



The Florida Senate

Interim Project Report 2007-101

September 29, 2006

Committee on Agriculture

REVIEW THE POTENTIAL OF LICENSING PET DEALERS BY THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

SUMMARY

In preparation for the 2006 Legislative Session, legislation was filed but did not pass which would prohibit a person from operating as a pet dealer unless the person is licensed by the Department of Agriculture and Consumer Services (department). The Committee on Agriculture was assigned as an interim project to review the legislation.

Many businesses that buy or sell warm-blooded animals, exhibit them to the public, transport them commercially, or use them in experiments or teaching must be licensed or registered by the U.S. Department of Agriculture (USDA). Normal farm-type operations that raise, or buy and sell animals only for food and fiber, and businesses that use only fish and other cold-blooded animals are exempt.

In the absence of federal laws governing conditions for most animals sold at pet stores, it is reported that approximately 27 states and the District of Columbia have enacted laws that establish some form of humane care standards for animals kept and sold in a retail environment. The scope and enforcement of these laws vary greatly from state to state.

Chapter 828, Florida Statutes, "Animals: Cruelty; Sales; Animal Enterprise Protection" requires dogs and cats offered for sale in Florida to be accompanied by an official certificate of veterinary inspection. However, retail pet dealers in Florida are not currently licensed by the state. Senate Bill 674, filed for the 2006 Legislative Session, would have established statewide procedures for licensing pet dealers and inspecting their facilities.

The standards to be met to receive a retail pet dealer license from the state could be clearer than they are under the bill. This review also found that, under the definition of the term "pet dealer" the licensing

provision would be limited to businesses selling dogs or cats. Another unresolved issue under the bill is agency jurisdiction for exotic animals such as python snakes, for sale in pet stores. At this time regulatory authority for these animals rests with the Florida Fish and Wildlife Conservation Commission.

A comprehensive pet dealer licensing program will require additional department staff, vehicles, and related support materials. The department estimates that revenues from the licensing program under the bill would be approximately \$350,000 in the first year, with expenditures of approximately \$1,124,636, creating a deficit of about \$774,636. Calculations for the years following continue to reflect a deficit approaching \$500,000 per year. Conversely, a consumer complaint driven enforcement program to ensure that animals are properly cared for and not subjected to cruelty could be attained at far less expense through amendments to section 828.12, F.S. Such a program should provide the department with clear enforcement authority to act upon a consumer complaint pertaining to animal cruelty laws and allow for the prosecution of violations. Licensure of pet dealers would not be required under this program. Under this approach, the department would be able to dedicate its efforts and resources toward those businesses reported to be in violation of animal cruelty laws without the need to maintain a registry of every pet dealer firm in the state or to inspect those businesses that are operating in compliance with the law.

It is recommended that definitions of the terms "animal" and "pet dealer" be reconciled. In a broad sense, in order to address the matter of definitions the scope of the program and related costs will have to be resolved.

Also, the role that counties, municipalities and other local governments would have under a licensure program may need to be addressed, as approximately eight counties currently have such programs.

An additional matter that should be considered is the regulatory jurisdiction for reptiles and other non-domestic animals sold by pet dealers if a licensure program is adopted.

BACKGROUND

In preparation for the 2006 Legislative Session, legislation was filed which would prohibit a person from operating as a pet dealer unless the person is licensed by the Department of Agriculture and Consumer Services (department). The bill was introduced and referred to the Committees on Agriculture, Commerce and Consumer Services, Community Affairs, and General Government Appropriations.

On March 21, the bill was heard in the Committee on Agriculture. After extensive testimony, a request was made for the issues of the bill to become the basis for an interim project. Further hearing on the bill was then temporarily postponed for the remainder of the session.

The interim project was assigned to the Committee on Agriculture to review the proposed legislation which would prohibit a person from operating as a pet dealer unless that person is licensed by the department. The project is to also identify issues that may be addressed in the 2007 Legislative Session.

Federal Law

Many businesses that buy or sell warm-blooded animals, exhibit them to the public, transport them commercially, or use them in experiments or teaching must be licensed or registered by the U.S. Department of Agriculture (USDA). Normal farm-type operations that raise, or buy and sell animals only for food and fiber, and businesses that sell or use only fish and other cold-blooded animals are exempt. Businesses that sell or use only rats, mice, or birds are exempt from federal regulation. The rabbit business is exempt from regulation if the rabbits are intended only for food or fiber. If any rabbits are designated for use in the pet, exhibit, or laboratory-animal trade, that business is regulated.

Owners or those in charge of a regulated business are required by law to be licensed or registered with the

USDA. The same standards of animal care apply to all registered and licensed businesses. USDA Animal, Plant Health Inspection Service (APHIS) field inspectors make periodic unannounced visits to all locations where animals are held to see that regulations and standards are followed.

In broad terms, the Federal animal care standards cover humane handling, housing, space, feeding and watering, sanitation, ventilation, shelter from extremes of weather, adequate veterinary care, separation of incompatible animals, transportation, and handling in transit.

The following is a brief listing of establishments licensed, registered or exempt from USDA regulations:

1. Animal Dealers
 - A. Regulated Businesses
 - Pet Wholesalers, Pet Breeders, Laboratory Animal Dealers, Laboratory Animal Breeders, Animal Brokers, Auction Operators, Promoters Giving Animal Prizes, Exotic Animal Dealers, Wild Animal Dealers, Suppliers of Specimens
 - B. Exempt Businesses
 - Retail Pet Stores, Retail Chain Stores, Direct Sales, Hobby Breeders, Public Pounds, Private Shelters, Trade-Day Sales Sponsors, Boarding Kennels, Dealers in a Non-regulated Species
2. Animal Transporters
 - A. Regulated Businesses
 - Carriers, Intermediate Handlers, Contract Carriers
 - B. Exempt Businesses
 - Transporters of Non-regulated Species, Animal Taxis
3. Animal Exhibitors
 - A. Regulated Businesses
 - Zoological Parks, Marine Mammal Shows, Animal Performances, Roadside Zoos, Carnivals, Promotional Exhibits
 - B. Exempt Businesses
 - Private Collections, Amusement Parks, Farm Animal Exhibitions, Booking Agents-Licensed Acts, Pet Shows, Horse Shows, Rodeos, Animal Preserves, Hunts, Shows of Non-regulated Animals
4. Research Facilities
 - A. Regulated Institutions
 - State-Owned and Local Government Facilities, Drug Firms, Teaching

Institutions, Diagnostic Laboratories, Marine Mammal Facilities

B. Exempt Institutions

Federal Facilities, School Laboratories, Agricultural Research Institutions, Institutions Using Only Biologic Specimens, Institutions Using Only Non-regulated Species

In the absence of federal laws governing conditions for most animals sold at pet stores, it is reported that approximately 27 states and the District of Columbia have enacted laws that establish some form of humane care standards for animals kept and sold in a retail environment. The scope, and enforcement of these laws vary greatly from state to state.

State Law

Chapter 828, Florida Statutes, “Animals: Cruelty; Sales; Animal Enterprise Protection” requires dogs and cats offered for sale in Florida to be accompanied by an official certificate of veterinary inspection. The animal must have received certain vaccinations and health tests and it must be at least eight weeks of age. The health certificate is valid for 30 days. All dogs and cats offered for sale and copies of certificates held by the seller and veterinarian are subject to inspection by the department, the USDA, any law enforcement officer, any agent of a county, or the agent of any society or association for the prevention of cruelty to children or animals. Retail pet dealers in Florida are not licensed by the state under current law.

METHODOLOGY

Committee staff consulted with interested parties representing pet breeding, retail pet sales, the Florida Association of Counties, the Department of Agriculture and Consumer Services, and the Fish and Wildlife Conservation Commission to determine what, if any, statutory changes should be made to any legislation that would be filed for the 2007 Legislative Session.

FINDINGS

Senate Bill 674, filed for the 2006 Legislative Session, would have established statewide procedures for licensing pet dealers and inspecting their facilities. The bill also:

A. defines the following terms:

- Animal – any living dumb creature.
- Consumer – an individual who purchases an animal from a pet dealer.

- Department – Department of Agriculture and Consumer Services (department).
- Pet dealer – by reference to s. 828.29(13), F.S.; any person, firm, partnership, corporation, or other association which, in the ordinary course of business, engages in the sale of more than two litters, or 20 dogs or cats, per year, whichever is greater, to the public.

B. sets forth licensing requirements:

- A person must obtain a license from the department to operate as a pet dealer except that those persons already operating on the effective date of this act may continue to operate without a license until the department determines that standards are not being met.
- Application must be on a form supplied by the department and filed at least 30 days prior to the beginning of a license year.
- The fee for an initial license or a renewal license is \$25 if fewer than 25 animals are sold and \$100 if 25 or more animals are sold.
- Fee revenue goes to the General Revenue Fund.
- A Pet dealer’s facility must be inspected before a license can be issued or renewed.
- The department shall issue a license upon approval of application.
- The license number must be on each publication or advertisement for sale of an animal except that those persons already operating on the effective date of the agreement may publish or advertise without reference to a license number until the department determines that standards are not being met.
- Pet dealers must conspicuously display license on the premises where animals are kept for sale.

C. Describes factors relating to denial, suspension, or revocation of license:

- A license could be denied, suspended, or revoked because of material misstatements in the application, falsification of records, refusal to allow inspections, violation of licensing act, or conviction of laws aimed at protecting animals from inhumane or cruel treatment.

- A pet dealer could contest action taken by the department that adversely affects his or her substantial interests by a proceeding under the Florida Administrative Procedure Act.
 - Violation of this act could result in a civil penalty ranging from \$50 to \$1,000.
 - Enforcement could be by the department or by the county or municipality to whom the department has delegated licensing and inspection authority. Any penalty collected stays with the enforcing agency.
- D. Each pet dealer's facility is required to be inspected once a year by a person specifically trained in the proper care of dogs and cats and in the investigation and identification of cruelty to animals.
- E. The department could delegate to a county or municipality the authority to issue licenses to pet dealers and inspect their facilities and to enforce the act.

It is estimated by the department that there are approximately 2,000 retail pet stores in the business of selling pets to the public in Florida. Additionally, the department estimates that there are many more thousands of small operation breeders that sell dogs and cats from home businesses. Florida Statutes currently provide for enforcement of animal health, transportation of animals into the state, animals offered for sale and animal cruelty laws to be carried out by counties or other local governments. If a licensing program were established with standards that could be implemented by either state or local authorities as to regular inspection or compliance follow-up, the cost to the state could be reduced. While the department is authorized to delegate the licensing and inspection duties to counties or municipalities, some local governments may not be inclined to assume the prescribed duties of the state under a new statewide licensing program as they may already have their own inspection programs or because of the financial burden that could accompany these duties. It is reported that approximately eight counties have some form of ordinance pertaining to commercial kennels, pet dealers, or hobby breeders licensing.

The department reports that the standards to be met to receive a retail pet dealer license from the state could be more clear than they are under the bill. The concern

is that issuance of a license under the bill could require any of the following regulatory schemes:

- Ascertain and ensure compliance with the existing "Pet Law", (Section 828.29, F.S.);
- Ensure that regulated animals are properly cared for, and not subjected to cruelty as defined in section 828.12, F.S.; or
- Institute a comprehensive program to ensure humane treatment of regulated animals (companion animals) that would include specific facility requirements, veterinary care, and humane handling.

Also, under the definition of the term "pet dealer" the licensing provision would be limited to businesses selling dogs or cats. This appears to be an internal conflict within the bill since the definition of the term "animal" means any living dumb creature. Within the state there are pet selling enterprises that do not sell or take ownership of dogs or cats. Rather, they hold "pet adoption" days at which time dogs or cats are brought to the store by humane society and similar organizations. These firms often do sell other pets such as guinea pigs, birds, or reptiles. Under the bill, such businesses would not require a license. The internal conflict of definitions within the bill, scope of the program and resulting effect on current law would need to be reconciled for regulatory clarity.

Another unresolved issue under the bill is agency jurisdiction for exotic animals such as python snakes, for sale in pet stores. At this time regulatory authority for these animals rests with the Florida Fish and Wildlife Conservation Commission. It is reported that some pet owners of these types of animals release them into the wild when they become too large to care for or otherwise are not wanted as pets. The release of these animals is having a negative impact on some ecosystems such as the Everglades. A satisfactory regulatory arrangement under a pet dealer licensing program would need to be determined as it has not been arrived at with the writing of this report.

The department estimates that revenues from the licensing program under the bill would be approximately \$350,000 in the first year, with expenditures of approximately \$1,124,636 creating a deficit of about \$774,636. Calculations for the years following continue to reflect a deficit approaching \$500,000 per year. Conversely, a consumer complaint driven enforcement program to ensure that animals are properly cared for and not subjected to cruelty could be attained at far less expense through amendments to section 828.12, F.S. Such a program should provide the department with clear enforcement authority to act

upon a consumer complaint pertaining to animal cruelty laws and allow for the prosecution of violations. Licensure of pet dealers would not be required under this program. Under this approach, the department would be able to dedicate its efforts and resources toward those businesses reported to be in violation of animal cruelty laws without the need to maintain a registry of every pet dealer firm in the state or to inspect those businesses that are operating in compliance with the law.

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An additional matter that should be reviewed is the regulatory jurisdiction for reptiles and other non-domestic animals sold by pet dealers if a licensure program is adopted.

RECOMMENDATIONS

While Florida has comprehensive laws pertaining to animal cruelty, sales, confinement of animals without sufficient food, water, or exercise, and abandonment, there is no formal statewide requirement for the licensure of pet dealers selling directly to a consumer. Upon review of Senate Bill 674 (2006 Session) a few issues were identified which would be appropriate for consideration if the matter of licensing pet dealers is taken up in a bill for the 2007 Session.

It is recommended that definitions of the terms “animal” and “pet dealer” be reconciled. “Animal” is currently defined as any living dumb animal and “pet dealer” by statutory reference is specific to only dogs and cats. If the broader definition is to be used, then current statutory language in Section 828.29(13), F.S., should be amended. In a broad sense, in order to address the matter of definitions the scope of the program will need to be determined and related costs will have to be resolved. A comprehensive pet dealer licensing program will require additional department staff, vehicles, and related support materials. Conversely, a program to ensure that animals are properly cared for and not subjected to cruelty could be attained at far less expense through amendments to section 828.12, F.S. Such a program should provide the department with clear enforcement authority to act upon a consumer complaint pertaining to animal cruelty laws and allow for the prosecution of violations. Licensure of pet dealers would not be required under this program. Under this approach, the department would be able to dedicate its efforts and resources toward those businesses reported to be in violation of animal cruelty laws without the need to maintain a registry of every pet dealer firm in the state or to inspect those businesses that are operating in compliance with the law.

Also, the role if any, that counties, municipalities, and other local governments would have under a state licensure program may need to be addressed, as