



OKLAHOMA CREATES “PET QUALITY ASSURANCE AND PROTECTION ACT”

**** Hearing Set for February 10th ****

The Issue:

Oklahoma House Bill 2475 establishes the “Pet Quality Assurance and Protection Act” requiring licensure for any person who sells, gives away or transfers **35 or more dogs and cats**. The bill covers licensing procedures, recordkeeping requirements, inspections and penalties for dog and cat breeders. A hearing has been set for Wednesday, February 10th in the House Committee on Economic Development & Financial Services.

The Impact:

Who May Obtain a License:

This Act provides that “any person that sells, gives away, or transfers a cumulative total of 35 or more dogs or cats, or any combination thereof, of any age, in any calendar year directly to any person **may voluntarily obtain** a Pet Quality Assurance license, including but not limited to:

- Any person located in the State of Oklahoma who performs such acts within or outside the state;
- Any person located outside the State of Oklahoma who performs such acts within the State of Oklahoma; and
- Any person who performs such acts and owns dogs or cats that are not in the possession of that person”.

Licensing Procedures:

The Oklahoma Department of Agriculture, Food, and Forestry will administer and handle all facilitation of the Pet Quality Assurance Act. The department will only approve a license or renewal if the following have occurred:

- The premises, facility, equipment, dogs or cats, and breeding operation, if applicable, are inspected by the Department and are determined to be in compliance with the Oklahoma Pet Quality Assurance and Protection Act; and
- The husbandry, breeding and veterinary health care protocols and a signed veterinarian of record affidavit have been reviewed by the Department and are found to be in compliance with the Act.



Fees:

HB 2475 calls for the State Board of Agriculture to establish a tiered system of fees for licensing based on the number of dogs and cats sold, given away, or transferred in a calendar year and any other relevant factor pertaining to the Oklahoma Pet Quality Assurance and Protection Act. The bill restricts the Board from setting fees at more than \$500. Pet Quality Assurance licenses must be renewed annually and a separate Pet Quality Assurance license must be issued for each physical location.

License Holder Responsibilities:

The Act states that a licensee may NOT sell, give away, or transfer ownership of any dog or cat under six weeks of age.

Additionally, any person holding a Pet Quality Assurance license must:

- Conspicuously display the license on the premises where the dogs or cats are kept and sold in a manner readily visible to the Department and to the public;
- Display the Pet Quality Assurance license number and the USDA permit number, if applicable, on all correspondence, advertisements, web pages, e-mails, or any other form of dissemination of information printed or posted on any media; and
- Provide a copy of the license in any transaction involving the sale, giveaway, or transfer of a dog or cat to the person obtaining the dog or cat.

NOTE: Any rules promulgated by the State Board of Agriculture for this Act must be “consistent” with the United States Department of Agriculture standards pursuant to the Animal Welfare Act. A Pet Quality Assurance license will NOT be issued to any person, or to anyone in the household of that person, who held or applied for a United States Department of Agriculture license pursuant to the Animal Welfare Act and whose license was suspended, revoked, or whose application was refused due to the improper care of animals.

Oklahoma Standards:

The State Board of Agriculture is charged with publishing rules that at a minimum are consistent with USDA’s Animal Welfare Act Regulations. The Oklahoma standards will cover subjects not covered by USDA and therefore can be detailed and restrictive, such as setting “minimum standards for breeding criteria and restrictions,” management and staff operating plan,” and “nutrition and hydration.”

Inspections:

Under this legislation, since all Pet Quality Assurance licensees must be in compliance with USDA Animal Welfare Act standards, the Department is required to consult with the USDA to establish a system for facility inspections to maximize efficiency and minimize duplication of efforts. Inspections for licenses will be similar to USDA procedures.

Recordkeeping Requirements :

All Pet Quality Assurance licensees will be required to keep the following records:

- A copy of a bill of sale and individual identification for each dog or cat purchased which shall be presented upon delivery.
- A certificate of veterinary inspection signed by an accredited veterinarian for each dog or cat sold, given away, or otherwise transferred in interstate commerce that complies with state and federal regulations; and
- Any other records required by the Department.

Penalties:

In addition to the applicable administrative and criminal penalties applicable in the Oklahoma Agricultural Code, any violation of this Act will constitute a civil offense punishable by a fine of \$50 to \$2,500.

PIJAC Position:

Creating a “voluntary” licensing structure is appealing on its face but it is likely to really be the precursor to a mandatory process in the not too distant future.

While PIJAC supports the underlying concept, PIJAC is concerned that the State will adopt standards far more restrictive and stringent than the USDA Animal Welfare Act regulations, especially when establishing standards in areas not covered in the Animal Welfare Act regulations, such a setting “minimum standards for breeding criteria and restrictions” or “management and staff operating plan.” Nowhere does the bill define what constitutes “consistent.” Does it mean strict conformity or arbitrarily close to the AWA language? And when the AWA is silent, what constitutes “consistent?” Is this anything more than a wolf in sheep’s clothing?

Recommended Action:

As stated above, HB 2475 will be heard before the House Committee on Economic Development & Financial Services on February 10th at 10:30 a.m. in Room 412C at the State Capitol Building.

This bill covers many areas concerning dog and cat breeders, and this *PetAlert* is a synopsis of this Act. We urge you to read the text of HB 2475 in its entirety, found attached to the online version of this *PetAlert* on the ‘Breaking News’ page of the PIJAC website (<http://www.pijac.org/petinformation/breakingnews.asp>).

Those who wish to express an opinion or comment on this bill to their representative are encouraged to contact committee members (contact information below), or to visit PIJAC’s [Legislative Action Center](#) where a message may be quickly and easily sent.

PIJAC also welcomes your comments to us on this bill. Contact PIJAC’s Bambi Osborne by email at bambi@pijac.org or by phone at 1-800-553-PETS (7387) to express a viewpoint, or if you have questions or desire additional information. If you do contact your representative or decide to attend the hearing, please forward copies of your comments or testimony to PIJAC (info@pijac.org).

**State of Oklahoma
House Committee on Economic Development
& Financial Services
State Capitol Building, Room 412C
Oklahoma City, OK 73105
405/521-2711**

REPRESENTATIVE

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2009 OK H 2745 **AUTHOR:** Denney
 VERSION: Introduced
 VERSION DATE: 02/01/2010

STATE OF OKLAHOMA

2nd Session of the 52nd Legislature (2010)

HOUSE BILL 2745

By: Denney

AS INTRODUCED

An Act relating to animals; creating the Oklahoma Pet Quality Assurance and Protection Act; providing for administration; defining terms; providing for a rule advisory committee; specifying membership; establishing a voluntary license procedure; providing for application form; requiring applicants to submit certain protocol; limiting issuance of licenses; authorizing temporary permit; specifying certain requirements to be met before license approval or renewal; specifying procedures for renewal; specifying late penalty; establishing fees; specifying requirements for display of license and certain information; providing for the promulgation of rules consistent with United States Department of Agriculture standards; authorizing certain inspection system; providing for enforcement; providing for disclosure of records; prohibiting the issuance of a license to certain persons; stating penalties for violation; establishing the Pet Quality Assurance Enforcement Fund; providing for revenues; providing for use of fund; providing for expenditures; specifying conditions justifying refusal of license; providing for written notice; authorizing seizure and impoundment of dogs or cats upon certain circumstances; prohibiting certain dogs and cats to be sold or transferred; requiring certain information to accompany dogs or cats; requiring certain records be maintained; providing for codification; providing for noncodification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 21-1 of Title 2, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Pet Quality Assurance and Protection Act" and shall be administered by the Oklahoma Department of Agriculture, Food, and Forestry subject to available funds.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 21-2 of Title 2, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Pet Quality Assurance and Protection Act:

1. "Cat" means the genus and species known as *Felis catus*, a domestic cat;
2. "Department" means the Oklahoma Department of Agriculture, Food, and Forestry;
3. "Dog" means the genus and species known as *Canis familiaris*;

4. "Person" means the state, any municipality, political subdivision, institution, individual, public or private corporation, partnership, association, firm, company, public trust, joint-stock company, trust, estate, state or federal agency, other governmental entity, or any other legal entity or an agent, employee, representative, assignee or successor thereof;

5. "Pet Quality Assurance license" means a certificate issued to any person that qualifies and obtains a license pursuant to the Oklahoma Pet Quality Assurance and Protection Act;

6. "United States Department of Agriculture (USDA) licensed facility" means a facility that is governed by the Animal Welfare Act, has passed a current inspection and provided written verification of licensure or certification of inspection for pet quality assurance licensure; and

7. "Veterinarian" means a person currently licensed to practice veterinary medicine.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 21-3 of Title 2, unless there is created a duplication in numbering, reads as follows:

The State Veterinarian shall appoint a rule advisory committee who, without compensation, shall act as advisors to the State Board of Agriculture in the formulation of the rules promulgated pursuant to the Oklahoma Pet Quality Assurance and Protection Act. The committee shall consist of:

1. Four members who shall represent the dog or cat breeding industry;
2. One member who is an Oklahoma licensed accredited veterinary practitioner;
3. One member who shall represent the Oklahoma Veterinary Medical Association;
4. One member who shall represent the Oklahoma State University School of Veterinary Medicine;
5. One member who shall represent the United States Department of Agriculture, Animal Care;
6. One member who shall represent the Oklahoma State University, Oklahoma Cooperative Extension Service; and
7. One member who shall represent an Oklahoma animal welfare association.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 21-4 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. Any person that sells, gives away, or transfers a cumulative total of thirty-five or more dogs or cats, or any combination thereof, of any age in any calendar year directly to any person may voluntarily obtain a Pet Quality Assurance license, including but not limited to:

1. Any person located in the State of Oklahoma who performs such acts within or outside the state;
2. Any person located outside the State of Oklahoma who performs such acts within the State of Oklahoma; and
3. Any person who performs such acts and owns dogs or cats that are not in the possession of that person.

B. Any person may voluntarily obtain a Pet Quality Assurance license, so long as the person complies with all requirements of the Oklahoma Pet Quality Assurance and Protection Act and rules promulgated pursuant thereto. Nothing in the Oklahoma Pet Quality Assurance and Protection Act shall preclude any person from voluntarily obtaining a license if the person sells, gives away, or transfers less than thirty-five dogs or cats in any calendar year.

C. The Oklahoma Department of Agriculture, Food, and Forestry shall prepare forms for application for a Pet Quality Assurance license. In addition to the forms, the application for a Pet Quality Assurance license shall contain veterinary health care protocol prepared pursuant to rules promulgated by the State Board of Agriculture.

D. The Oklahoma Department of Agriculture, Food, and Forestry shall issue only one Pet Quality Assurance license per physical location. A separate Pet Quality Assurance license shall be issued for each physical location. Licenses shall not be transferable due to a change of ownership of an individual location and shall not be transferable to any other location.

E. The Department may issue a temporary permit to a person applying for a license upon the submission of an application and payment of a licensing fee pursuant to subsection H of this section. Upon issuance of the temporary permit, the person may operate until the Department is able to complete the licensing process in accordance with this section.

F. The Department shall not approve a license or renewal until the following have occurred:

1. The premises, facility, equipment, dogs or cats, and breeding operation, if applicable, are inspected by the Department and are determined to be in compliance with the Oklahoma Pet Quality Assurance and Protection Act and rules promulgated pursuant thereto; and
2. The husbandry and breeding protocol, if applicable, veterinary health care protocol, and signed veterinarian of record affidavit, as required in the Oklahoma Pet Quality Assurance and Protection Act and rules promulgated pursuant thereto, have been reviewed by the Department and are found to be in compliance with the Oklahoma Pet Quality Assurance and Protection Act.

G. Each Pet Quality Assurance license shall be renewed annually. Renewals postmarked or received within thirty (30) days after the renewal date shall be subject to a late penalty not to exceed One Hundred Dollars (\$100.00). Each thirty-day period thereafter in which the renewal is late shall result in an additional late penalty of One Hundred Dollars (\$100.00) per thirty-day period, and may result in administrative fines not to exceed One Hundred Dollars (\$100.00) per day.

H. The State Board of Agriculture is authorized to establish a tiered system of fees based upon the quantity of dogs and cats sold, given away, or transferred in a calendar year and any other relevant factor pertaining to the Oklahoma Pet Quality Assurance and Protection Act for the purpose of implementing and enforcing the Oklahoma Pet Quality Assurance and Protection Act. Fees shall not exceed Five Hundred Dollars (\$500.00) and shall be promulgated through rules established by the State Board of Agriculture. The nonrefundable fee shall accompany each application and each renewal application for a Pet Quality Assurance license.

I. Implementation of the Oklahoma Pet Quality Assurance and Protection Act shall be contingent upon the availability of funds.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 21-5 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. Any person holding a Pet Quality Assurance license shall conspicuously display the license on the premises where the dogs or cats are kept and sold in a manner readily visible to the Department and to the public.

B. Any person holding a Pet Quality Assurance license shall display the Pet Quality Assurance license number and the USDA permit number, if applicable, on all correspondence, advertisements, web pages, e-mails, or any other form of dissemination of information printed or posted on any media.

C. Any person holding a Pet Quality Assurance license shall provide a copy of the license in any transaction involving the sale, giveaway, or transfer of a dog or cat to the person obtaining the dog or cat.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 21-6 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. The State Board of Agriculture shall promulgate rules that at a minimum are consistent with United States Department of Agriculture standards pursuant to the Animal Welfare Act including, but not limited to:

1. Minimum standards for breeding criteria and restrictions;
2. Housing and sanitation;
3. Nutrition and hydration;
4. Operating standards;
5. Management and staff operating plan;
6. Veterinarian of record and veterinary care;
7. Record keeping; and
8. Transportation of dogs or cats within a vehicle.

B. The Oklahoma Department of Agriculture, Food, and Forestry shall consult with the United States Department of Agriculture to establish a system for inspections to maximize efficiency and minimize duplication of efforts.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 21-7 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. The State Board of Agriculture or its authorized agents shall have the authority to enter any premises or form of transportation of any person who applies for or is issued a license pursuant to the Oklahoma Pet Quality Assurance and Protection Act during reasonable hours for the purpose of implementing the Oklahoma Pet Quality Assurance and Protection Act or rules promulgated pursuant thereto.

B. The Board or its authorized agents shall have the authority to carry out all necessary and proper actions to determine compliance with the Oklahoma Pet Quality Assurance and Protection Act including, but not limited to, conducting investigations, inspecting facilities for compliance, responding to complaints, examining and making photocopies of records or documents, and collecting and submitting samples for analysis.

C. Nothing in the Oklahoma Pet Quality Assurance and Protection Act shall preclude any peace or animal control officer from enforcing cruelty laws and the provisions of the Oklahoma Pet Quality Assurance and Protection Act. Any such officer shall within forty-eight (48) hours of any investigation regarding cruelty action taken or contact made with an individual or facility covered under the Oklahoma Pet Quality Assurance and Protection Act, report the action or contact in writing to the Oklahoma Department of Agriculture, Food, and Forestry.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 21-8 of Title 2, unless there is created a duplication in numbering, reads as follows:

All records received by the Oklahoma Department of Agriculture, Food, and Forestry pursuant to the Oklahoma Pet Quality Assurance and Protection Act shall be considered open records and available for public inspection pursuant to the Oklahoma Open Records Act.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 21-9 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. 1. In no event shall a Pet Quality Assurance license be issued to any person or to anyone in the household of that person who held or applied for a United States Department of Agriculture license pursuant to the Animal Welfare Act licensed in this state or any other state whose license was suspended, revoked, or whose application was refused due to the improper care of animals.

2. In no event shall a Pet Quality Assurance license be issued to any person or to anyone in the household of that person who has been convicted of or pled guilty or nolo contendere to a violation of any federal, state, or local law or regulation involving an animal health or welfare component, including but not limited to:

a. the humane treatment of animals,

b. cruelty to animals,

c. endangering the life or health of an animal,

d. the care, treatment, sale, possession, or handling of animals,

e. animal fighting,

f. the Oklahoma Veterinary Practice Act, or

g. prescription drugs or controlled or dangerous substances that can be utilized in the medical or surgical treatment of animals.

B. In addition to the applicable administrative and criminal penalties contained in the Oklahoma Agricultural Code, any violation of this section shall constitute a civil offense punishable by a fine of not less than Fifty Dollars (\$50.00) nor more than Two Thousand Five Hundred Dollars (\$2,500.00).

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 21-10 of Title 2, unless there is created a duplication in numbering, reads as follows:

There is established in the State Treasury a revolving fund to be known as the "Pet Quality Assurance Enforcement Fund". The fund shall:

1. Be a continuing fund, not subject to fiscal year limitations, and shall consist of all fees, fines, penalties, and other monies paid, donated, received, recovered, or collected under the provisions of the Oklahoma Pet Quality Assurance and Protection Act; and

2. Be available to the Department solely for the payment of all expenses incurred in issuing, processing, investigating, or supervising the issuance of Pet Quality Assurance licenses, and enforcement of the Oklahoma Pet Quality Assurance and Protection Act. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of State Finance for approval and payment.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 21-11 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. The failure of any person who has been issued a Pet Quality Assurance License to comply with the requirements of the Oklahoma Pet Quality Assurance and Protection Act, or any rules promulgated pursuant thereto, may constitute grounds for the denial of a license or license renewal, imposition of a fine, or for license suspension or revocation by the Department, as provided for in the Oklahoma Pet Quality Assurance and Protection Act.

B. The Oklahoma Department of Agriculture, Food, and Forestry or designated agent may refuse to grant or renew, and may suspend or revoke a Pet Quality Assurance license on any one of the following grounds:

1. Material misstatement, misrepresentation, or falsification in the license application or renewal, or in any matter relevant to the license;
 2. Material misstatement, misrepresentation, or falsification in the records required to be kept herein, or under any rule promulgated pursuant thereto; or
 3. Refusal to allow an authorized agent of the Board to inspect the premises, facility, equipment, dogs or cats within the operation, protocols, or records.
- C. The Department may refuse to renew, and may suspend a Pet Quality Assurance license, for a violation of the Oklahoma Pet Quality Assurance and Protection Act or for failure to comply with any rule promulgated pursuant thereto.
- D. The Department may revoke a Pet Quality Assurance license if the applicant for the license or a licensee:
1. Has been convicted of or pleaded guilty or nolo contendere to any violation of any local, state, or federal law relating to the items listed in Section 9 of this act; or
 2. Is currently on supervised probation by any state or federal department of corrections relating to the items listed in Section 9 of this act.
- E. The Department shall provide written notice to the Pet Quality Assurance license holder of any decision to fine, deny issuance or renewal of a license, or suspend or revoke the license pursuant to the Board's promulgation of rules for individual proceedings.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 21-12 of Title 2, unless there is created a duplication in numbering, reads as follows:

Whenever a Pet Quality Assurance license is revoked, suspended, or not renewed, a district court order may be obtained to seize and impound dogs or cats in the possession, custody, or care of that quality assurance licensee if there is reason to believe that the health, safety, or welfare of the dogs or cats is endangered, or the dogs or cats are in imminent danger. The reasonable costs of transportation, care, and feeding of seized and impounded dogs or cats shall be paid by the quality assurance licensee from whom the dogs or cats were seized and impounded.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 21-13 of Title 2, unless there is created a duplication in numbering, reads as follows:

- A. No person holding a Pet Quality Assurance license shall sell, give away, or transfer ownership of any dog or cat, unless the dog or cat is at least six (6) weeks of age.
- B. Each dog or cat shall be accompanied by a health record.
- C. If moving interstate, each dog or cat shall be accompanied by a certificate of veterinary inspection and shall be implanted with a microchip or marked by a tattoo or other permanent marking, for identification purposes only, that is able to be read with a universal reader or identified with any other form of official identification.
- D. A person shall be entitled to review the information contained in the health record prior to purchase of the dog or cat from a quality assurance licensee.
- E. No person shall sell, offer to sell, promote, advertise, or otherwise market or represent a dog or cat as a Pet Quality Assurance animal unless the breeding and rearing of the dogs or cats is in compliance with the Oklahoma Pet Quality Assurance and Protection Act.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 21-14 of Title 2, unless there is created a duplication in numbering, reads as follows:

Each person holding a Pet Quality Assurance license described in the Oklahoma Pet Quality Assurance and Protection Act shall be required to keep the following records:

1. A copy of a bill of sale and individual identification for each dog or cat purchased which shall be presented upon delivery. Any bill of sale which is fraudulent or indicates the theft of any dog or cat shall be prima facie evidence for the immediate revocation of a license by the Oklahoma Department of Agriculture, Food, and Forestry. The bill of sale shall contain information required by the Oklahoma Pet Quality Assurance and Protection Act;
2. A Certificate of Veterinary Inspection signed by an accredited veterinarian for each dog or cat sold, given away, or otherwise transferred in interstate commerce that shall comply with state and federal regulations; and
3. Any other records required by the Department.

SECTION 15. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

The State Board of Agriculture may promulgate emergency rules to implement the provisions of this act including, but not limited to, fees, license requirements, and standards for welfare.

SECTION 16. This act shall become effective November 1, 2010.