

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
90th General Assembly
Regular Session, 2015

As Engrossed: H3/19/15
A Bill

HOUSE BILL 1620

By: Representative Sorvillo

For An Act To Be Entitled

AN ACT TO REGULATE THE BREEDING OF CERTAIN ANIMALS;
TO CREATE THE ARKANSAS COMMERCIAL BREEDING KENNEL ACT
OF 2015; TO CREATE THE ARKANSAS COMMERCIAL BREEDING
KENNEL FUND; AND FOR OTHER PURPOSES.

Subtitle

*TO REGULATE THE BREEDING OF CERTAIN
ANIMALS; AND TO CREATE THE ARKANSAS
COMMERCIAL BREEDING KENNEL ACT OF 2015.*

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

*SECTION 1. Arkansas Code Title 20, Chapter 19, is amended to add an
additional subchapter to read as follows:*

Subchapter 7 – Arkansas Commercial Breeding Kennel Act of 2015

20-19-701. Title.

*This subchapter shall be known and may be cited as the “Arkansas
Commercial Breeding Kennel Act of 2015”.*

20-19-702. Legislative findings and intent.

(a) The General Assembly finds that:

*(1) A commercial breeding kennel is entrusted with the
treatment, care, and disposition of dogs sold for commercial purposes; and*

*(2) The treatment, care, and disposition of dogs by commercial
breeding kennels is unfortunately inconsistent and may be harmful to animals.*

(b) It is the intent of the General Assembly:



(1) To require the licensing of commercial breeding kennels and of dogs sold for commercial purposes to ensure humane treatment and care;

(2) To increase the standards for commercial breeding kennels;

(3) To provide consistency for the treatment, care, and disposition of dogs to ensure that the dogs are physically and temperamentally sound, healthy, and fit as companions for wholesale and retail consumers;

(4) To provide the means by which the standards for the acquisition and care of dogs can be improved through the licensing of commercial dog breeders; and

(5) To ensure that commercial breeding kennels are managed in a safe and healthy manner to prevent a health risk to the public.

20-19-703. Definitions.

As used in this subchapter:

(1) "Adequate rest between breeding cycles" means that female dogs are not bred to produce more than two (2) litters in an eighteen-month period;

(2) "Authorized person" means the Department of Health, its delegate, or a law enforcement officer;

(3)(A) "Commercial breeding kennel" means a kennel:

(i) In which the business of breeding covered dogs for the purpose of selling the offspring as pets is carried on; and

(ii) That has at least ten (10) female covered dogs that are maintained for the purpose of breeding offspring to sell as pets.

(B) "Commercial breeding kennel" includes without limitation:

(i) The owners, officers, agents, operators, managers, and employees of the kennel; and

(ii) A kennel that is not registered.

(C) "Commercial breeding kennel" does not include:

(i) A kennel that is maintained solely for grooming or boarding purposes; or

(ii) An animal shelter or humane society dedicated to the care of unwanted animals that are made available for adoption regardless of whether an adoption fee is charged;

(4)(A) "Covered dog" means a member of the species of the domestic dog, *Canis lupus familiaris*, or resultant hybrids, that is over the age of six (6) months and has intact sexual organs.

(B) "Covered dog" does not include a:

(i) Hunting dog;

(ii) Greyhound racing dog;

(iii) Livestock guardian dog that is bred for the purpose of protecting livestock from predators;

(iv) Dog that is a member of a herding breed that has the ability to control the movement of other animals; or

(v) Dog that is a member of a working breed that is bred to perform certain jobs, such as guarding property, pulling sleds, or performing water rescues;

(5) "Hunting dog" means a dog sold for the express purpose of use in commonly accepted hunting activities;

(6) "Necessary veterinary care" means:

(A) Hands-on, physical examination and prompt treatment of a dog for any serious illness or injury by a licensed veterinarian; and

(B) When necessary, humane euthanasia by a licensed veterinarian using lawful techniques generally practiced by licensed veterinarians;

(7) "Person" means an individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or other legal entity;

(8) "Sufficient food and clean water" means:

(A) Access to appropriate nutritious food at least one (1) time a day that is sufficient to maintain good health; and

(B) Continuous access to potable water that is:

(i) Not frozen; and

(ii) Of sufficient and appropriate quantity and quality;

(9) "Sufficient grooming" means basic grooming for each dog as necessary to prevent conditions that can hamper the dog's ability to maintain its health and cleanliness; and

(10) "Sufficient housing, including protection from the elements" means constant and unfettered access to an enclosure that:

(A) Has a solid floor;

(B) Is cleaned of waste at least one (1) time a day while the dog is outside the enclosure; and

(C) Does not subject a dog to temperatures that would compromise the dog's health.

20-19-704. Registration – Renewal of registration.

(a) Beginning January 1, 2016, a person who owns, operates, or establishes a commercial breeding kennel within the State of Arkansas shall register as required under this subchapter.

(b)(1) Registration is valid for a period of one (1) year from the date of issuance.

(2) Renewal of registration is required on or before the anniversary of the original date of registration.

(c) If the information originally reported in an application, except the number of covered dogs, changes before the date a commercial breeding kennel is required to renew its registration, the change shall be reported to the Department of Health within thirty (30) days of the change.

20-19-705. Application.

(a) To register as a commercial breeding kennel, a person shall submit an application to the Department of Health on the form required by the Department of Health.

(b) The application shall include the following:

(1) The name of the commercial breeding kennel;

(2) The location of each housing facility for animals that are owned by the commercial breeding kennel or that are in its care, custody, or control;

(3) The name and address of the commercial breeding kennel's principal agent;

(4) The date that the commercial breeding kennel's operation began;

(5) The number of covered dogs kept for the purpose of breeding and selling any offspring as pets, including the breed and age of each covered dog;

(6) The applicant's tax identification number issued by the Department of Finance and Administration or, if a tax identification number

is not available, the applicant's Social Security number;

(7) The name of each licensed veterinarian with whom the commercial breeding kennel contracts for services; and

(8) Any other information or documentation required by the Department of Health.

(c) The application shall reflect the name and position of the individual under whose direction it is prepared and shall be made under oath before a notary public.

(d) Upon receipt of a properly completed application, the Department of Health shall issue a registration number to the applicant.

(e) The Department of Health shall maintain a list of commercial breeding kennels, including all information reported with the initial registration, the date of registration, and the dates and information provided with each subsequent amendment and renewal of registration.

20-19-706. Fees.

(a) A fee of two hundred fifty dollars (\$250) shall be submitted with the initial registration and each renewal of registration.

(b) A fee of one hundred dollars (\$100) shall be paid to offset the costs of an inspection conducted under this subchapter.

20-19-707. Standards of care.

A commercial breeding kennel shall provide each dog in the kennel's care:

(1) Sufficient food and clean water;

(2) Necessary veterinary care;

(3) Sufficient grooming;

(4) Sufficient housing, including protection from the elements;

(5) Regular exercise; and

(6) Adequate rest between breeding cycles.

20-19-708. Inspection.

(a)(1) An authorized person shall inspect the records of and any physical premises of each commercial breeding kennel upon receipt of a credible complaint against the commercial breeding kennel.

(2) The inspection required under this section shall be

conducted during reasonable hours, and a representative of the commercial breeding kennel may be present during the inspection.

(3) Upon request by the person conducting the inspection, a representative of the commercial breeding kennel shall provide assistance in making the inspection.

(b) If the person conducting the inspection finds evidence of animal cruelty, neglect, or abuse, the person conducting the inspection shall notify the local law enforcement agency in writing as soon as possible but no later than twenty-four (24) hours from the time the person finds evidence of animal cruelty, neglect, or abuse.

(c) If an inspection under this section reveals inhumane conditions at a commercial breeding kennel, the commercial breeding kennel's registration shall be revoked and the commercial breeding kennel's operations shall cease immediately until a hearing has been held on the revocation under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(d) An inspection report under this section shall be made available to the public upon request under the Freedom of Information Act of 1967, § 25-19-101 et seq.

20-19-709. Notice requirement.

(a) A commercial breeding kennel required to be registered under this subchapter shall post a public notice on each of its premises or sales venues that complaints regarding treatment or care of its animals may be made to the Department of Health or to any law enforcement officer.

(b) The public notice required under this section shall cite this subchapter and include the commercial breeding kennel's registration number.

(c)(1) The public notices posted on physical premises under this section shall be in type not less than one inch (1") in height and placed in a location conspicuous to the public.

(2) The department shall provide the public notice that is required to be posted on each commercial breeding kennel's premises under this section.

20-19-710. Penalties.

(a)(1) In addition to any other civil or criminal penalty provided by law, whenever the Department of Health, after a hearing conducted in

accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., determines that a person has violated this subchapter or rules promulgated under this subchapter, the department may impose a civil penalty of up to one hundred dollars (\$100) for each violation.

(2)(A) Each violation of this subchapter is a separate offense.

(B) However, civil penalties may not exceed one thousand dollars (\$1,000) for the total of offenses recorded within a twenty-four-hour period.

(b)(1) If a person against whom a civil penalty has been imposed by the department fails to pay the penalty, the department may file an action in circuit court of the jurisdiction in which the violations are alleged to have occurred to collect the civil penalty.

(2) If the department prevails in the action, the court may award reasonable attorney's fees and costs incurred by the department in prosecuting the action.

(c) This section does not supersede or limit the application of other local, state, or federal law regarding animal cruelty or the humane treatment of animals.

20-19-711. Uncorrected violations – Canine cruelty.

(a)(1) If the Department of Health finds past violations of this subchapter have occurred and have not been corrected or addressed, the department may request the Attorney General or the county prosecuting attorney to bring an action in circuit court in the county in which the violations have occurred for a temporary restraining order, preliminary injunction, permanent injunction, or a remedial order enforceable in a circuit court to address the violations, and the court may impose a civil penalty in an amount up to one thousand dollars (\$1,000) for each violation.

(2) Each violation shall constitute a separate offense.

(b)(1) A person commits the crime of canine cruelty if the person:

(A) Repeatedly and knowingly violates this subchapter so as to pose a substantial risk to the health and welfare of dogs in the person's custody; or

(B) Knowingly violates an agreed-to remedial order involving the safety and welfare of dogs under this section.

(2) A person who pleads guilty or nolo contendere or is found

guilty of canine cruelty is guilty of an unclassified misdemeanor and shall be either:

(A) Imprisoned for at least one (1) day and no more than one (1) year in jail; or

(B) Ordered to complete community service.

(3) However, if the person has previously pleaded guilty or nolo contendere or been found guilty of canine cruelty, the person upon conviction is guilty of an unclassified misdemeanor and shall be imprisoned for at least ninety (90) days and no more than one (1) year in jail.

(c) The Attorney General or the county prosecuting attorney may bring an action under this section in the circuit court in the county in which the crime has occurred for criminal punishment.

(d) An action under this section shall not prevent or preclude the application of other applicable civil or criminal penalties.

20-19-712. Disposition of funds.

Fees and funds received under § 20-19-710 shall be deposited as special revenues into the Arkansas Commercial Breeding Kennel Fund to be used by the Department of Health for the administration of this subchapter.

20-19-713. Denial, revocation, and suspension of registration.

(a) The Department of Health shall deny, revoke, or refuse to renew registration to a commercial breeding kennel if the commercial breeding kennel or an owner, operator, or agent of the commercial breeding kennel has pleaded guilty or nolo contendere to, been convicted of, or received deferred adjudication for animal cruelty, neglect, or abuse in this state or any other jurisdiction within five (5) years of the commercial breeding kennel's initial or renewal application.

(b) The department may deny, suspend, revoke, or refuse to renew registration to a person who has:

(1) Failed to meet the requirements of and qualifications required by this subchapter;

(2) Had a similar registration or license by a federal, state, or local authority denied, revoked, or suspended;

(3) Falsified any material information requested by the department; or

(4) Failed to comply with any corrective action required by an inspection report within the time provided in the report.

20-19-714. Construction – Application.

(a) This subchapter is supplemental to and does not replace other state and federal laws that protect animal welfare.

(b) This subchapter does not:

(1) Limit state law or rules protecting the welfare of animals;

or

(2) Prevent a local governing body from adopting and enforcing its own animal welfare laws and regulations in addition to this subchapter.

(c) This subchapter does not apply to:

(1) A retail pet store;

(2) An animal shelter or humane society;

(3) A dog trainer who does not breed and sell dogs for use as pets;

(4) A person who breeds and sells hunting dogs; or

(5) A dog during the following:

(A) Individual treatment for veterinary purposes;

(B) Lawful scientific research;

(C) Transportation;

(D) Grooming;

(E) Cleaning of the dog's enclosure; or

(F) An emergency that places the dog's life in imminent danger.

20-19-715. Rules.

The Department of Health shall promulgate rules necessary to implement and administer this subchapter.

SECTION 2. Arkansas Code Title 19, Chapter 5, Subchapter 12, is amended to add an additional section to read as follows:

19-5-1255. Arkansas Commercial Breeding Kennel Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a miscellaneous fund to be known as the "Arkansas Commercial Breeding Kennel Fund".

(b) The fund shall consist of:

(1) Grants made by any person or federal government agency;

(2) Fees and penalties collected under the Arkansas Commercial Breeding Kennel Act of 2015, § 20-19-701 et seq.; and

(3) Any other funds authorized or provided by law.

(c) The fund shall be used by the Department of Health to administer the Arkansas Commercial Breeding Kennel Act of 2015, § 20-19-701 et seq.

/s/Sorvillo