

**Title 4. Business and Commercial Law**

**Chapter III. Generally, Department of Health**

**Subchapter A. Generally**

**Part 20. Rules Pertaining to the Arkansas Retail Pet Store Consumer Protection Act**

**Codification Notes.** This part as promulgated prior to codification into the Code of Arkansas Rules was titled: "RULES AND REGULATIONS PERTAINING TO ACT 1225 OF 1991 THE ARKANSAS RETAIL PET STORE CONSUMER PROTECTION ACT".

This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"PART 1. AUTHORITY.

Authority for the promulgation of these regulations is derived from Section 6 of Act 1225 of 1991, the "Arkansas Retail Pet Store Consumer Protection Act of 1991", which states:

The State Board of Health may propose, adopt, promulgate, and enforce, in accordance with the Administrative Procedures Act, 25-15-201 et seq., such additional rules, regulations, and standards as may be necessary to carry out the intent of this act."

"SEVERABILITY

If any provision of these Rules and Regulations or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Rules and Regulations which can be given effect without the invalid provision or application and to this end the provisions of these Rules and Regulations are declared to be severable."

"REPEAL

All Regulations and parts of Regulations in conflict herewith are hereby repealed."

"CERTIFICATION

This will certify that the foregoing Rules and Regulations Pertaining to Act 1225 of 1991 "The Retail Pet Store Consumer Protection Act" were adopted by the Arkansas State Board of Health at a regular session of the Board held in Little Rock, Arkansas on the 21st Day of October, 1992 and after a Public Hearing on the 16th Day of July, 1992 held in Little Rock, Arkansas at the State Health Department Building."

**Subpart 1. Generally**

**4 CAR § 20-101. Purpose.**

(a) The 78th General Assembly of the State of Arkansas has found and declared that:

- (1) Abuses exist within the pet store industry regarding:
  - (A) Selling sick and injured animals to the public;
  - (B) Failing to provide consumer guarantees for these animals consistent with their status as companions;
  - (C) Failing to provide proper veterinary care;
  - (D) Maintaining unsanitary and otherwise unhealthful conditions; and
  - (E) Inhumane methods of killing sick and unwanted animals, and animals returned for failure of guarantee; and
- (2) Such abuses should be minimized or eliminated immediately.

(b) The intent of Acts 1991, No. 1225, the "Arkansas Retail Pet Store Consumer Protection Act of 1991", and therefore the purposes of this rule, are to:

- (1)(A) Require certain guarantees from retail pet stores to the purchasers of dogs and cats which are consistent with their unique status as companions rather than commodities.
- (B) See Acts 1991, No. 1225, § 5;

(2) Provide a means by which it can be insured that the treatment, care, and disposition of those animals is humane and that said treatment, care, and disposition is consistent with providing to the retail consumer animals which are:

- (A) Physically and temperamentally sound;
- (B) Healthy; and
- (C) Fit as companions;

(3) Provide a means by which the acquisition and care of those animals can be monitored; and

(4) Ensure that the animals and facilities are managed in a manner non-injurious to the public health.

(c) It has been further determined and declared by the General Assembly of the State of Arkansas that the supervision by the state of the sale of dogs and cats by retail pet stores, and the inspection of such animals, whether or not found within the public area of the store, is within the public interest.

**Authority.** Arkansas Code § 4-97-106.

#### **4 CAR § 20-102. Definitions.**

For the purposes of this part:

(1) "Ambient temperature" means the air temperature surrounding the animal which must be between seventy-two degrees Fahrenheit (72° F) and eighty-two degrees Fahrenheit (82° F) at all times;

(2) "Animal" means a dog or cat of any age;

(3) "Authorized person" means:

(A) The Secretary of the Department of Health or his or her delegate;

or

(B) Any law enforcement officer;

(4) "Cat" means any live or dead:

(A) Cat, *Felis catus* or *Felis domesticus*;

(B) Kitten or adult of either sex; or

(C) Any cat-hybrid cross;

(5) "Cattery" means an enterprise wherein or whereon the business of grooming or boarding cats, or breeding cats for sale, and selling such cats, is carried on, and which does not in its usual course of business acquire cats for resale to the public;

(6) "Clean" means free from:

(A) Dirt;

(B) Contamination; or

(C) Disease;

(7)(A) "Consumer" means any individual purchasing an animal from a retail pet store.

(B) A retail pet store shall not be a consumer;

(8) "D.V.M." means a person who has:

(A) Graduated from an accredited school of veterinary medicine or has received equivalent formal education; and

(B) A valid license to practice veterinary medicine within the State of Arkansas;

(9) "Dog" means any live or dead:

(A) Dog, *Canis familiaris*;

(B) Puppy or adult of either sex; or

(C) Any dog-hybrid cross;

(10) "Effective temperature" means the ambient temperature adjusted to compensate for the effect of air circulating in proximity to the animal;

(11) "Euthanasia" means the humane killing of an animal accomplished by a method that:

(A) Utilizes anesthesia produced by an agent that causes painless loss of consciousness and subsequent death; and

(B) Is administered by a licensed veterinarian or a euthanasia technician certified as competent by a licensed veterinarian;

(12) "General area" means any part of a retail pet store in which animals are confined and handled, and which is segregated from the quarantine area and isolation area of the facility;

(13) "Handling" means petting, feeding, watering, cleaning, manipulating, loading, crating, shifting, transferring, immobilizing, restraining, treating, training, working, and moving, or any similar activity with respect to any animal;

(14) "Housing facility" means any land, premises, shed, barn, building, trailer, or other structure or area housing intended to house animals;

(15) "Hybrid cross" means an animal resulting from the crossbreeding between two (2) different species or types of animals;

(16)(A) "Identifying number" means a number assigned to every animal received at any housing facility of a retail pet store.

(B) The identifying numbers for each species shall be sequential;

(17)(A) "Impervious surface" means a surface that does not permit the absorption of fluids.

(B) Such surfaces are those that:

(i) Can be thoroughly and repeatedly cleaned and disinfected;

(ii) Will not retain odors; and

(iii) From which fluids bead up and run off or can be removed without their being absorbed into the surface material;

(18) "Infant animal" means an animal under the age of six (6) months;

(19) "Intake examination" means an initial examination by a D.V.M. for:

(A) Illness;

(B) Injury; and

(C) Genetic defect;

(20) "Isolation area" means that part of a retail pet store:

(A) Set aside for confining and handling animals with contagious conditions as diagnosed by a D.V.M.; and

(B) Which is segregated from the quarantine area and general areas of the facility;

(21) "Kennel" means an enterprise wherein or whereon the business of grooming or boarding dogs, or breeding dogs for sale, and selling such dogs, is carried on, and which does not in its usual course of business acquire dogs for resale to the public;

(22) "Licensed veterinarian" means a person who has graduated from an accredited school of veterinary medicine or has received equivalent formal education, and who has a valid license to practice veterinary medicine in some state;

(23) "Newly received animal" means any animal which has been at any housing facility of the retail pet store less than seventy-two (72) hours;

(24)(A) "Permanent journal" means a perpetual sequential listing of animals who are received for sale at the pet store.

(B) Such journal shall contain the animal's identifying number, age, sex, species, breed, arrival date, exit date, and disposition for the customer to see;

(25)(A) "Permanent record" of an animal means a record prepared for each and every animal received at a retail pet store, and retained for a period of three (3) years after the animal's:

- (i) Sale;
- (ii) Death; or
- (iii) Other disposition.

(B) The permanent record shall contain such information as required in this rule;

(26) "Person" means any:

- (A) Individual;
- (B) Partnership;
- (C) Firm;
- (D) Joint stock company;
- (E) Corporation;
- (F) Association;
- (G) Trust;
- (H) Estate; or

(I) Other legal entity;

(27) "Positive physical contact" means petting, stroking, or other touching by human beings, which is beneficial to the well-being of the animal and contributes to its socialization and fitness as a companion;

(28) "Primary enclosure" means any structure or device used to restrict an animal or animals to a limited amount of space, such as a:

(A) Room;

(B) Pen;

(C) Run;

(D) Cage; or

(E) Compartment;

(29) "Quarantine area" means that part of a retail pet store, segregated from the isolation area and general area, set aside for confining and handling newly received animals until such time as each animal:

(A) Has been on the premises for a period of seventy-two (72) hours; and

(B) Is found to be healthy prior to transfer to the general area;

(30) "Records" of a retail pet store means:

(A) The permanent record of each animal's health history showing the animal's vaccinations, inoculations, dewormings, and other veterinary medical procedures performed on that animal, as well as such other data as may be required by this rule to be maintained in or with each animal's permanent record for a three (3) year period; and

(B)(i) The permanent journal giving a perpetual, sequential listing of animals which are received at the pet store.

(ii) Such journal shall contain the animal's:

(a) Identifying number;

(b) Birth date;

(c) Sex;

(d) Species;

(e) Breed;

- (f) Arrival date;
- (g) Exit date; and
- (h) Disposition;

(31)(A) "Retail pet store" means any room or group of rooms, runs, cages, compartments, exhibition pens, any part of which is within the State of Arkansas, wherein any animal is sold or kept, displayed, or offered for sale to the public.

(B) It includes all housing facilities, areas, locations, and premises owned, operated, controlled, or used by such an enterprise, whether or not open to the public.

(C) It excludes kennels and catteries which sell animals wholesale or directly to a consumer, if those kennels and catteries:

(i) Primarily breed and train animals; and

(ii) Do not in their usual course of business acquire animals for resale to the public.

(iii) This type of facility is inspected by United States Department of Agriculture inspectors as required by the Animal Welfare Act, 7 U.S.C. § 2131 et seq.

(D) Also excluded are duly authorized animal shelters and duly incorporated humane societies dedicated to the care of unwanted animals which make such animals available for adoption, whether or not a fee for such adoption is charged.

(E) As used in this rule, the term "retail pet store" includes its owner or owners, officers, agents, operators, managers, and employees, and refers to any such enterprise whether in fact registered or not;

(32) "Sanitize" means to make physically clean and to remove and destroy, to the maximum degree that is practical, agents injurious to health;

(33) "Secretary" means the Secretary of the Department of Health;

(34) "Standards" means the requirements with respect to the humane housing, exhibition, handling, care, treatment, and transportation of animals by retail pet stores, their owners, officers, agents, operators, managers, and employees, at any housing facility owned, operated, controlled, or used by a retail pet store;

(35) "Tether" means something, such as a rope or chain, by which an animal is fastened so it can range only in a set radius; and

(36) "Young animal" means an animal at least six (6) months but less than fourteen (14) months of age.

**Authority.** Arkansas Code § 4-97-106.

**4 CAR § 20-103. Registration.**

Registration is governed by Acts 1991, No. 1225, § 4.

**Authority.** Arkansas Code § 4-97-106.

**4 CAR § 20-104. Acquisition of animals.**

(a)(1) A retail pet store shall maintain a permanent record for each animal received by it, containing the following:

(A) The animal's identifying number;

(B) A description of the animal including its:

(i) Birth date;

(ii) Breed;

(iii) Sex; and

(iv) Color;

(C) The date of the animal's arrival at any housing facility owned, operated, controlled, or used by a retail pet store; and

(D) The date of the animal's exit from the retail pet store, or death.

(2) The permanent record shall contain:

(A) The name, address, and telephone number of the person from whom the retail pet store received the animal; and

(B) The name, address, telephone number, and signature of the person into whose ownership, possession, care, custody, or control the animal passed upon exit from the retail pet store.

(b) In addition to the information specified in subsections (a) and (b) of this section, the permanent record of each animal received by a retail pet store shall contain the:

- (1) Name, address, and telephone number of the animal's breeder; and
- (2) Name of any broker, dealer, or other agent through whom the animal passed prior to being acquired by the retail pet store.

(c)(1) It is unlawful for a retail pet store to receive or acquire an animal, whether from within or without the State of Arkansas, unless the animal is accompanied by a health certificate signed by a licensed veterinarian certifying such animal to be free from obvious signs of disease.

(2)(A) Should animals be received at a pet store without a health certificate, they must be examined by a veterinarian within seventy-two (72) hours of arrival and a health certificate issued and made a part of the permanent record.

(B) Animals that fail to pass a veterinary examination will be removed from the premises.

(3) Such certificate shall be maintained with the animal's permanent record.

(d) It is unlawful for a retail pet store to receive or acquire an animal that was shipped or transported under eight (8) weeks of age.

**Authority.** Arkansas Code § 4-97-106.

#### **4 CAR § 20-105. Minimum standards of care.**

(a)(1) A retail pet store shall advise all employees, whether or not directly involved with animal care, of the minimum standards of care required by this section.

(2) A retail pet store shall post such minimum standards of care at any housing facility owned, operated, controlled, or used by it, in a location conspicuous to its:

- (A) Owners;
- (B) Officers;
- (C) Agents;

- (D) Operators;
- (E) Managers; and
- (F) Employees.

(3)(A) A retail pet store shall require each owner, officer, agent, operator, manager, and employee to sign and date an Acknowledgment of Advice of Minimum Standards of Care required by this section.

(B) Such acknowledgments shall be retained permanently by the retail pet store and made available for inspection by authorized persons at reasonable hours.

(4) A retail pet store shall post the names and telephone numbers of at least two (2) D.V.M.s, and all persons associated with the retail pet store shall be instructed to contact a D.V.M. in the case of an emergency.

(b)(1) A retail pet store shall maintain a quarantine area, an isolation area, and a general area for confining and handling animals at any facility owned, operated, controlled, or used by it.

(2) The quarantine area and isolation area in new and remodeled retail pet stores shall be separate, physically defined spaces removed from the general population.

(3) Existing facilities shall make the best practical use of existing space to maintain three (3) separate areas.

(c) Animals received into the quarantine area shall not be housed with animals other than their litter mates or shipping mates.

(d) Animals in the isolation area shall not be housed with other animals except upon the advice of a D.V.M., noted on the animal's permanent record.

(e)(1) Animals in the general area shall be housed with other animals of compatible:

- (A) Species;
- (B) Age;
- (C) Size; and
- (D) Temperament.

(2)(A) No animal housed in the general area shall be isolated from other animals except upon the written recommendation from a D.V.M. citing the reason therefor.

(B) No animals shall be housed with or otherwise exposed to a vicious animal.

(f)(1) Every animal which arrives at a retail pet store, or at any housing facility owned, operated, controlled, or used by it, or otherwise possessed, actually or constructively by a retail pet store, shall be examined by a D.V.M. for illness, injury, and genetic defect within seventy-two (72) hours of its arrival and thereafter as needed.

(2) If the animal is accompanied by a health certificate signed by a veterinarian within seventy-two (72) hours of arrival, a repeat examination by a veterinarian is not necessary, provided an examination by qualified pet shop personnel is conducted.

(3) All newly arrived animals shall be placed in the quarantine area for at least seventy-two (72) hours before transferring to the general area for resale.

(4)(A) If an animal dies before it receives an intake examination, the body shall be preserved and handled in accordance with this section.

(B) Failure to maintain a permanent record for an animal which has been delivered to a retail pet store at or near its premises, or delivered to its owner or owners, officers, agents, operators, managers, and employees, and which dies or is killed prior to an intake examination is a violation of this rule.

(g)(1) Every animal that dies while under the care and control of a retail pet store shall be examined by a veterinarian and the cause of death determined.

(2)(A) As an alternative, the attending veterinarian or pet shop manager may present the animal to the Arkansas Board of Animal Health Veterinary Diagnostic Laboratory for necropsy.

(B) The necropsy report shall be preserved with the animal's permanent record.

(C) Failure to present the body for necropsy when indicated is a violation of this rule.

(h)(1) Each animal shall be examined daily by competent personnel for signs of disease or injury.

(2) Every sick, diseased, or injured animal shall be provided appropriate veterinary care and treatment by a D.V.M. until cured or euthanized in the manner prescribed in 4 CAR § 20-103.

(3) A record of the illness or injury will be placed in the permanent record.

(i)(1) A retail pet store shall provide for its animals inoculations and parasite treatment as recommended by a D.V.M.

(2) A record of each such inoculation or treatment shall be maintained in the animal's permanent record.

(j)(1) A commercially acceptable food shall be provided daily, including Sundays and holidays.

(2) The food shall be free from contamination and shall be served in a clean container.

(3) Infant animals shall receive food at least three (3) times a day.

(4) Young animals shall receive food at least two (2) times a day.

(k)(1) Clean water shall be available at all times and shall be changed daily.

(2) Water shall be available in a removable vessel secured to prevent tipping.

(3) Water containers shall be cleaned and sanitized.

(l)(1) A retail pet store shall:

(A) Maintain healthy and comfortable environmental temperatures suitable for the age and type of animal in accordance with the recommendations of a D.V.M.;  
and

(B) Not expose any animal to conditions detrimental to its health or well-being.

(2) A working thermometer shall be displayed in each housing area.

(m)(1) The primary enclosure for any animal shall be made of non-absorbent and non-corrosive materials and shall be constructed in a manner which will protect the animals' legs from injury.

(2) No wooden materials shall be used in the construction of any cage or enclosure unless it is covered with water-resistant coating.

(3)(A) A cushioned resting surface of a size sufficient to permit the animal to lie down fully extended shall be available in each primary enclosure.

(B) Such resting surface shall be made of impervious material with insulating qualities.

(4)(A) The primary enclosure for cats shall have a resting surface elevated above the litter area.

(B) Wire or grid flooring shall not be used for cats.

(n) Primary enclosures shall be of sufficient size to permit each animal contained therein to:

(1) Stand normally to its full height;

(2) Turn around easily and execute normal postural adjustments; and

(3) Lie down fully extended.

(o)(1) Primary enclosures for dogs, including puppies, may have wire or grid flooring, provided that the following conditions are met:

(A) The gauge of the wire or grid material shall be of adequate size to support the dog or puppy and to prevent sagging.

(B) The mesh openings shall be no more than one-fourth inches (1/4") for puppies and three-eighths inches (3/8") for larger dogs and shall not permit the dog or puppy's feet or pads to pass through or become caught.

(2) If wire or grid of small enough size is not available to protect the feet and legs of the smallest puppies and dogs, such puppies and dogs shall not be maintained on wire or grid at any time, whether in a primary enclosure or otherwise.

(3) The wire should be covered with vinyl or rubber.

(4) A cushioned resting surface of a size sufficient to permit the animal to lie down fully extended shall be available in each primary enclosure.

(5) Puppies shall be provided teething devices as recommended by a D.V.M.

(6) Such animals shall be afforded all care necessary to prevent their becoming soiled or chilled by feces or urine.

(p)(1) Animal feces and urine shall be removed from each enclosure, primary or otherwise, as often as is necessary and under no circumstances less than twice each day, including Sundays and holidays.

(2) Each enclosure in the isolation area shall be sanitized as directed by a D.V.M.

(3) Enclosures in the general area shall be cleaned daily and sanitized as needed.

(q) Proper ventilation shall be provided so that animals are not exposed to concentrations of ammonia or other noxious gases generated by animal urine or feces.

(r) It is unlawful to tether animals owned by, or in the care, custody, or control of a retail pet store.

(s)(1) It is unlawful for a retail pet store to withhold food, water, shelter, or veterinary care from any animal in its care, custody, and control, except that food or water may be withheld with prior written consent of a D.V.M. citing the medical reason for the withholding thereof and specifying the limited time therefor.

(2) Such written consent shall be maintained with the animal's permanent record.

(t)(1) Each well animal shall receive at least two (2) hours every day, including Sundays and holidays, of play and exercise.

(2) Such periods may be divided.

(3) The times and durations of such periods shall be noted and signed by the supervising individual in the permanent record of each animal.

**Authority.** Arkansas Code § 4-97-106.

#### **4 CAR § 20-106. Disposition of animals.**

Disposition of animals is governed by Acts 1991, No. 1225, § 7 (a)-(c).

**Authority.** Arkansas Code § 4-97-106.

**4 CAR § 20-107. Inspection.**

Inspection is governed by Acts 1991, No. 1225, § 8 (a)-(c).

**Authority.** Arkansas Code § 4-97-106.