

Chapter 573

(House Bill 1113)

AN ACT concerning

**Commercial Sale of Dogs and Cats – Prohibited Acts
(Companion Animal Welfare Act)**

FOR the purpose of prohibiting the sale, transfer, offer to sell or transfer, barter, trade, or auction of dogs and cats at certain locations; authorizing certain animal control officers and certain officers of certain societies or associations to enforce certain provisions of this Act; providing that a retail pet store may only offer for sale a dog or cat obtained from certain persons; requiring a retail pet store to ensure that certain persons meet certain requirements; altering the number of years that a retail pet store is required to maintain certain records; requiring a retail pet store that sells dogs to post on each dog's cage certain information and maintain a certain record that includes certain information about a dealer, if applicable; requiring a retail pet store to make certain records available to an animal control unit; making certain violations of certain provisions of this Act an unfair and deceptive trade practice subject to certain enforcement and civil penalty provisions; providing for the application ~~and construction~~ of certain provisions of this Act; defining certain terms; and generally relating to prohibited acts relating to the commercial sale of dogs and cats.

BY adding to

Article – Business Regulation
Section 19–104 and 19–702.1
Annotated Code of Maryland
(2015 Replacement Volume and 2015 Supplement)

BY repealing and reenacting, with amendments,

Article – Business Regulation
Section 19–701, 19–702, 19–703, and 19–706, ~~and 19–707~~
Annotated Code of Maryland
(2015 Replacement Volume and 2015 Supplement)

Preamble

WHEREAS, There are countless unwanted dogs and cats that do not have permanent homes, leading to the significant overpopulation of these animals; and

WHEREAS, Many of the unwanted dogs and cats are eventually euthanized by shelters; and

WHEREAS, Euthanizing dogs and cats is not an economical, humane, or ethical solution to the problem of their overpopulation; and

WHEREAS, The major source of the mass breeding of dogs and cats occurs at puppy mills and kitten factories that supply commercial retail stores; and

WHEREAS, One of the most effective, economical, humane, and ethical solutions to the problem of dog and cat overpopulation is to substantially reduce mass breeding for commercial retail sale; and

WHEREAS, The factory–like production and commercial retail sale of dogs and cats is immoral and inhumane; and

WHEREAS, The treatment of dogs and cats in mass breeding facilities and commercial retail stores is a matter of national concern; and

WHEREAS, Similar to humans, dogs and cats experience fear, hunger, and pain and suffering; and

WHEREAS, Puppy mills, kitten factories, and many commercial retail stores treat dogs and cats as commodities without consideration to the resulting physical and mental suffering endured by these loving animals; and

WHEREAS, The mass commercial production and commercial retail sale of dogs and cats is inconsistent with the State’s goal of ensuring the humane care and welfare of dogs and cats; and

WHEREAS, The public interest would be best served by minimizing the sourcing of companion animals sold in the State from puppy mills and kitten factories; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Business Regulation

19–104.

THIS SECTION DOES NOT APPLY TO:

(1) AN ANIMAL WELFARE ORGANIZATION OR ANIMAL CONTROL UNIT DISPLAYING DOGS OR CATS FOR ADOPTION OR THE ADOPTION OF DOGS OR CATS FROM AN ANIMAL WELFARE ORGANIZATION OR ANIMAL CONTROL UNIT; OR

(2) A DOG BREEDER AND A SPECIFIC INDIVIDUAL PURCHASER CONDUCTING A PREARRANGED SALE OF A DOG IF THE LOCATION OF THE PREARRANGED SALE IS NOT AT A REGULARLY SCHEDULED OR RECURRING EVENT.

(B) A PERSON MAY NOT OFFER FOR SALE, SELL, OFFER TO TRANSFER, TRANSFER, BARTER, TRADE, OR AUCTION A DOG OR CAT AT ANY PUBLIC PLACE, INCLUDING:

- (1) A STREET;**
- (2) A HIGHWAY;**
- (3) A PUBLIC RIGHT-OF-WAY;**
- (4) A PUBLIC PARKING LOT;**
- (5) A CARNIVAL;**
- (6) A BOARDWALK;**
- (7) A SWAP MEET;**
- (8) A FAIR; OR**
- (9) A FLEA MARKET.**

(C) AN ANIMAL CONTROL OFFICER UNDER THE JURISDICTION OF THE STATE OR A LOCAL GOVERNING BODY AND AN OFFICER OF A SOCIETY OR ASSOCIATION, INCORPORATED UNDER THE LAWS OF THE STATE FOR THE PREVENTION OF CRUELTY TO ANIMALS, AUTHORIZED TO MAKE ARRESTS UNDER § 10-609 OF THE CRIMINAL LAW ARTICLE MAY ENFORCE SUBSECTION (B) OF THIS SECTION.

(D) A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO:

- (1) FOR A FIRST VIOLATION, A CIVIL PENALTY NOT EXCEEDING \$500;**
- (2) FOR A SECOND VIOLATION, A CIVIL PENALTY NOT EXCEEDING \$1,000; AND**
- (3) FOR A THIRD OR SUBSEQUENT VIOLATION, A CIVIL PENALTY NOT EXCEEDING \$1,500.**

19-701.

(a) In this subtitle the following words have the meanings indicated.

(B) “ANIMAL CONTROL UNIT” HAS THE MEANING STATED IN § 10-617 OF THE CRIMINAL LAW ARTICLE.

(C) “ANIMAL WELFARE ORGANIZATION” MEANS A NOT-FOR-PROFIT ORGANIZATION ESTABLISHED TO PROMOTE ANIMAL WELFARE THAT HAS TAX EXEMPT STATUS UNDER § 501(C)(3) OF THE U.S. INTERNAL REVENUE CODE.

[(b)] (D) “Breeder” means a person who breeds or raises dogs to sell, exchange, or otherwise transfer to the public.

[(c)] (E) “Clinically ill” means an illness that is apparent to a licensed veterinarian based on observation, examination, or testing of the dog.

[(d)] (F) (1) “Dealer” means a person who, for compensation:

- (i) buys, sells, or negotiates the purchase of a dog; or
- (ii) delivers for transport or transports a dog.

(2) “Dealer” does not include a person who transports a dog as a carrier only.

[(e)] (G) “Nonelective surgical procedure” means a surgical procedure that is necessary to preserve or restore the health of an animal or to correct a condition that would:

- (1) interfere with the animal’s ability to walk, run, jump, or otherwise function in a normal manner; or
- (2) cause pain and suffering to the animal.

(H) “OFFER FOR SALE” INCLUDES TO SELL, OFFER TO TRANSFER, OFFER FOR ADOPTION, ADVERTISE FOR THE SALE, BARTER, AUCTION, GIVEAWAY, OR OTHERWISE DISPOSE OF A DOMESTIC ANIMAL.

[(f)] (I) “Purchaser” means any person who purchases a dog from a retail pet store.

[(g)] (J) “Retail pet store” means a for-profit establishment open to the public that sells or offers for sale domestic animals to be kept as household pets.

19-702.

This subtitle does not apply to [a bona fide nonprofit] AN ANIMAL WELFARE organization OR ANIMAL CONTROL UNIT operating within a retail pet store.

19-702.1.

(A) A RETAIL PET STORE MAY OFFER A DOG OR CAT FOR SALE ONLY IF THE DOG OR CAT IS OBTAINED FROM:

(1) AN ANIMAL WELFARE ORGANIZATION;

(2) AN ANIMAL CONTROL UNIT; ~~OR~~

(3) ~~A PERSON THAT~~ THE ORIGINAL BREEDER OF THE DOG OR CAT IF THE BREEDER MEETS THE REQUIREMENTS UNDER SUBSECTION (B) OF THIS SECTION; OR

(4) A DEALER THAT OBTAINED THE DOG OR CAT FROM THE ORIGINAL BREEDER IF THE DEALER AND ORIGINAL BREEDER MEET THE REQUIREMENTS UNDER SUBSECTION (B) OF THIS SECTION.

(B) A RETAIL PET STORE SHALL ENSURE THAT A PERSON UNDER SUBSECTION (A)(3) OR (4) OF THIS SECTION FROM WHICH THE RETAIL PET STORE OBTAINS A DOG OR CAT, AS OF THE DAY THE RETAIL PET STORE ~~RECEIVED~~ RECEIVES THE DOG OR CAT:

~~(1)~~ (1) HOLDS A CURRENT ~~CLASS A~~ LICENSE UNDER THE ANIMAL WELFARE ACT FROM THE U.S. DEPARTMENT OF AGRICULTURE; AND

~~(2)~~ (2) HAS NOT RECEIVED FROM THE U.S. DEPARTMENT OF AGRICULTURE, IN ACCORDANCE WITH AN ENFORCEMENT ACTION OF THE LAWS AND REGULATIONS UNDER THE FEDERAL ANIMAL WELFARE ACT:

~~1~~ (I) A CITATION ON A FINAL INSPECTION REPORT FOR A DIRECT VIOLATION WITHIN THE ~~3-YEAR~~ 2-YEAR PERIOD BEFORE THE DAY THE DOG OR CAT IS RECEIVED BY THE RETAIL PET STORE;

~~2~~ (II) CITATIONS ON TWO OR MORE CONSECUTIVE FINAL INSPECTION REPORTS FOR ONE OR MORE REPEAT NONCOMPLIANT ITEMS WITHIN THE ~~3-YEAR~~ 2-YEAR PERIOD BEFORE THE DAY THE DOG OR CAT IS RECEIVED BY THE RETAIL PET STORE;

~~3~~ (III) A CITATION ON ~~THE~~ BOTH OF THE TWO MOST RECENT FINAL INSPECTION ~~REPORT~~ REPORTS FOR A NO-ACCESS VIOLATION; OR

~~4~~ (IV) THREE OR MORE CITATIONS ON THE MOST RECENT FINAL INSPECTION REPORT FOR SEPARATE NONCOMPLIANT ITEMS OTHER THAN NO-ACCESS VIOLATIONS.

19-703.

(a) A retail pet store that sells dogs shall:

(1) post conspicuously on each dog's cage:

(i) the breed, age, and date of birth of the dog, if known;

(ii) the state in which the breeder ~~or~~ **AND, IF APPLICABLE, THE** dealer of the dog is located; and

(iii) the United States Department of Agriculture license number of the breeder ~~or~~ **AND, IF APPLICABLE, THE** dealer, ~~if required~~;

(2) maintain a written record that includes the following information about each dog in the possession of the retail pet store:

(i) the breed, age, and date of birth of the dog, if known;

(ii) the sex, color, and any identifying markings of the dog;

(iii) documentation of all inoculations, worming treatments, and other medical treatments, if known, including the date of the medical treatment, the diagnoses, and the name and title of the treatment provider;

(iv) the name and address of:

1. the breeder ~~or~~ **AND, IF APPLICABLE, THE** dealer who supplied the dog;

2. the facility where the dog was born; and

3. the transporter or carrier of the dog, if any;

(v) the United States Department of Agriculture license number of the breeder ~~or~~ **AND, IF APPLICABLE, THE** dealer, ~~if required~~;

(vi) any identifier information, including a tag, tattoo, collar number, or microchip; and

(vii) if the dog is being sold as registered or registrable:

1. the names and registration numbers of the sire and dam;

and

2. the litter number; and

(3) for each dog acquired by the retail pet store, maintain a written record of the health, status, and disposition of the dog, including any documents that are required at the time of sale.

(b) A retail pet store shall maintain a copy of the records required under subsection (a)(2) of this section for at least [1 year] **2 YEARS** after the date of sale of the dog.

(c) A retail pet store shall make the records required under subsection (a)(2) of this section available to:

(1) the Division of Consumer Protection of the Office of the Attorney General on reasonable notice;

(2) any bona fide prospective purchaser on request; [and]

(3) the purchaser at the time of a sale; **AND**

(4) **AN ANIMAL CONTROL UNIT.**

19-706.

(A) [A] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A violation of this subtitle:

(1) is an unfair or deceptive trade practice within the meaning of Title 13 of the Commercial Law Article; and

(2) is subject to the enforcement and penalty provisions contained in Title 13 of the Commercial Law Article.

(B) (1) A VIOLATION OF § 19-702.1 OF THIS SUBTITLE:

(I) IS AN UNFAIR OR DECEPTIVE TRADE PRACTICE WITHIN THE MEANING OF TITLE 13 OF THE COMMERCIAL LAW ARTICLE; AND

(II) EXCEPT FOR THE PROVISIONS OF § 13-411 OF THE COMMERCIAL LAW ARTICLE, IS SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS CONTAINED IN TITLE 13 OF THE COMMERCIAL LAW ARTICLE.

(2) EACH OFFER OF AN ANIMAL FOR SALE IN VIOLATION OF § 19-702.1 OF THIS SUBTITLE IS A SEPARATE VIOLATION.

~~19-707.~~

~~Nothing in this subtitle limits:~~

- ~~(1) the rights or remedies otherwise available to a purchaser;~~
- ~~(2) the ability of the owner or operator of a retail pet store and purchaser to agree to additional terms and conditions that do not impair the rights granted to a purchaser under this subtitle; [or]~~
- ~~(3) the ability of the State or a local government to prosecute the owner or operator of a retail pet store for any other violation of law; OR~~
- ~~(4) THE ABILITY OF A LOCAL GOVERNMENT TO FURTHER RESTRICT THE SALE OF DOGS OR CATS BY A RETAIL PET STORE.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2016.

Approved by the Governor, May 19, 2016.