

2
3 SENATE AC&F COMMITTEE SUBSTITUTE FOR SB183
4

5
6
7
8 SYNOPSIS: This bill would provide for the regulation
9 of pet stores as to the sale of dogs.

10 This bill would provide certain restrictions
11 on the sale, delivery, giving away, or transferring
12 of dogs from a pet store to another person or
13 entity, would prohibit pet stores from recklessly
14 altering or providing false information on
15 certifications required by the act for the sale or
16 transfer of a dog, and would provide civil
17 penalties for violations.

18 This bill would require pet stores to be
19 licensed by the Department of Agriculture and
20 Industries, would provide for the issuance, denial,
21 and suspension of licenses, and would provide for
22 the deposit of licensure fees into the Agricultural
23 Fund, created by the act.

24 This bill would also reserve the regulation
25 of pet stores as to the sale of dogs to the state.

26 Amendment 621 of the Constitution of Alabama
27 of 1901, now appearing as Section 111.05 of the

1 Official ReCompilation of the Constitution of
2 Alabama of 1901, as amended, prohibits a general
3 law whose purpose or effect would be to require a
4 new or increased expenditure of local funds from
5 becoming effective with regard to a local
6 governmental entity without enactment by a 2/3 vote
7 unless: it comes within one of a number of
8 specified exceptions; it is approved by the
9 affected entity; or the Legislature appropriates
10 funds, or provides a local source of revenue, to
11 the entity for the purpose.

12 The purpose or effect of this bill would be
13 to require a new or increased expenditure of local
14 funds within the meaning of the amendment. However,
15 the bill does not require approval of a local
16 governmental entity or enactment by a 2/3 vote to
17 become effective because it comes within one of the
18 specified exceptions contained in the amendment.

19
20 A BILL
21 TO BE ENTITLED
22 AN ACT

23
24 Relating to pet stores; to provide certain
25 restrictions on the sale, delivery, giving away, or
26 transferring of dogs from a pet store to another person or
27 entity; to prohibit pet stores from recklessly altering or

1 providing false information on certifications required by the
2 act for the sale or transfer of a dog; to provide civil
3 penalties for violations; to require the licensure of pet
4 stores by the Department of Agriculture and Industries; to
5 create the Agricultural Fund; to reserve the regulation of pet
6 stores as to the sale of dogs to the state; to provide
7 rulemaking authority for the Department of Agriculture and
8 Industries; and in connection therewith would have as its
9 purpose or effect the requirement of a new or increased
10 expenditure of local funds within the meaning of Amendment 621
11 of the Constitution of Alabama of 1901, now appearing as
12 Section 111.05 of the Official Recompilation of the
13 Constitution of Alabama of 1901, as amended.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

17 (1) ANIMAL RESCUE FOR DOGS. An individual or
18 organization that houses and maintains dogs and that is
19 dedicated to the welfare, health, safety, and protection of
20 dogs, provided that the individual or organization does not
21 operate for profit, does not sell dogs for a profit, does not
22 breed dogs, and does not purchase more than nine dogs in any
23 given calendar year unless the dogs are purchased from an
24 animal control officer of a municipality or county, a humane
25 society, or another animal rescue for dogs. The term includes
26 an individual or organization that offers spayed or neutered
27 dogs for adoption and charges reasonable adoption fees to

1 cover the costs of the individual or organization, including,
2 but not limited to, costs related to spaying or neutering
3 dogs.

4 (2) ANIMAL SHELTER FOR DOGS. A facility that houses
5 and maintains dogs such as an animal shelter, as defined in
6 Section 3-10-2, Code of Alabama 1975, or that is maintained by
7 an animal welfare society, society for the prevention of
8 cruelty to animals, or other nonprofit organization that is
9 devoted to the welfare, protection, and humane treatment of
10 dogs and other animals.

11 (3) COMMISSIONER. The Commissioner of the Alabama
12 Department of Agriculture and Industries.

13 (4) DEPARTMENT. The Alabama Department of
14 Agriculture and Industries.

15 (5) DOG WHOLESALER. A person who buys, sells, or
16 offers to sell dogs to another at wholesale for resale or who
17 sells or gives one or more dogs to a pet store annually. The
18 term does not include an animal rescue for dogs, an animal
19 shelter for dogs, a humane society, a medical kennel for dogs,
20 a research kennel for dogs, a pet store, or a veterinarian.

21 (6) HIGH VOLUME BREEDER. An establishment that
22 houses and maintains adult breeding dogs that cumulatively
23 produce at least nine litters of puppies in any given calendar
24 year and, in return for a fee or other consideration, sells 60
25 or more adult dogs or puppies per calendar year.

1 (7) MEDICAL KENNEL FOR DOGS. A facility that is
2 maintained by a veterinarian and operated primarily for the
3 treatment of sick or injured dogs.

4 (8) PET STORE. An individual retail store to which
5 both of the following apply: The store sells dogs to the
6 public; and with regard to the sale of a dog from the store,
7 the salesperson, the buyer of a dog, and the dog for sale are
8 physically present during the sales transaction so that the
9 buyer may personally observe the dog and ensure its health
10 prior to taking custody. The term does not include an animal
11 rescue for dogs, an animal shelter for dogs, a humane society,
12 a medical kennel for dogs, or a research kennel for dogs.

13 (9) QUALIFIED BREEDER. Either of the following:

14 a. A breeder that keeps, houses, and maintains
15 female adult dogs but is not a high volume breeder.

16 b. A high volume breeder located in or out of this
17 state that meets all of the following requirements:

18 1. The breeder is licensed by the United States
19 Department of Agriculture under 7 U.S.C. § 2133 and, if
20 applicable, a state agency.

21 2. The breeder has not been issued a report of a
22 direct noncompliance violation by the United States Department
23 of Agriculture under the federal Animal Welfare Act for a
24 period of three years prior to offering for sale, delivering,
25 bartering, auctioning, brokering, giving away, transferring,
26 or selling a dog.

1 3. The breeder has not had three or more
2 noncompliance violations documented in any report issued by
3 the United States Department of Agriculture under the federal
4 Animal Welfare Act for a period of 12 months prior to offering
5 for sale, delivering, bartering, auctioning, brokering, giving
6 away, transferring, or selling a dog.

7 (10) RESEARCH KENNEL FOR DOGS. A facility housing
8 dogs that is maintained exclusively for research purposes.

9 (11) VETERINARIAN. Either a veterinarian licensed to
10 practice under the laws of this state or the laws of another
11 state.

12 Section 2. (a) An owner, manager, or employee of a
13 pet store may not knowingly display, offer for sale, deliver,
14 barter, auction, broker, give away, transfer, or sell any live
15 dog from a pet store to a person unless the dog was obtained
16 from one of the following sources:

17 (1) An animal rescue for dogs.

18 (2) An animal shelter for dogs.

19 (3) A dog wholesaler, provided that, if the dog
20 wholesaler originally obtained the dog from a breeder, the
21 breeder is a qualified breeder.

22 (4) A qualified breeder.

23 (b) An owner, manager, or employee of a pet store
24 may not knowingly sell, deliver, barter, auction, broker, give
25 away, or transfer any of the following:

26 (1) A dog that is less than eight weeks old.

1 (2) A dog without a certificate of veterinarian
2 inspection signed by a veterinarian.

3 (3) A dog that does not have a permanent implanted
4 identification microchip that is approved for use by the
5 commissioner under rules adopted by the department.

6 (4) A dog to a person who is younger than 18 years
7 of age as verified by valid photo identification.

8 (5) A dog acquired from a qualified breeder or a dog
9 wholesaler unless the owner, manager, or employee provides to
10 the person acquiring the dog, at a time prior to the
11 transaction for the acquisition of the dog, a written
12 certification that includes all of the following information:

13 a. The name of the breeder that bred the dog.

14 b. The address, if available, of the breeder that
15 bred the dog.

16 c. The United States Department of Agriculture
17 license number of the breeder that bred the dog, if
18 applicable, and a copy of the most current United States
19 Department of Agriculture inspection report for the breeder.

20 d. The dog's birth date, if known.

21 e. The date that the pet store took possession of
22 the dog.

23 f. The breed, gender, color, and any identifying
24 marks of the dog.

25 g. A document signed by a veterinarian that
26 describes any known disease, illness, or congenital or

1 hereditary condition that adversely affects the health of the
2 dog at the time of examination.

3 h. A document signed by the owner, manager, or
4 employee of the pet store certifying that all information
5 required to be provided to the person acquiring the dog under
6 this subdivision is accurate. A pet store shall keep a copy of
7 the certification for a period of at least two years from the
8 date of the acquisition. The owner, manager, or an employee of
9 the pet store shall make the copy of the certification
10 available for inspection or duplication by the department.

11 (6) A dog acquired from a qualified breeder or a dog
12 wholesaler unless all of the following information regarding
13 the dog is available to the general public at the pet store:

14 a. The name of the breeder that bred the dog.

15 b. The address, if available, of the breeder that
16 bred the dog.

17 c. The United States Department of Agriculture
18 license number of the breeder that bred the dog, if
19 applicable.

20 d. The dog's birth date, if known.

21 e. The breed of the dog.

22 (c) An owner, manager, or employee of a pet store
23 may not recklessly alter or provide false information on a
24 certification provided under subdivision (5) of subsection
25 (b).

26 (d) This section does not apply to any dog that is
27 being sold, delivered, bartered, auctioned, given away,

1 brokered, or transferred from the premises where the dog was
2 bred and raised.

3 Section 3. (a) The commissioner shall issue a pet
4 store license to an owner or operator of a pet store when the
5 owner or operator satisfies all of the following:

6 (1) Applies for a license in accordance with this
7 section and rules adopted by the department pursuant to this
8 act.

9 (2) Affirms in writing that the owner or operator
10 will comply with the applicable requirements established under
11 this act and rules adopted by the department.

12 (3) Submits with the application for a pet store
13 license a fee of five hundred dollars (\$500).

14 (b) (1) The commissioner may deny, suspend, or revoke
15 a license issued under this section for a violation of
16 subsection (a), (b), or (c) of Section 2 or the rules adopted
17 by the department pursuant to this act. The denial,
18 suspension, or revocation of a license is not effective until
19 the applicant or licensee is given written notice of the
20 violation and at least 7 calendar days to correct the
21 violation, if possible, and an opportunity for a hearing
22 before the commissioner.

23 (2) The commissioner may refuse to issue a license
24 under subdivision (1) if the applicant has violated subsection
25 (a), (b), or (c) of Section 2 or the rules adopted by the
26 department pursuant to this act during the 36-month period
27 prior to submitting an application for the license.

1 (c) Any license issued under this section is valid
2 for a period of one year from the date of issuance. A pet
3 store license must be renewed annually in the manner provided
4 in rules adopted under this section.

5 (d) Money collected by the commissioner from each
6 application fee submitted under this section shall be
7 deposited in the State Treasury to the credit of the
8 Agricultural Fund created in Section 6, to be administered by
9 the department.

10 (e) An owner, operator, or manager of a pet store
11 may not negligently display, offer for sale, deliver, barter,
12 auction, broker, give away, transfer, or sell any live dog
13 from a pet store in this state unless a license has been
14 issued for the pet store by the commissioner in accordance
15 with this section and rules adopted pursuant to this act.

16 Section 4. (a) The commissioner may assess a civil
17 penalty against a person that violates subsection (a), (b), or
18 (c) of Section 2 or subsection (e) of Section 3 if all of the
19 following occur:

20 (1) The person has received a notice of the
21 violation by certified mail or personal service pursuant to
22 the Alabama Rules of Civil Procedure.

23 (2) After the time period for correcting the
24 violation specified in the notice has elapsed, the
25 commissioner has determined that the violation has not been
26 corrected, and the commissioner has issued a notice of a
27 hearing pursuant to subdivision (3).

1 (3) The commissioner affords the person an
2 opportunity for a hearing under the Alabama Administrative
3 Procedure Act to challenge the commissioner's determination
4 that the person is not in compliance with this act or rules
5 adopted pursuant to this act, the assessment of the civil
6 penalty, or both. A person may waive the opportunity for a
7 hearing.

8 (b) If the opportunity for a hearing is waived or
9 if, after a hearing, the commissioner determines that a
10 violation has occurred or is occurring, the commissioner may
11 assess a civil penalty not to exceed the following amounts:

12 (1) Five hundred dollars (\$500) for a first
13 violation.

14 (2) Two thousand five hundred dollars (\$2,500) for a
15 second violation.

16 (3) Ten thousand dollars (\$10,000) for a third or
17 subsequent violation.

18 (c) Any person assessed a civil penalty under this
19 section shall pay the amount prescribed to the department. The
20 department shall remit all money collected under this section
21 to the Agricultural Fund.

22 Section 5. (a) (1) The Legislature hereby occupies
23 and preempts the entire field of regulation in this state
24 touching in any way upon the sale of dogs in pet stores. The
25 regulation of the sale of dogs by pet stores is a matter of
26 general statewide interest that requires statewide regulation.
27 The authority of a political subdivision of this state to

1 regulate the sale of dogs by pet stores may not be inferred
2 from its proprietary authority, or any other inherent or
3 general power. Except as provided in subdivision (2), any
4 existing orders, ordinances, or rules adopted or enforced with
5 regard to the sale of dogs by pet stores which are contrary to
6 the terms of this act are null and void and any future order,
7 ordinance, or rules shall comply with this act. Provided,
8 however, nothing in this act shall prohibit a municipality
9 from assessing sales, use, or other taxes on the operation of
10 pet stores nor prohibit the requirement that a pet store
11 obtain a business license to operate within the municipality.
12 Further, this act shall not be construed as prohibiting a
13 municipality from regulating other business aspects of pet
14 store operations and its premises other than the sale of
15 puppies and dogs.

16 (2) Notwithstanding subdivision (1), any order,
17 ordinance, or rule adopted prior to March 1, 2019, by a
18 political subdivision of the state regulating or relating to
19 pet stores, shall remain in full force and effect.

20 (b) The department shall only be responsible for the
21 regulation of dog sales in pet stores and shall not be
22 responsible for the regulation of any other aspect of pet
23 store operations, inventories, or sales regarding any other
24 species of animal.

25 Section 6. The Department of Agriculture and
26 Industries shall adopt rules for the implementation and
27 administration of this act.

1 Section 7. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.