

SENATE BILL 663

C2

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CF HB 1113

By: ~~Senators Benson, Feldman, Jennings, Lee, Madaleno, Pugh, Raskin, and Salling~~ Salling, Middleton, Astle, Kelley, Klausmeier, Reilly, Mathias, and Hershey

Introduced and read first time: February 5, 2016
Assigned to: Finance

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 15, 2016

CHAPTER _____

1 AN ACT concerning

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

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

19 BY adding to
20 Article – Business Regulation
21 Section 19–104 and 19–702.1
22 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (2015 Replacement Volume and 2015 Supplement)

2 BY repealing and reenacting, with amendments,
3 Article – Business Regulation
4 Section 19–701, 19–702, 19–703, and 19–706, ~~and 19–707~~
5 Annotated Code of Maryland
6 (2015 Replacement Volume and 2015 Supplement)

7 Preamble

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

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

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

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

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

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

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

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

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

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

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

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

3 **Article – Business Regulation**

4 **19-104.**

5 **(A) THIS SECTION DOES NOT APPLY TO:**

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

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

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

15 **(1) A STREET;**

16 **(2) A HIGHWAY;**

17 **(3) A PUBLIC RIGHT-OF-WAY;**

18 **(4) A PUBLIC PARKING LOT;**

19 **(5) A CARNIVAL;**

20 **(6) A BOARDWALK;**

21 **(7) A SWAP MEET;**

22 **(8) A FAIR; OR**

23 **(9) A FLEA MARKET.**

24 **(C) AN ANIMAL CONTROL OFFICER UNDER THE JURISDICTION OF THE**
25 **STATE OR A LOCAL GOVERNING BODY AND AN OFFICER OF A SOCIETY OR**
26 **ASSOCIATION, INCORPORATED UNDER THE LAWS OF THE STATE FOR THE**
27 **PREVENTION OF CRUELTY TO ANIMALS, AUTHORIZED TO MAKE ARRESTS UNDER §**
28 **10-609 OF THE CRIMINAL LAW ARTICLE MAY ENFORCE SUBSECTION (B) OF THIS**
29 **SECTION.**

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

2 (1) FOR A FIRST VIOLATION, A CIVIL PENALTY NOT EXCEEDING \$500;

3 (2) FOR A SECOND VIOLATION, A CIVIL PENALTY NOT EXCEEDING
4 \$1,000; AND

5 (3) FOR A THIRD OR SUBSEQUENT VIOLATION, A CIVIL PENALTY NOT
6 EXCEEDING \$1,500.

7 19-701.

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

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

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

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

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

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

19 (i) buys, sells, or negotiates the purchase of a dog; or

20 (ii) delivers for transport or transports a dog.

21 (2) "Dealer" does not include a person who transports a dog as a carrier
22 only.

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

25 (1) interfere with the animal's ability to walk, run, jump, or otherwise
26 function in a normal manner; or

27 (2) cause pain and suffering to the animal.

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

4 [(f)] (I) "Purchaser" means any person who purchases a dog from a retail pet
 5 store.

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

8 19-702.

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

11 19-702.1.

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

14 (1) AN ANIMAL WELFARE ORGANIZATION;

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

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

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

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

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

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

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

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

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

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

13 19-703.

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

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

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

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

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

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

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

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

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

28 (iv) the name and address of:

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

1 2. the facility where the dog was born; and

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

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

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

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

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

10 2. the litter number; and

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

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

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

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

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

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

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

24 19-706.

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

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

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

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

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

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

9 (2) EACH OFFER OF AN ANIMAL FOR SALE IN VIOLATION OF §
10 19-702.1 OF THIS SUBTITLE IS A SEPARATE VIOLATION.

11 ~~19-707.~~

12 ~~Nothing in this subtitle limits:~~

13 ~~(1) the rights or remedies otherwise available to a purchaser;~~

14 ~~(2) the ability of the owner or operator of a retail pet store and purchaser~~
15 ~~to agree to additional terms and conditions that do not impair the rights granted to a~~
16 ~~purchaser under this subtitle; [or]~~

17 ~~(3) the ability of the State or a local government to prosecute the owner or~~
18 ~~operator of a retail pet store for any other violation of law; OR~~

19 ~~(4) THE ABILITY OF A LOCAL GOVERNMENT TO FURTHER RESTRICT~~
20 ~~THE SALE OF DOGS OR CATS BY A RETAIL PET STORE.~~

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
22 1, 2016.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.