

DOG OR CAT BREEDERS
Occupations Code
Title 4. Professions Related to Animals
Chapter 802
Administered by the Texas Department of Licensing and Regulation
(Effective June 17, 2011, except where noted)

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SUBCHAPTER A. GENERAL PROVISIONS

Sec. 802.001. Short Title.

This chapter may be cited as the Dog or Cat Breeders Act.

Sec. 802.001. 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;
 - (B) possesses the authority to set policy or direct management of a dog or cat breeder; or
 - (C) possesses a direct or indirect control of 25 percent or more of a dog or cat breeder.
- (6) **"Department"** means the Texas Department of Licensing and Regulation under Chapter 51.
- (7) **"Dog"** means a mammal that is wholly or partly of the species *Canis familiaris*.
- (8) **"Dog or cat breeder"** means a person who possesses 11 or more adult intact female animals and is engaged in the business of breeding those animals for direct or indirect sale or for exchange in return for consideration and who sells or exchanges, or offers to sell or exchange, not fewer than 20 animals in a calendar year.
- (9) **"Facility"** means the premises used by a dog or cat breeder for keeping or breeding animals. The term includes buildings, property, and confinement areas used to conduct the breeding business.
- (10) **"Federal regulations"** means the specifications for the humane handling, care, treatment, and transportation of dogs and cats set forth in 9 C.F.R. Part 3, Subpart A.
- (11) **"Intact female animal"** means a female animal that has not been spayed and is capable of reproduction.
- (12) **"Kitten"** means a cat less than six months old.
- (13) **"Licensed breeder"** means a dog or cat breeder who holds a license issued under this chapter.
- (14) **"Possess"** means to have custody of or control over.
- (15) **"Primary enclosure"** means any structure used to restrict an animal to a limited amount of space. The term includes a room, pen, run, cage, or compartment.
- (16) **"Puppy"** means a dog less than six months old.
- (17) **"Third-party inspector"** means any of the following entities with which the department contracts under Section 802.061, including an employee of the entity:

- (A) a state agency; or
 - (B) a local law enforcement agency or fire department.
- (18) "**Veterinarian**" means a veterinarian in good standing and licensed to practice veterinary medicine in this state.

Sec. 802.003. Applicability of Chapter.

- (a) This chapter does not affect the applicability of any other law, rule, order, ordinance, or other legal requirement of the federal government, this state, or a political subdivision of this state.
- (b) This chapter does not prevent a municipality or county from prohibiting or further regulating by order or ordinance the possession, breeding, or selling of dogs or cats.
- (c) This chapter does not apply to an animal regulated under the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes).

Sec. 802.004. Presumption of Use for Breeding.

For purposes of this chapter, each adult intact female animal possessed by a person engaged in the business of breeding animals for direct or indirect sale or for exchange in return for consideration is presumed to be used for breeding purposes unless the person establishes to the satisfaction of the department, based on the person's breeding records or other evidence reasonably acceptable to the department, that the animal is not used for breeding.

Sec. 802.005. Exemption for Certain Persons Who Breed Special Purpose Dogs.

- (a) This section applies only to a dog bred with the intent that it be used primarily for:
 - (1) herding livestock, as defined by Section 1.003, Agriculture Code, or other agricultural uses;
 - (2) hunting, including tracking, chasing, pointing, flushing, or retrieving game; or
 - (3) competing in field trials, hunting tests, or similar organized performance events.
- (b) This chapter does not apply to a person to the extent the person breeds dogs described by Subsection (a) for personal use. A person described by this subsection may conduct direct or indirect sales or exchanges in return for consideration of dogs described by Subsection (a).
- (c) Notwithstanding Subsection (b), a person described by Subsection (b) may be subject to the requirements of this chapter based on the person's activities with respect to animals other than dogs that are bred and used as described by this section.
- (d) Dogs described by Subsection (a) may not be counted for purposes of determining the number of adult intact female animals possessed by a person as described by Section 802.002(8).

[Sections 802.006-802.050 reserved for expansion]

SUBCHAPTER B. POWERS AND DUTIES OF COMMISSION AND DEPARTMENT

Sec. 802.051. General Powers and Duties; Rules.

- (a) The department shall administer and enforce this chapter.
- (b) The commission shall adopt rules necessary to administer and enforce this chapter.

Sec. 802.052. Fees.

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

Sec. 802.053. Personnel.

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

Sec. 802.054. Expenses.

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

Sec. 802.055. Criminal Background Checks.

The department shall conduct a criminal background check on each applicant who submits an application for a license under this chapter and on any controlling person of the applicant. The department may, as permitted by law:

- (1) examine any criminal conviction, guilty plea, or deferred adjudication of the applicant or controlling person; and
- (2) obtain any criminal history or record of the applicant or controlling person.

Sec. 802.056. Directory.

- (a) The department shall maintain a directory of licensed breeders and of third-party inspectors registered under this chapter.
- (b) The department shall make the directory available to the public.

Sec. 802.057. Disciplinary Database.

- (a) The department shall maintain a database of dog or cat breeders who have been subject to disciplinary action as provided by Subchapter F.
- (b) The department shall make the information maintained in the database available to the public.

Sec. 802.058. Consumer Interest Information.

- (a) The department shall prepare information of consumer interest describing:
 - (1) the functions performed by the department under this chapter; and
 - (2) the rights of a consumer affected by this chapter.
- (b) The information must describe the procedure by which a consumer complaint is filed with and resolved by the department.
- (c) The department shall make the information available to the public.

Sec. 802.059. Dog or Cat Breeder Training and Enforcement Account.

- (a) The dog or cat breeder training and enforcement account is an account in the general revenue fund. Administrative penalties collected under Subchapter F shall be deposited to the credit of the account.
- (b) Funds in the account may be appropriated only to the department for:
 - (1) promoting consumer awareness of this chapter and rules adopted under this chapter;
 - (2) supporting educational seminars, training activities, or other actions designed to benefit the department's ability to administer and enforce this chapter; and
 - (3) paying for information resulting in disciplinary action under Subchapter F against a person for acting as a dog or cat breeder without holding a license issued under this chapter.
- (c) The commission by rule may provide for a system to pay for information described by Subsection (b)(3). Rules adopted under this subsection must ensure that a public purpose is accomplished through the use of the payment system.
- (d) The department may solicit and accept gifts, grants, and other donations from any source for deposit into the account.
- (e) The account is exempt from the application of Section 403.095, Government Code.
- (f) The executive director of the department must approve any expenditure from the account.
- (g) The department shall report its use of the account in its quarterly financial report to the commission.

Sec. 802.060. Regulation of Third-Party Inspectors.

The commission by rule shall establish:

- (1) training requirements for a third-party inspector;
- (2) registration procedures for a third-party inspector; and
- (3) policies governing the acts of a third-party inspector in conducting an inspection or investigation.

Sec. 802.061. Contracts for Enforcement.

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

Sec. 802.062. Inspections.

- (a) The department shall inspect each facility of a licensed breeder at least once in every 18-month period and at other times as necessary to ensure compliance with this chapter and rules adopted under this chapter.
- (b) The inspection must be conducted during the facility's normal business hours, and the licensed breeder or a representative of the licensed breeder must be given a reasonable opportunity to be present during the inspection.
- (c) If necessary to adequately perform the inspection, the department or third-party inspector may determine it is appropriate to not provide advance notice to the licensed breeder or a representative of the licensed breeder before arriving at the facility. The licensed breeder or its representative shall, on request of an inspector, assist the inspector in performing the inspection.

- (d) In conducting an inspection under this section, an inspector may not enter or access any portion of a private residence of a licensed breeder except as necessary to access animals or other property relevant to the care of the animals. The inspector may request that relevant documents or records be provided for inspection.
- (e) The inspector shall submit an inspection report to the department not later than the 10th day after the date of the inspection on a form prescribed by the department and provide a copy of the report to the licensed breeder or its representative.

Sec. 802.063. Investigations.

On receipt of a complaint alleging a violation of this chapter or a rule adopted under this chapter, the department or a third-party inspector designated by the department shall investigate the alleged violation.

Sec. 802.064. Reporting Animal Cruelty.

A person conducting an inspection under Section 802.062 or 802.103 or an investigation under Section 802.063 shall notify the appropriate local law enforcement agency not later than 24 hours after discovering evidence of animal cruelty or neglect during the inspection or investigation.

Sec. 802.065. Advisory Committee.

- (a) The commission shall establish an advisory committee to advise the commission and make recommendations on matters related to the administration and enforcement of this chapter, including licensing fees and standards adopted under Subchapter E.
- (b) The advisory committee consists of nine members appointed by the presiding officer of the commission with the approval of the commission as follows:
 - (1) two members who are licensed breeders;
 - (2) two members who are veterinarians;
 - (3) two members who represent animal welfare organizations each of which has an office based in this state;
 - (4) two members who represent the public; and
 - (5) one member who is an animal control officer as defined in Section 829.001, Health and Safety Code.
- (c) Members of the advisory committee serve staggered four-year terms. The terms of four or five members expire on February 1 of each odd-numbered year. If a vacancy occurs during a member's term, the presiding officer of the commission, with the approval of the commission, shall appoint a replacement member to serve for the remainder of the unexpired term.
- (d) The presiding officer of the commission shall designate one member of the advisory committee to serve as presiding officer of the advisory committee for a two-year term. A member may serve more than one term as presiding officer.
- (e) The advisory committee shall meet annually and at the call of the presiding officer of the advisory committee, the presiding officer of the commission, or the executive director of the department.
- (f) Except for the members described by Subsection (b)(1), a person may not be a member of the advisory committee if the person or a member of the person's household:
 - (1) is required to be licensed under this chapter;
 - (2) is an officer, employee, or paid consultant of an entity required to be licensed under this chapter;

- (3) owns or controls, either directly or indirectly, more than a 10 percent interest in an entity required to be licensed under this chapter; or
- (4) is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of an entity required to be licensed under this chapter.
- (g) The presiding officer of the commission may remove from the advisory committee a member who is ineligible for membership under Subsection (f).
- (h) A member may not receive compensation for service on the advisory committee. Subject to the department's budget and any limitation provided by the General Appropriations Act, a committee member may receive reimbursement for the actual and necessary expenses incurred while performing advisory committee duties.
- (i) A decision of the advisory committee is effective only on a majority vote of the members present.
- (j) Chapter 2110, Government Code, does not apply to the size, composition, or duration of the advisory committee or to the appointment of the committee's presiding officer.

[Sections 802.066-802.100 reserved for expansion]

SUBCHAPTER C. LICENSING OF DOG OR CAT BREEDERS

Sec. 802.101. License Required.

- (a) A person may not act as, offer to act as, or represent that the person is a dog or cat breeder in this state unless the person holds a license under this chapter for each facility that the person owns or operates in this state. A license for a single facility may cover more than one building on the same premises.
- (b) The commission by rule may establish requirements for issuance or renewal of a license issued to a dog or cat breeder under this chapter.

Sec. 802.102. Application.

An applicant for a license under this chapter must:

- (1) submit to the department a completed application on a form prescribed by the department;
- (2) submit to the department the information regarding the applicant's facilities and operations requested by the department;
- (3) demonstrate that the applicant has satisfied the requirements of this chapter and rules adopted under this chapter; and
- (4) pay to the department the required fee.

Sec. 802.103. Prelicense Inspection.

- (a) Except as provided by Subsection (e), the department must inspect a facility before a license is issued for the facility.
- (b) The department may not issue a license to a dog or cat breeder until the department receives a prelicense inspection report from the inspector in a format approved by the department certifying that the facility meets the requirements of this chapter and rules adopted under this chapter.

- (c) Before the prelicense inspection may be conducted, each applicant must pay to the department the required inspection fee to be used to pay third-party inspectors and the reasonable expenses of the department related to its licensing and inspection duties under this chapter.
- (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) submitting a renewal application to the department on the form prescribed by the department;
 - (2) complying with any other renewal requirements adopted by the department; and
 - (3) paying the required fee.
- (b) A person whose license has expired may not engage in activities that require a license until the license has been renewed.
- (c) The department may not renew the license of a person if the person is in violation of this chapter or any rule adopted under this chapter at the time of renewal.

Sec. 802.107. License Denial, Revocation, and Suspension.

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

- (b) The department shall revoke a license if, after the license is issued, the person or a controlling person of the dog or cat breeder pleads guilty to, is convicted of, or receives deferred adjudication for animal cruelty or neglect in this state or any other jurisdiction.
- (c) The department may deny issuance of a license to, refuse to renew the license of, or revoke or suspend a license held by a person who:
 - (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 Regulation, P.O. Box 12157, Austin, Texas 78711, 1-800-803-9202, 512-463-6599, www.license.state.tx.us" or a similar statement adopted by commission rule that includes the department's name, mailing address, telephone numbers, and Internet website address.

Sec. 802.152. Change in License Information.

A licensed breeder shall notify the department in a manner prescribed by the department not later than the 10th day after the date any change occurs in the address, name, management, or controlling person of the business or operation.

Sec. 802.153. Annual Inventory.

- (a) Not later than February 1 of each year, a licensed breeder shall submit to the department, on a form prescribed by the department, an accounting of all animals held at the facility at any time during the preceding calendar year.

- (b) The licensed breeder shall keep copies of the items described by Subsection (a) at the licensed breeder's facility and shall make them available on request to the department or a third-party inspector designated by the department.
- (c) A licensed breeder that has more than one facility shall:
 - (1) keep separate records for each facility; and
 - (2) submit a separate accounting of animals for each facility.

Sec. 802.154. Animal Records.

- (a) The commission shall adopt rules establishing the minimum information that a licensed breeder must maintain for each animal in the breeder's facility. A licensed breeder shall maintain a separate record for each animal in the breeder's facility documenting the animal's care.
- (b) The licensed breeder shall make the animal records available on request to the department or a third-party inspector designated by the department.
- (c) The commission by rule shall establish the retention period for records required under this section.

[Sections 802.155-802.200 reserved for expansion]

SUBCHAPTER E. STANDARDS OF CARE AND CONFINEMENT

Sec. 802.201. Adoption of Standards.

- (a) The commission shall adopt rules establishing minimum standards for the humane handling, care, housing, and transportation of dogs and cats by a dog or cat breeder to ensure the overall health, safety, and well-being of each animal in the breeder's possession.
- (b) The standards adopted under this section must:
 - (1) at a minimum, meet federal regulations;
 - (2) require that, unless otherwise certified by a veterinarian in the manner prescribed by the department, a licensed breeder, if applicable, provide each dog 12 weeks of age and older with at least one hour of daily exercise in an area that:
 - (A) has a surface that has adequate drainage and that will not adversely affect the dog's health or well-being, and that may be composed of natural turf or soil;
 - (B) provides adequate protection against harsh weather, including exposure to the sun; and
 - (C) has at least three times more square feet than the dog's primary enclosure;
 - (3) require that an adequate period consistent with breed standards elapse between the breeding cycles of each adult intact female animal;
 - (4) require that a dog or cat breeder provide basic grooming to each animal, including bathing and nail trimming, to the extent required to maintain the animal in a state of good health;
 - (5) require that all primary enclosures:
 - (A) be composed of materials that are safe for the animal based on the animal's breed, size, and age;

- (B) have adequate space to allow the animal to comfortably stand, sit, turn around, and lie down in a natural position;
 - (C) have adequate drainage; and
 - (D) if any portion of the floor surface is composed of wire or a slatted material, be free from any protruding, sharp surfaces and be designed so the animal's paws are unable to extend through, or become caught in, the floor;
- (6) prohibit the placement of a primary enclosure of an animal on top of the primary enclosure of another animal, unless an impervious barrier designed to prevent the transfer of any liquid or animal waste from one enclosure to the other is placed between the enclosures;
 - (7) prohibit the stacking of the primary enclosures of dogs above three vertical levels;
 - (8) require at least one regular veterinary examination a year for a breeding animal;
 - (9) require that a dog or cat breeder maintain at each of the breeder's facilities a written health care management protocol that addresses routine and preventive care;
 - (10) ensure that necessary routine and preventive care is provided to each animal and that each animal receives appropriate care and treatment for any disease or illness, to the extent required to maintain the animal in a state of good health;
 - (11) prohibit a person from euthanizing an adult animal or performing a surgical birth of an animal unless the person is a veterinarian;
 - (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.

NOTE: AS AMENDED BY ACTS 2011, 82nd LEG., HB 1451, SECTION 3 READS: 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 802.065, Occupations Code, as added by this Act.

NOTE: AS AMENDED BY ACTS 2011, 82nd LEG., HB 1451, SECTION 4 READS: 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.

NOTE: AS AMENDED BY ACTS 2011, 82nd LEG., HB 1451, SECTION 5 READS: 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 E, Chapter 802, Occupations Code, as added by this Act, before September 1, 2012.