8 under this subsection must ensure that a public purpose is  
9 accomplished through the use of the payment system.

10 (d) The department may solicit and accept gifts, grants, and  
11 other donations from any source for deposit into the account.

12 (e) The account is exempt from the application of Section  
13 403.095, Government Code.

14 Sec. 802.060. REGULATION OF THIRD-PARTY INSPECTORS. The  
15 commission by rule shall establish:

16 (1) training requirements for a third-party  
17 inspector;

18 (2) registration procedures for a third-party  
19 inspector; and

20 (3) policies governing the acts of a third-party  
21 inspector in conducting an inspection or investigation.

22 Sec. 802.061. REGISTRATION OF CERTAIN EMPLOYEES OF LICENSED  
23 BREEDERS. The commission by rule may establish registration  
24 procedures for any person whose duties and responsibilities include  
25 the handling of or caring for an animal in a licensed breeder's  
26 facility.

27 Sec. 802.062. CONTRACTS FOR ENFORCEMENT. The department

1 may contract with a third-party inspector to enforce or assist in  
2 the enforcement of this chapter and rules adopted under this  
3 chapter, including the performance of inspections and  
4 investigations required under this chapter.

5 Sec. 802.063. INSPECTIONS. (a) The department shall  
6 inspect each facility of a licensed breeder at least once in every  
7 18-month period and at other times as necessary to ensure  
8 compliance with this chapter and rules adopted under this chapter.

9 (b) The inspection must be conducted during the facility's  
10 normal business hours, and the licensed breeder or a representative  
11 of the licensed breeder may be present during the inspection.

12 (c) The department or third-party inspector may not provide  
13 advance notice to the licensed breeder or a representative of the  
14 licensed breeder before arriving at the facility. The licensed  
15 breeder or its representative shall, on request of an inspector,  
16 assist the inspector in performing the inspection.

17 (d) In conducting an inspection under this section, an  
18 inspector may not enter or access any portion of a private residence  
19 of a licensed breeder except as necessary to access animals,  
20 documents, records, or other property relevant to the inspection.

21 (e) The inspector shall submit an inspection report to the  
22 department not later than the 10th day after the date of the  
23 inspection on a form prescribed by the department and provide a copy  
24 of the report to the licensed breeder or its representative.

25 Sec. 802.064. INVESTIGATIONS. On receipt of a complaint  
26 alleging a violation of this chapter or a rule adopted under this  
27 chapter, the department or a third-party inspector designated by

1 the department shall investigate the alleged violation.

2 Sec. 802.065. REPORTING ANIMAL CRUELTY. A person  
3 conducting an inspection under Section 802.063 or 802.103 or an  
4 investigation under Section 802.064 shall notify the appropriate  
5 local law enforcement agency not later than 24 hours after  
6 discovering evidence of animal cruelty or neglect during the  
7 inspection or investigation.

8 Sec. 802.066. ADVISORY COMMITTEE. (a) The commission  
9 shall establish an advisory committee to advise the commission and  
10 make recommendations on matters related to the administration and  
11 enforcement of this chapter, including licensing fees and standards  
12 adopted under Subchapter E.

13 (b) The advisory committee consists of nine members  
14 appointed by the presiding officer of the commission with the  
15 approval of the commission as follows:

16 (1) two members who are licensed breeders;  
17 (2) two members who are veterinarians;  
18 (3) two members who represent animal welfare  
19 organizations;

20 (4) two members who represent the public; and

21 (5) one member who is an animal control officer as  
22 defined in Section 829.001, Health and Safety Code.

23 (c) Members of the advisory committee serve staggered  
24 four-year terms. The terms of four or five members expire on  
25 February 1 of each odd-numbered year. If a vacancy occurs during a  
26 member's term, the presiding officer of the commission, with the  
27 approval of the commission, shall appoint a replacement member to

1 serve for the remainder of the unexpired term.

2 (d) The presiding officer of the commission shall designate  
3 one member of the advisory committee to serve as presiding officer  
4 of the advisory committee for a two-year term. A member may serve  
5 more than one term as presiding officer.

6 (e) The advisory committee shall meet annually and at the  
7 call of the presiding officer of the advisory committee, the  
8 presiding officer of the commission, or the executive director of  
9 the department.

10 (f) Except for the members described by Subsection (b)(1), a  
11 person may not be a member of the advisory committee if the person  
12 or a member of the person's household:

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

14 (2) is an officer, employee, or paid consultant of an  
15 entity required to be licensed under this chapter;

16 (3) owns or controls, either directly or indirectly,  
17 more than a 10 percent interest in an entity required to be licensed  
18 under this chapter; or

19 (4) is required to register as a lobbyist under  
20 Chapter 305, Government Code, because of the person's activities  
21 for compensation on behalf of an entity required to be licensed  
22 under this chapter.

23 (g) The presiding officer of the commission may remove from  
24 the advisory committee a member who is ineligible for membership  
25 under Subsection (f).

26 (h) A member may not receive compensation for service on the  
27 advisory committee. Subject to the department's budget and any

1 limitation provided by the General Appropriations Act, a committee  
2 member may receive reimbursement for the actual and necessary  
3 expenses incurred while performing advisory committee duties.

4 (i) A decision of the advisory committee is effective only  
5 on a majority vote of the members present.

6 (j) Chapter 2110, Government Code, does not apply to the  
7 size, composition, or duration of the advisory committee or to the  
8 appointment of the committee's presiding officer.

9 [Sections 802.067-802.100 reserved for expansion]

10 SUBCHAPTER C. LICENSING OF DOG OR CAT BREEDERS

11 Sec. 802.101. LICENSE REQUIRED. (a) A person may not act  
12 as, offer to act as, or represent that the person is a dog or cat  
13 breeder in this state unless the person holds a license under this  
14 chapter for each facility that the person owns or operates in this  
15 state. A license for a single facility may cover more than one  
16 building on the same premises.

17 (b) The commission by rule may establish requirements for  
18 issuance or renewal of a license issued to a dog or cat breeder  
19 under this chapter.

20 Sec. 802.102. APPLICATION. An applicant for a license  
21 under this chapter must:

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

24 (2) submit to the department the information regarding  
25 the applicant's facilities and operations requested by the  
26 department;

27 (3) demonstrate that the applicant has satisfied the

1 requirements of this chapter and rules adopted under this chapter;  
2 and

3 (4) pay to the department the required fee.

4 Sec. 802.103. PRELICENSE INSPECTION. (a) Except as  
5 provided by Subsection (e), the department must inspect a facility  
6 before a license is issued for the facility.

7 (b) The department may not issue a license to a dog or cat  
8 breeder until the department receives a prelicense inspection  
9 report from the inspector in a format approved by the department  
10 certifying that the facility meets the requirements of this chapter  
11 and rules adopted under this chapter.

12 (c) Before the prelicense inspection may be conducted, each  
13 applicant must pay to the department the required inspection fee to  
14 be used to pay third-party inspectors and the reasonable expenses  
15 of the department related to its licensing and inspection duties  
16 under this chapter.

17 (d) An applicant whose facility does not meet the  
18 requirements of this chapter and rules adopted under this chapter  
19 as revealed by a prelicense inspection may, after correcting  
20 deficiencies noted in the inspection report, request another  
21 prelicense inspection by paying the required fee to the department.

22 (e) The department may not require a prelicense inspection  
23 of a facility for an applicant who:

24 (1) holds a current Class A animal dealers license  
25 issued under the Animal Welfare Act (7 U.S.C. Section 2131 et seq.);  
26 and

27 (2) submits to the department:



1                   (A) a copy of the license; and  
2                   (B) on a form prescribed by the department, a  
3 statement certifying that the facility meets the requirements of  
4 this chapter and rules adopted under this chapter.

5           Sec. 802.104. INITIAL LICENSE. The department shall issue  
6 a license to each dog or cat breeder who:

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

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

11                   (3) pays the required fee.

12           Sec. 802.105. TERM; NONTRANSFERABILITY. A license issued  
13 under this chapter is valid until the first anniversary of the date  
14 of issuance and is nontransferable. The department shall include  
15 the expiration date on each license issued under this chapter.

16           Sec. 802.106. LICENSE RENEWAL. (a) A licensed breeder may  
17 renew the person's license by:

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

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

22                   (3) paying the required fee.

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

26           (c) The department may not renew the license of a person if  
27 the person is in violation of this chapter or any rule adopted under

1 this chapter at the time of renewal.

2 Sec. 802.107. LICENSE DENIAL, REVOCATION, AND SUSPENSION.

3 (a) The department shall deny issuance of a license to, or refuse  
4 to renew the license of, a person if the person or a controlling  
5 person of the dog or cat breeder has pled guilty to, been convicted  
6 of, or received deferred adjudication for animal cruelty or neglect  
7 in this state or any other jurisdiction in the five years preceding  
8 the person's initial or renewal application for a license.

9 (b) The department shall revoke a license if, after the  
10 license is issued, the person or a controlling person of the dog or  
11 cat breeder pleads guilty to, is convicted of, or receives deferred  
12 adjudication for animal cruelty or neglect in this state or any  
13 other jurisdiction.

14 (c) The department may deny issuance of a license to, refuse  
15 to renew the license of, or revoke or suspend a license held by a  
16 person who:

17 (1) fails to meet the requirements of this chapter and  
18 rules adopted under this chapter;

19 (2) has had a similar license issued by a federal,  
20 state, or local authority denied, revoked, or suspended;

21 (3) has falsified any material information requested  
22 by the department;

23 (4) has failed to meet a standard adopted by rule under  
24 this chapter; or

25 (5) has failed to comply with any corrective action  
26 required under an inspection report in the time provided by the  
27 report.

1           [Sections 802.108-802.150 reserved for expansion]

2           SUBCHAPTER D. PRACTICE BY LICENSED BREEDER

3           Sec. 802.151. DISPLAY OF LICENSE; APPLICABLE LAWS AND  
4 RULES; INCLUSION OF LICENSE NUMBER AND DEPARTMENT INFORMATION. A  
5 licensed breeder shall:

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

8           (2) maintain at the breeder's facility a printed copy  
9 of this chapter and rules adopted under this chapter as made  
10 available by the department;

11           (3) include the license number in each advertisement  
12 of the licensed breeder; and

13           (4) include in each contract for the sale or transfer  
14 of an animal by the licensed breeder:

15                   (A) the license number; and

16                   (B) the following statement: "Dog and cat  
17 breeders are regulated by the Texas Department of Licensing and  
18 Regulation, P.O. Box 12157, Austin, Texas 78711, 1-800-803-9202,  
19 512-463-6599, [www.license.state.tx.us](http://www.license.state.tx.us)" or a similar statement  
20 adopted by commission rule that includes the department's name,  
21 mailing address, telephone numbers, and Internet website address.

22           Sec. 802.152. CHANGE IN LICENSE INFORMATION. A licensed  
23 breeder shall notify the department in a manner prescribed by the  
24 department not later than the 10th day after the date any change  
25 occurs in the address, name, management, or controlling person of  
26 the business or operation.

27           Sec. 802.153. ANNUAL INVENTORY. (a) Not later than

1 February 1 of each year, a licensed breeder shall submit to the  
2 department, on a form prescribed by the department, an accounting  
3 of all animals held at the facility at any time during the preceding  
4 calendar year.

5 (b) The licensed breeder shall keep copies of the items  
6 described by Subsection (a) at the licensed breeder's facility and  
7 shall make them available on request to the department or a  
8 third-party inspector designated by the department.

9 (c) A licensed breeder that has more than one facility  
10 shall:

11 (1) keep separate records for each facility; and

12 (2) submit a separate accounting of animals for each  
13 facility.

14 Sec. 802.154. ANIMAL RECORDS. (a) A licensed breeder shall  
15 maintain a separate record for each animal in the breeder's  
16 facility documenting the animal's care.

17 (b) The record must include:

18 (1) the date the animal entered the facility;

19 (2) if applicable, the name, address, and telephone  
20 number of the person from whom the animal was purchased or obtained;

21 (3) a description of the animal, including the  
22 animal's breed, sex, color, identifying marks, and weight;

23 (4) the date of birth of the animal or approximate age  
24 if the date of birth is unknown;

25 (5) any tattoo, microchip, or other identification  
26 number carried by or appearing on the animal;

27 (6) if the animal is a breeding female:

1                   (A) breeding dates;  
2                   (B) dates the animal gave birth to a litter;  
3                   (C) number of puppies or kittens for each litter  
4 of the animal; and  
5                   (D) the name and identification of the sire or  
6 tom for each litter;  
7                   (7) all veterinary care provided for the animal,  
8 including a record of all inoculations, medications, and other  
9 veterinary medical treatment received by the animal while in the  
10 possession of the licensed breeder; and  
11                   (8) for an animal that was at the facility but is no  
12 longer at the facility:  
13                   (A) the date of disposition or death of the  
14 animal; and  
15                   (B) as applicable:  
16                         (i) the name and address of the person to  
17 whom the animal was transferred; or  
18                         (ii) the animal's cause of death.  
19                   (c) The licensed breeder shall make the animal records  
20 available on request to the department or a third-party inspector  
21 designated by the department.  
22                   (d) The commission by rule shall establish the retention  
23 period for records required under this section.

24                   [Sections 802.155-802.200 reserved for expansion]

25                   SUBCHAPTER E. STANDARDS OF CARE AND CONFINEMENT

26                   Sec. 802.201. ADOPTION OF STANDARDS. (a) The commission  
27 shall adopt rules establishing minimum standards for the humane

1 handling, care, housing, and transportation of dogs and cats by a  
2 dog or cat breeder to ensure the overall health, safety, and  
3 well-being of each animal in the breeder's possession.

4 (b) The standards adopted under this section must:

5 (1) at a minimum, meet federal regulations;

6 (2) require that, unless otherwise certified by a  
7 veterinarian in the manner prescribed by the department, a licensed  
8 breeder, if applicable, provide each dog 12 weeks of age and older  
9 with at least one hour of daily exercise in an area that:

10 (A) has a surface that has adequate drainage and  
11 that will not adversely affect the dog's health or well-being, and  
12 that may be composed of natural turf or soil;

13 (B) provides adequate protection against harsh  
14 weather, including exposure to the sun; and

15 (C) has at least three times more square feet  
16 than the dog's primary enclosure;

17 (3) require that an adequate period consistent with  
18 breed standards elapse between the breeding cycles of each adult  
19 intact female animal;

20 (4) require that a dog or cat breeder provide basic  
21 grooming to each animal, including bathing and nail trimming, as  
22 needed to prevent any condition that adversely affects the animal's  
23 health and cleanliness;

24 (5) require that all primary enclosures:

25 (A) be composed of materials that are safe for  
26 the animal based on the animal's breed, size, and age;

27 (B) have adequate space to allow the animal to

1 comfortably stand, sit, turn around, and lie down in a natural  
2 position;

3 (C) have adequate drainage; and

4 (D) if any portion of the floor surface is  
5 composed of wire or a slatted material, be free from any protruding,  
6 sharp surfaces and be designed so the animal's paws are unable to  
7 extend through, or become caught in, the floor;

8 (6) prohibit the placement of a primary enclosure of  
9 an animal on top of the primary enclosure of another animal, unless  
10 an impervious barrier designed to prevent the transfer of any  
11 liquid or animal waste from one enclosure to the other is placed  
12 between the enclosures;

13 (7) prohibit the stacking of the primary enclosures of  
14 dogs above three vertical levels;

15 (8) require at least one regular veterinary  
16 examination a year for a breeding animal;

17 (9) require that a dog or cat breeder maintain at each  
18 of the breeder's facilities a written health care management  
19 protocol that addresses routine and preventive care;

20 (10) ensure that necessary routine and preventive care  
21 is provided to each animal and that each animal receives  
22 appropriate care and treatment for any disease or illness that  
23 affects the animal's health or well-being;

24 (11) prohibit a person from euthanizing an animal or  
25 performing a surgical birth of an animal unless the person is a  
26 veterinarian;

27 (12) require appropriate training for any person whose

duties and responsibilities include the handling of or caring for an animal in a dog or cat breeder's facility; and

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

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

[Sections 802.202-802.250 reserved for expansion]

#### SUBCHAPTER F. ENFORCEMENT

Sec. 802.251. DISCIPLINARY ACTION; ADMINISTRATIVE PENALTY.

If a person violates this chapter or a rule adopted under this chapter, the person is subject to any action or penalty under Subchapter F or G, Chapter 51.

SECTION 3. Not later than January 1, 2012, the presiding officer of the Texas Commission of Licensing and Regulation shall appoint the members of the advisory committee established under Section 802.066, Occupations Code, as added by this Act.

SECTION 4. Not later than March 31, 2012, 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 Section 5 of this Act.

SECTION 5. Notwithstanding Chapter 802, Occupations Code, as added by this Act, a dog or cat breeder is not required to:

(1) hold a license under that chapter to act as a dog or cat breeder before September 1, 2012; or

(2) comply with the standards adopted under Subchapter



1 E, Chapter 802, Occupations Code, as added by this Act, before  
2 September 1, 2012.

3       SECTION 6. This Act takes effect immediately if it receives  
4 a vote of two-thirds of all the members elected to each house, as  
5 provided by Section 39, Article III, Texas Constitution. If this  
6 Act does not receive the vote necessary for immediate effect, this  
7 Act takes effect September 1, 2011.

# ADOPTED

FLOOR AMENDMENT NO. 1

MAY 23 2011

BY:

Whitmore

*Larry Spaw*  
Secretary of the Senate

1 Amend C.S.H.B. No 1451 (senate committee report) as  
2 follows:

3 (1) In SECTION 2 of the bill, in proposed Section  
4 802.002(8), Occupations Code (page 1, line 44), between  
5 "consideration" and the period, insert "and who sells or  
6 exchanges, or offers to sell or exchange, not fewer than 20  
7 animals in a calendar year"

8 (2) In SECTION 2 of the bill, strike proposed Section  
9 802.005, Occupations Code (page 2, lines 26 through 42), and  
10 substitute the following:

11 Sec. 802.005. EXEMPTION FOR CERTAIN PERSONS WHO BREED  
12 SPECIAL PURPOSE DOGS. (a) This section applies only to a dog  
13 bred with the intent that it be used primarily for:

14 (1) herding livestock, as defined by Section 1.003,  
15 Agriculture Code, or other agricultural uses;

16 (2) hunting, including tracking, chasing, pointing,  
17 flushing, or retrieving game; or

18 (3) competing in field trials, hunting tests, or  
19 similar organized performance events.

20 (b) This chapter does not apply to a person to the extent  
21 the person breeds dogs described by Subsection (a) for personal  
22 use. A person described by this subsection may conduct direct  
23 or indirect sales or exchanges in return for consideration of  
24 dogs described by Subsection (a).

25 (c) Notwithstanding Subsection (b), a person described by  
26 Subsection (b) may be subject to the requirements of this  
27 chapter based on the person's activities with respect to animals  
28 other than dogs that are bred and used as described by this  
29 section.

1        (d) Dogs described by Subsection (a) may not be counted  
2 for purposes of determining the number of adult intact female  
3 animals possessed by a person as described by Section  
4 802.002(8).

5        (3) In SECTION 2 of the bill, in proposed Section  
6 802.059(b)(2), Occupations Code (page 3, line 32), strike  
7 "projects" and substitute "actions".

8        (4) In SECTION 2 of the bill, in proposed Section  
9 802.059(b)(2), Occupations Code (page 3, line 33), strike "this  
10 chapter;" and substitute "and enforce this chapter; and".

11        (5) In SECTION 2 of the bill, in proposed Section  
12 802.059(b)(3), Occupations Code (page 3, lines 36 and 37),  
13 strike "; and" and substitute an underlined period.

14        (6) In SECTION 2 of the bill, strike proposed Section  
15 802.059(b)(4), Occupations Code (page 3, lines 38 through 40).

16        (7) In SECTION 2 of the bill, following proposed Section  
17 802.059(e), Occupations Code (page 3, between lines 48 and 49),  
18 insert the following:

19        (f) The executive director of the department must approve  
20 any expenditure from the account.

21        (g) The department shall report its use of the account in  
22 its quarterly financial report to the commission.

23        (8) In SECTION 2 of the bill, strike proposed Section  
24 802.061, Occupations Code (page 3, lines 57 through 61), and  
25 renumber subsequent proposed sections of Subchapter B, Chapter  
26 .802, Occupations Code, accordingly.

27        (9) In SECTION 2 of the bill, in proposed Section  
28 802.063(b), Occupations Code (page 4, line 4), strike "may" and  
29 substitute "must be given a reasonable opportunity to".

30        (10) In SECTION 2 of the bill, in proposed Section  
31 802.063(c), Occupations Code (page 4, line 5), strike "The

1 department or third-party inspector "may not" and substitute "If  
2 necessary to adequately perform the inspection, the department  
3 or third-party inspector may determine it is appropriate to  
4 not".

5 (11) In SECTION 2 of the bill, strike proposed Section  
6 802.063(d), Occupations Code (page 4, lines 10 through 13), and  
7 substitute the following:

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

14 (12) In SECTION 2 of the bill, in proposed Section  
15 802.066(b)(3), Occupations Code (page 4, line 39), between  
16 "organizations" and the underlined semicolon, insert "each of  
17 which has an office based in this state".

18 (13) In SECTION 2 of the bill, in proposed Section  
19 802.154(a), Occupations Code (page 7, line 16), between "(a)"  
20 and "A", insert "The commission shall adopt rules establishing  
21 the minimum information that a licensed breeder must maintain  
22 for each animal in the breeder's facility.".

23 (14) In SECTION 2 of the bill, strike proposed Section  
24 802.154(b), Occupations Code (page 7, lines 19 through 47), and  
25 renumber subsequent proposed subsections of Section 802.154,  
26 Occupations Code, accordingly.

27 (15) In SECTION 2 of the bill, in proposed Section  
28 802.201(b)(4), Occupations Code (page 8, lines 8 through 10),  
29 strike "as needed to prevent any condition that adversely  
30 affects the animal's health and cleanliness" and substitute "to  
31 the extent required to maintain the animal in a state of good

1 health".

2       (16)     In SECTION 2 of the bill, in proposed Section  
3 802.201(b)(10), Occupations Code (page 8, lines 36 through 37),  
4 . strike "that affects the animal's health or well-being" and  
5 substitute ", to the extent required to maintain the animal in a  
6 state of good health".

FLOOR AMENDMENT NO.

4

BY:

Ilene Hegar

1 Amend CSHB 1451 (Senate committee printing) in SECTION 2 of  
2 the bill, in Section 802.021(b)(11), Occupations Code (page 8,  
3 line 38), between "an" and "animal", insert "adult".

**ADOPTED**

MAY 23 2011

Antony Spaw  
Secretary of the Senate

LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 24, 2011

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: **HB1451** by Thompson (Relating to the licensing and regulation of certain dog and cat breeders; providing penalties.), **As Passed 2nd House**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB1451, As Passed 2nd House: an impact of \$0 through the biennium ending August 31, 2013.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2012	\$0
2013	\$0
2014	\$0
2015	\$0
2016	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1	Probable Revenue Gain/ (Loss) from General Revenue Fund 1	Change in Number of State Employees from FY 2011
2012	(\$565,242)	\$565,242	6.0
2013	(\$565,242)	\$565,242	6.0
2014	(\$565,242)	\$565,242	6.0
2015	(\$565,242)	\$565,242	6.0
2016	(\$565,242)	\$565,242	6.0

Fiscal Analysis

The bill would require the Texas Department of Licensing and Regulation (TDLR) to license and regulate dog and cat breeders and dealers, defined as a person who possesses 11 or more adult intact female animals, providing exemptions. The bill would require TDLR to establish eligibility requirements for licenses, to conduct criminal background checks on applicants, and to annually inspect each facility of a licensed breeder. The bill would require TDLR to establish qualifications and training for registered breeder inspectors employed by the agency. The bill would also require TDLR to inspect a facility before an initial breeder license is issued for the facility. The bill would establish an advisory committee. The bill would authorize TDLR to set a licensing fee and a nonrefundable inspection fee. Licensing fees generated under the provisions of the bill for the purposes of funding the regulation of licensed dog and cat breeders and dealers would be deposited to the credit of the General

## Revenue Fund.

The bill would establish a new Dog or Cat Breeder Training and Enforcement Account as a separate account in the General Revenue Fund for the purposes defined in the bill. The bill would require administrative penalties collected under Chapter 51, Subchapter F, related to the regulation of dog and cat breeders and dealers to be deposited to the credit of the new account.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. Legislative policy, implemented as Government Code 403.094, consolidated special funds (except those affected by constitutional, federal, or other restrictions) into the General Revenue Fund as of August 31, 1993 and eliminated all applicable statutory revenue dedications as of August 31, 1995. Each subsequent Legislature has reviewed bills that affect funds consolidation. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

The bill would require TDLR to maintain a directory of licensed breeders to prepare information of consumer interest regarding the regulation of licensed breeders and the rights of a consumer. The bill would require TDLR to adopt, with the advice of the advisory committee, standards of care to ensure the overall health and welfare of each animal in the licensed breeder's facility. The bill would establish a civil penalty for any violation and would authorize the executive director of TDLR to issue a cease and desist or emergency order as necessary to enforce the regulations.

The bill would take effect immediately upon receiving a vote of two-thirds of all the members elected to each house; otherwise, the bill would take effect September 1, 2011.

## Methodology

Based on information provided by TDLR, the estimated population of commercial dog and cat breeders within the state of Texas is 600 and the number of third party inspectors to 50. Also based on the analysis of TDLR, it is assumed that an additional 6.0 FTEs would be required to license, regulate and enforce the provisions of the bill. This would include: 1.0 - Investigator IV: to investigate and document complaints; 1.0 - Legal Assistant II: to review complaints to determine if jurisdiction applies; 1.0 - Program Specialist IV: to determine compliance with statute and rules; interact with industry, municipalities, and public, and to coordinate and improve program; 2.0 - Inspector IV: to answer inquiries; assist with enforcement investigations; audit the Third party inspectors and conduct inspections; 1.0 - Customer Service Representative III to answer phone calls and e-mail. For purposes of this analysis, it is assumed that required inspections and investigations would be performed by state employees of TDLR that qualify as registered breeder inspectors.

TDLR also anticipates receiving 600 complaints per year resulting in 27 hearings per year and conducting 600 pre-licensure inspections in fiscal year 2012. In addition, TDLR anticipates a cost of \$625 for each controlling person requiring a criminal history background check and \$625 in costs for issuing plastic credit card type licenses for the controlling persons and third party inspectors. TDLR assumes 50 inspectors, who are either employed by a state agency, local law enforcement or local fire department would register as third party inspectors. Based on information provided by TDLR, this analysis also assumes that the agency would contract with third party inspectors in the amounts of \$150,000 each year to implement the provisions of the bill.

In addition to salary and benefit costs in the amount of \$330,922 each year, it is assumed that the agency would incur other costs of \$16,200 each year in rent for space for the additional FTEs in non-state-owned buildings, \$19,000 each year in annual travel costs, \$38,870 in FY 2012 for equipment costs, \$1,250 each year in professional services and \$9,000 each year for other operating expenses.

This analysis assumes that any increased costs to the agency, which is statutorily required to generate sufficient revenue to cover its costs of operation, would be offset by an increase in fee generated revenue. For the purposes of this analysis, no estimate is included for revenue gains or costs to the newly created Dog or Cat Breeder Training and Enforcement Account in the General Revenue Fund because administrative penalties that would be assessed subsequent to the implementation of the bill



can not be determined.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 452 Department of Licensing and Regulation, 304 Comptroller of Public Accounts  
**LBB Staff:** JOB, ESi, AG, MW, CWS, SD

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**May 18, 2011**

**TO:** Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: HB1451** by Thompson (Relating to the licensing and regulation of certain dog and cat breeders; providing penalties.), **Committee Report 2nd House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB1451, Committee Report 2nd House, Substituted: an impact of \$0 through the biennium ending August 31, 2013.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2012	\$0
2013	\$0
2014	\$0
2015	\$0
2016	\$0

**All Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Savings/(Cost) from General Revenue Fund 1</b>	<b>Probable Revenue Gain/ (Loss) from General Revenue Fund 1</b>	<b>Change in Number of State Employees from FY 2011</b>
2012	(\$565,242)	\$565,242	6.0
2013	(\$565,242)	\$565,242	6.0
2014	(\$565,242)	\$565,242	6.0
2015	(\$565,242)	\$565,242	6.0
2016	(\$565,242)	\$565,242	6.0

**Fiscal Analysis**

The bill would require the Texas Department of Licensing and Regulation (TDLR) to license and regulate dog and cat breeders and dealers, defined as a person who possesses 11 or more adult intact female animals, providing exemptions. The bill would require TDLR to establish eligibility requirements for licenses, to conduct criminal background checks on applicants, and to annually inspect each facility of a licensed breeder. The bill would require TDLR to establish qualifications and training for registered breeder inspectors employed by the agency. The bill would also require TDLR to inspect a facility before an initial breeder license is issued for the facility. The bill would establish an advisory committee. The bill would authorize TDLR to set a licensing fee and a nonrefundable inspection fee. Licensing fees generated under the provisions of the bill for the purposes of funding the regulation of licensed dog and cat breeders and dealers would be deposited to the credit of the General

Revenue Fund.

The bill would establish a new Dog or Cat Breeder Training and Enforcement Account as a separate account in the General Revenue Fund for the purposes defined in the bill. The bill would require administrative penalties collected under Chapter 51, Subchapter F, related to the regulation of dog and cat breeders and dealers to be deposited to the credit of the new account.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. Legislative policy, implemented as Government Code 403.094, consolidated special funds (except those affected by constitutional, federal, or other restrictions) into the General Revenue Fund as of August 31, 1993 and eliminated all applicable statutory revenue dedications as of August 31, 1995. Each subsequent Legislature has reviewed bills that affect funds consolidation. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

The bill would require TDLR to maintain a directory of licensed breeders to prepare information of consumer interest regarding the regulation of licensed breeders and the rights of a consumer. The bill would require TDLR to adopt, with the advice of the advisory committee, standards of care to ensure the overall health and welfare of each animal in the licensed breeder's facility. The bill would establish a civil penalty for any violation and would authorize the executive director of TDLR to issue a cease and desist or emergency order as necessary to enforce the regulations.

The bill would take effect immediately upon receiving a vote of two-thirds of all the members elected to each house; otherwise, the bill would take effect September 1, 2011.

## **Methodology**

Based on information provided by TDLR, the estimated population of commercial dog and cat breeders within the state of Texas is 600 and the number of third party inspectors to 50. Also based on the analysis of TDLR, it is assumed that an additional 6.0 FTEs would be required to license, regulate and enforce the provisions of the bill. This would include: 1.0 - Investigator IV: to investigate and document complaints; 1.0 - Legal Assistant II: to review complaints to determine if jurisdiction applies; 1.0 - Program Specialist IV: to determine compliance with statute and rules; interact with industry, municipalities, and public, and to coordinate and improve program; 2.0 - Inspector IV: to answer inquiries; assist with enforcement investigations; audit the Third party inspectors and conduct inspections; 1.0 - Customer Service Representative III to answer phone calls and e-mail. For purposes of this analysis, it is assumed that required inspections and investigations would be performed by state employees of TDLR that qualify as registered breeder inspectors.

TDLR also anticipates receiving 600 complaints per year resulting in 27 hearings per year and conducting 600 pre-licensure inspections in fiscal year 2012. In addition, TDLR anticipates a cost of \$625 for each controlling person requiring a criminal history background check and \$625 in costs for issuing plastic credit card type licenses for the controlling persons and third party inspectors. TDLR assumes 50 inspectors, who are either employed by a state agency, local law enforcement or local fire department would register as third party inspectors. Based on information provided by TDLR, this analysis also assumes that the agency would contract with third party inspectors in the amounts of \$150,000 each year to implement the provisions of the bill.

In addition to salary and benefit costs in the amount of \$330,922 each year, it is assumed that the agency would incur other costs of \$16,200 each year in rent for space for the additional FTEs in non-state-owned buildings, \$19,000 each year in annual travel costs, \$38,870 in FY 2012 for equipment costs, \$1,250 each year in professional services and \$9,000 each year for other operating expenses.

This analysis assumes that any increased costs to the agency, which is statutorily required to generate sufficient revenue to cover its costs of operation, would be offset by an increase in fee generated revenue. For the purposes of this analysis, no estimate is included for revenue gains or costs to the newly created Dog or Cat Breeder Training and Enforcement Account in the General Revenue Fund because administrative penalties that would be assessed subsequent to the implementation of the bill

can not be determined.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 452 Department of Licensing and Regulation, 304 Comptroller of Public Accounts

**LBB Staff:** JOB, ESi, AG, MW, CWS, SD

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**May 10, 2011**

**TO:** Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: HB1451** by Thompson (Relating to the licensing and regulation of certain dog and cat breeders; providing penalties.), **As Engrossed**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB1451, As Engrossed: an impact of \$0 through the biennium ending August 31, 2013.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2012	\$0
2013	\$0
2014	\$0
2015	\$0
2016	\$0

**All Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Savings/(Cost) from General Revenue Fund 1</b>	<b>Probable Revenue Gain/ (Loss) from General Revenue Fund 1</b>	<b>Change in Number of State Employees from FY 2011</b>
2012	(\$1,342,755)	\$1,342,755	14.5
2013	(\$1,258,403)	\$1,258,403	14.5
2014	(\$1,258,403)	\$1,258,403	14.5
2015	(\$1,258,403)	\$1,258,403	14.5
2016	(\$1,258,403)	\$1,258,403	14.5

**Fiscal Analysis**

The bill would require the Texas Department of Licensing and Regulation (TDLR) to license and regulate dog and cat breeders and dealers, defined as a person who possesses 11 or more adult intact female animals. The bill would require TDLR to establish eligibility requirements for licenses, to conduct criminal background checks on applicants, and to annually inspect each facility of a licensed breeder. The bill would require TDLR to establish qualifications and training for registered breeder inspectors employed by the agency. The bill would also require TDLR to inspect a facility before an initial breeder license is issued for the facility. The bill would establish an advisory committee. The bill would authorize TDLR to set a licensing fee and a nonrefundable inspection fee. Licensing fees generated under the provisions of the bill for the purposes of funding the regulation of licensed dog and cat breeders and dealers would be deposited to the credit of the General Revenue Fund.

The bill would establish a new Dog or Cat Breeder Training and Enforcement Account as a separate account in the General Revenue Fund for the purposes defined in the bill. The bill would require administrative penalties collected under Chapter 51, Subchapter F, related to the regulation of dog and cat breeders and dealers to be deposited to the credit of the new account.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. Legislative policy, implemented as Government Code 403.094, consolidated special funds (except those affected by constitutional, federal, or other restrictions) into the General Revenue Fund as of August 31, 1993 and eliminated all applicable statutory revenue dedications as of August 31, 1995. Each subsequent Legislature has reviewed bills that affect funds consolidation. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

The bill would require TDLR to maintain a directory of licensed breeders to prepare information of consumer interest regarding the regulation of licensed breeders and the rights of a consumer. The bill would require TDLR to adopt, with the advice of the advisory committee, standards of care to ensure the overall health and welfare of each animal in the licensed breeder's facility. The bill would establish a civil penalty for any violation and would authorize the executive director of TDLR to issue a cease and desist or emergency order as necessary to enforce the regulations.

The bill would take effect immediately upon receiving a vote of two-thirds of all the members elected to each house; otherwise, the bill would take effect September 1, 2011.

## **Methodology**

Based on information provided by TDLR, the estimated population of commercial dog and cat breeders within the state of Texas is 1,000 and the estimated population of controlling persons who are the employees of breeders is estimated to be 2,000. Also based on the analysis of TDLR, it is assumed that an additional 14.5 FTEs would be required to license, regulate and enforce the provisions of the bill. This would include: 2.0 - Investigator IV: to investigate and document complaints; 1.5 - Attorney IV: to finalize Notices of Alleged Violations and prosecute complaints; 3.0 - Legal Assistant III: to assist the prosecutor and issue Notices of Alleged Violations; 1.5 - Administrative Assistant III: to field general enforcement questions and process initial submission of complaints; 2.0 - Legal Assistant II: to review complaints to determine if jurisdiction applies; 1.0 - Program Specialist IV: to determine compliance with statute and rules; interact with industry, municipalities, and public, and to coordinate and improve program; 2.0 - Inspector IV: to answer inquiries; assist with enforcement investigations; audit the Third party inspectors and conduct inspections; 0.5 - Systems Analyst IV: to create and maintain computer program to process new and renewal licenses; 1.0 - General Counsel III: to draft rules and provide legal interpretations to the agency and the public. For purposes of this analysis, it is assumed that required inspections and investigations would be performed by state employees of TDLR that qualify as registered breeder inspectors.

TDLR also anticipates receiving 1,000 complaints per year resulting in 45 hearings per year and conducting 965 pre-licensure inspections in fiscal year 2012. In addition, TDLR anticipates a cost of \$2,000 for each controlling person requiring a criminal history background check and \$2,181 in costs for issuing plastic credit card type licenses for the controlling persons and third party inspectors. TDLR assumes 181 inspectors, who are either employed by a state agency, local law enforcement or local fire department would register as third party inspectors. Based on information provided by TDLR, this analysis also assumes that the agency would contract with third party inspectors in the amounts of \$223,000 in 2012 and \$230,000 in each subsequent year to implement the provisions of the bill.

In addition to salary and benefit costs in the amount of \$937,446 each year, it is assumed that the agency would incur other costs of \$39,150 each year in rent for space for the additional FTEs in non-state-owned buildings, \$25,875 each year in annual travel costs, \$91,352.50 in FY 2012 for equipment costs, \$4,181 each year in professional services, and \$21,750 each year for other operating expenses.

This analysis assumes that any increased costs to the agency, which is statutorily required to generate

sufficient revenue to cover its costs of operation, would be offset by an increase in fee generated revenue. For the purposes of this analysis, no estimate is included for revenue gains or costs to the newly created Dog or Cat Breeder Training and Enforcement Account in the General Revenue Fund because administrative penalties that would be assessed subsequent to the implementation of the bill can not be determined.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 452 Department of Licensing and Regulation, 304 Comptroller of Public Accounts  
**LBB Staff:** JOB, ESi, AG, MW, CWS, SD

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**Revision 2**

**April 15, 2011**

**TO:** Honorable Mike Hamilton, Chair, House Committee on Licensing & Administrative Procedures

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: HB1451** by Thompson (Relating to the licensing and regulation of certain dog and cat breeders; providing penalties.), **Committee Report 1st House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB1451, Committee Report 1st House, Substituted: an impact of \$0 through the biennium ending August 31, 2013.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2012	\$0
2013	\$0
2014	\$0
2015	\$0
2016	\$0

**All Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Savings/(Cost) from General Revenue Fund 1</b>	<b>Probable Revenue Gain/ (Loss) from General Revenue Fund 1</b>	<b>Change in Number of State Employees from FY 2011</b>
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2015	(\$1,258,403)	\$1,258,403	14.5
2016	(\$1,258,403)	\$1,258,403	14.5

**Fiscal Analysis**

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generated under the provisions of the bill for the purposes of funding the regulation of licensed dog and cat breeders and dealers would be deposited to the credit of the General Revenue Fund.

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The bill would take effect immediately upon receiving a vote of two-thirds of all the members elected to each house; otherwise, the bill would take effect September 1, 2011.

## **Methodology**

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In addition to salary and benefit costs in the amount of \$937,446 each year, it is assumed that the agency would incur other costs of \$39,150 each year in rent for space for the additional FTEs in non-state-owned buildings, \$25,875 each year in annual travel costs, \$91,352.50 in FY 2012 for equipment

costs, \$4,181 each year in professional services, and \$21,750 each year for other operating expenses.

This analysis assumes that any increased costs to the agency, which is statutorily required to generate sufficient revenue to cover its costs of operation, would be offset by an increase in fee generated revenue. For the purposes of this analysis, no estimate is included for revenue gains or costs to the newly created Dog or Cat Breeder Training and Enforcement Account in the General Revenue Fund because administrative penalties that would be assessed subsequent to the implementation of the bill can not be determined.

### **Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 452 Department of Licensing and Regulation, 304 Comptroller of Public Accounts

**LBB Staff:** JOB, AG, MW, CWS, SD

LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION  
Revision 1

April 14, 2011

**TO:** Honorable Mike Hamilton, Chair, House Committee on Licensing & Administrative Procedures

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: HB1451** by Thompson (Relating to the licensing and regulation of certain dog and cat breeders; providing penalties.), **Committee Report 1st House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB1451, Committee Report 1st House, Substituted: an impact of \$0 through the biennium ending August 31, 2013.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2012	\$0
2013	\$0
2014	\$0
2015	\$0
2016	\$0

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1	Probable Revenue Gain/ (Loss) from General Revenue Fund 1	Change in Number of State Employees from FY 2011
2012	(\$1,342,755)	\$1,342,755	14.5
2013	(\$1,258,403)	\$1,258,403	14.5
2014	(\$1,258,403)	\$1,258,403	14.5
2015	(\$1,258,403)	\$1,258,403	14.5
2016	(\$1,258,403)	\$1,258,403	14.5

**Fiscal Analysis**

The bill would require the Texas Department of Licensing and Regulation (TDLR) to license and regulate dog and cat breeders and dealers, defined as a person who possesses 11 or more adult intact female animals. The bill would require TDLR to establish eligibility requirements for licenses, to conduct criminal background checks on applicants, and to annually inspect each facility of a licensed breeder. The bill would require TDLR to establish qualifications and training for registered breeder inspectors employed by the agency. The bill would also require TDLR to inspect a facility before an initial breeder license is issued for the facility. The bill would establish an advisory committee. The bill would authorize TDLR to set a licensing fee and a nonrefundable inspection fee. Licensing fees

generated under the provisions of the bill for the purposes of funding the regulation of licensed dog and cat breeders and dealers would be deposited to the credit of the General Revenue Fund.

The bill would establish a new Dog or Cat Breeder Training and Enforcement Account as a separate account in the General Revenue Fund for the purposes defined in the bill. The bill would require administrative penalties collected under Chapter 51, Subchapter F, related to the regulation of dog and cat breeders and dealers to be deposited to the credit of the new account.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. Legislative policy, implemented as Government Code 403.094, consolidated special funds (except those affected by constitutional, federal, or other restrictions) into the General Revenue Fund as of August 31, 1993 and eliminated all applicable statutory revenue dedications as of August 31, 1995. Each subsequent Legislature has reviewed bills that affect funds consolidation. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

The bill would require TDLR to maintain a directory of licensed breeders to prepare information of consumer interest regarding the regulation of licensed breeders and the rights of a consumer. The bill would require TDLR to adopt, with the advice of the advisory committee, standards of care to ensure the overall health and welfare of each animal in the licensed breeder's facility. The bill would establish a civil penalty for any violation and would authorize the executive director of TDLR to issue a cease and desist or emergency order as necessary to enforce the regulations.

The bill would take effect immediately upon receiving a vote of two-thirds of all the members elected to each house; otherwise, the bill would take effect September 1, 2011.

## **Methodology**

Based on information provided by TDLR, the estimated population of commercial dog and cat breeders within the state of Texas is 1,000 and the estimated population of controlling persons who are the employees of breeders is estimated to be 2,000. Also based on the analysis of TDLR, it is assumed that an additional 14.5 FTEs would be required to license, regulate and enforce the provisions of the bill. This would include: 2.0 - Investigator IV: to investigate and document complaints; 1.5 - Attorney IV: to finalize Notices of Alleged Violations and prosecute complaints; 3.0 - Legal Assistant III: to assist the prosecutor and issue Notices of Alleged Violations; 1.5 - Administrative Assistant III: to field general enforcement questions and process initial submission of complaints; 2.0 - Legal Assistant II: to review complaints to determine if jurisdiction applies; 1.0 - Program Specialist IV: to determine compliance with statute and rules; interact with industry, municipalities, and public, and to coordinate and improve program; 2.0 - Inspector IV: to answer inquiries; assist with enforcement investigations; audit the Third party inspectors and conduct inspections; 0.5 - Systems Analyst IV: to create and maintain computer program to process new and renewal licenses; 1.0 - General Counsel III: to draft rules and provide legal interpretations to the agency and the public. For purposes of this analysis, it is assumed that required inspections and investigations would be performed by state employees of TDLR that qualify as registered breeder inspectors.

TDLR also anticipates receiving 1,000 complaints per year resulting in 45 hearings per year and conducting 965 pre-licensure inspections in fiscal year 2012. In addition, TDLR anticipates a cost of \$2,000 for each controlling person requiring a criminal history background check and \$2,181 in costs for issuing plastic credit card type licenses for the controlling persons and third party inspectors. TDLR assumes 150 (or 5 percent) of the 3,000 animal control officers in Texas would register as third party inspectors and that another 31 inspectors, who are either employed by a state agency, local law enforcement or local fire department would also register, totaling 181 third party inspectors. Based on information provided by TDLR, this analysis also assumes that the agency would contract with third party inspectors in the amounts of \$223,000 in 2012 and \$230,000 in each subsequent year to implement the provisions of the bill.

In addition to salary and benefit costs in the amount of \$937,446 each year, it is assumed that the agency would incur other costs of \$39,150 each year in rent for space for the additional FTEs in non-

state-owned buildings, \$25,875 each year in annual travel costs, \$91,352.50 in FY 2012 for equipment costs, \$4,181 each year in professional services, and \$21,750 each year for other operating expenses.

This analysis assumes that any increased costs to the agency, which is statutorily required to generate sufficient revenue to cover its costs of operation, would be offset by an increase in fee generated revenue. For the purposes of this analysis, no estimate is included for revenue gains or costs to the newly created Dog or Cat Breeder Training and Enforcement Account in the General Revenue Fund because administrative penalties that would be assessed subsequent to the implementation of the bill can not be determined.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 452 Department of Licensing and Regulation, 304 Comptroller of Public Accounts  
**LBB Staff:** JOB, AG, MW, CWS, SD

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**April 7, 2011**

**TO:** Honorable Mike Hamilton, Chair, House Committee on Licensing & Administrative Procedures

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: HB1451** by Thompson (Relating to the licensing and regulation of certain dog and cat breeders; providing penalties.), **Committee Report 1st House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB1451, Committee Report 1st House, Substituted: an impact of \$0 through the biennium ending August 31, 2013.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2012	\$0
2013	\$0
2014	\$0
2015	\$0
2016	\$0

**All Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Savings/(Cost) from General Revenue Fund 1</b>	<b>Probable Revenue Gain/ (Loss) from General Revenue Fund 1</b>	<b>Change in Number of State Employees from FY 2011</b>
2012	(\$1,342,755)	\$1,342,755	14.5
2013	(\$1,258,403)	\$1,258,403	14.5
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2015	(\$1,258,403)	\$1,258,403	14.5
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**Fiscal Analysis**

The bill would require the Texas Department of Licensing and Regulation (TDLR) to license and regulate dog and cat breeders and dealers, defined as a person who possesses 11 or more adult intact female animals. The bill would require TDLR to establish eligibility requirements for licenses, to conduct criminal background checks on applicants, and to annually inspect each facility of a licensed breeder. The bill would require TDLR to establish qualifications and training for registered breeder inspectors employed by the agency. The bill would also require TDLR to inspect a facility before an initial breeder license is issued for the facility. The bill would establish an advisory committee. The bill would authorize TDLR to set a licensing fee and a nonrefundable inspection fee. Licensing fees generated under the provisions of the bill for the purposes of funding the regulation of licensed dog

and cat breeders and dealers would be deposited to the credit of the General Revenue Fund.

The bill would establish a new Dog or Cat Breeder Training and Enforcement Account as a separate account in the General Revenue Fund for the purposes defined in the bill. The bill would require administrative penalties collected under Chapter 51, Subchapter F, related to the regulation of dog and cat breeders and dealers to be deposited to the credit of the new account.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. Legislative policy, implemented as Government Code 403.094, consolidated special funds (except those affected by constitutional, federal, or other restrictions) into the General Revenue Fund as of August 31, 1993 and eliminated all applicable statutory revenue dedications as of August 31, 1995. Each subsequent Legislature has reviewed bills that affect funds consolidation. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

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The bill would take effect immediately upon receiving a vote of two-thirds of all the members elected to each house; otherwise, the bill would take effect September 1, 2011.

## **Methodology**

Based on information provided by TDLR, the estimated population of commercial dog and cat breeders within the state of Texas is 1,000 and the estimated population of controlling persons who are the employees of breeders is estimated to be 2,000. Also based on the analysis of TDLR, it is assumed that an additional 14.5 FTEs would be required to license, regulate and enforce the provisions of the bill. This would include: 2.0 - Investigator IV: to investigate and document complaints; 1.5 - Attorney IV: to finalize Notices of Alleged Violations and prosecute complaints; 3.0 - Legal Assistant III: to assist the prosecutor and issue Notices of Alleged Violations; 1.5 - Administrative Assistant III: to field general enforcement questions and process initial submission of complaints; 2.0 - Legal Assistant II: to review complaints to determine if jurisdiction applies; 1.0 - Program Specialist IV: to determine compliance with statute and rules; interact with industry, municipalities, and public, and to coordinate and improve program; 2.0 - Inspector IV: to answer inquiries; assist with enforcement investigations; audit the Third party inspectors and conduct inspections; 0.5 - Systems Analyst IV: to create and maintain computer program to process new and renewal licenses; 1.0 - General Counsel III: to draft rules and provide legal interpretations to the agency and the public. For purposes of this analysis, it is assumed that required inspections and investigations would be performed by state employees of TDLR that qualify as registered breeder inspectors.

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#### **Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 452 Department of Licensing and Regulation, 304 Comptroller of Public Accounts

**LBB Staff:** JOB, AG, MW, CWS



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**  
**Revision 1**

**April 14, 2011**

**TO:** Honorable Mike Hamilton, Chair, House Committee on Licensing & Administrative Procedures

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: HB1451** by Thompson (Relating to the licensing and regulation of commercial dog and cat breeders; providing penalties.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB1451, As Introduced: an impact of \$0 through the biennium ending August 31, 2013.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2012	\$0
2013	\$0
2014	\$0
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2016	\$0

**All Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Savings/(Cost) from General Revenue Fund 1</b>	<b>Probable Revenue Gain/ (Loss) from General Revenue Fund 1</b>	<b>Change in Number of State Employees from FY 2011</b>
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**Fiscal Analysis**

The bill would require the Texas Department of Licensing and Regulation (TDLR) to license and regulate commercial dog and cat breeders and dealers, defined as a person who possesses 11 adult intact female animals. The bill would require TDLR to establish eligibility requirements for licenses, to conduct criminal background checks on applicants, and to annually inspect each facility of a licensed commercial breeder. The bill would require TDLR to establish qualifications and training for registered breeder inspectors employed by the agency. The bill would also require TDLR to inspect a facility before an initial commercial breeder license is issued for the facility. The bill would authorize TDLR to set a licensing fee and a nonrefundable inspection fee. Licensing fees generated under the

provisions of the bill for the purposes of funding the regulation of commercial dog and cat breeders and dealers would be deposited to the credit of the General Revenue Fund.

The bill would establish a new Commercial Breeder Training and Enforcement Account as a separate account in the General Revenue Fund for the purposes defined in the bill. The bill would require administrative penalties collected under Chapter 51, Subchapter F, related to the regulation of commercial dog and cat breeders and dealers to be deposited to the credit of the new account.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. Legislative policy, implemented as Government Code 403.094, consolidated special funds (except those affected by constitutional, federal, or other restrictions) into the General Revenue Fund as of August 31, 1993 and eliminated all applicable statutory revenue dedications as of August 31, 1995. Each subsequent Legislature has reviewed bills that affect funds consolidation. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

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## **Methodology**

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agency would incur other costs of \$39,150 each year in rent for space for the additional FTEs in non-state-owned buildings, \$25,875 each year in annual travel costs, \$91,352.50 in FY 2012 for equipment costs, \$4,181 each year in professional services, and \$21,750 each year for other operating expenses.

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#### **Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts, 452 Department of Licensing and Regulation

**LBB Staff:** JOB, AG, MW, CWS, SD

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**March 14, 2011**

**TO:** Honorable Mike Hamilton, Chair, House Committee on Licensing & Administrative Procedures

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: HB1451** by Thompson (Relating to the licensing and regulation of commercial dog and cat breeders; providing penalties.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB1451, As Introduced: an impact of \$0 through the biennium ending August 31, 2013.

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**General Revenue-Related Funds, Five-Year Impact:**

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### **Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts, 452 Department of Licensing and Regulation

**LBB Staff:** JOB, AG, MW, CWS