

Department of Legislative Services  
Maryland General Assembly  
2017 Session

FISCAL AND POLICY NOTE  
Enrolled - Revised

House Bill 781  
Economic Matters

(Delegate Kramer)

Finance

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Retail Pet Stores - Animal Seller, Dog Cage Signs, and Records - Requirement Revisions

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This bill alters signage and recordkeeping requirements for a retail pet store that sells dogs to include specified information for dogs obtained from an animal control unit or an animal welfare organization. Both the signs on each dog’s cage and the records must include the name and address of the animal control unit or animal welfare organization, if applicable. The bill also broadens an existing prohibition against a retail pet store buying a dog or cat from a breeder or dealer unless the store has ensured that the breeder or dealer has not received a specified type of citation from the U.S. Department of Agriculture (USDA) under the federal Animal Welfare Act (AWA) in the last two years. Specifically, the prohibition also applies if the breeder or dealer receives a citation on a final inspection report for any *critical* violation, rather than only for a direct violation (a direct violation is a type of critical violation). If a dog is obtained from a breeder or dealer, a retail pet store must post the applicable USDA final inspection reports from the previous two years on or near the dog’s cage. The reports must be retained by the retail pet store for two years.

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Fiscal Summary

**State Effect:** If the Consumer Protection Division of the Office of the Attorney General receives fewer than 50 complaints per year stemming from the bill, the additional workload can be handled with existing resources. Revenues are not likely affected.

**Local Effect:** The bill does not materially affect local government finances or operations.

**Small Business Effect:** Minimal. The bill requires additional information to be posted and records to be kept by retail pet stores and broadens an existing prohibition against purchasing dogs or cats from certain entities, but it is generally within the scope of existing information, recordkeeping, and purchase requirements. Even so, broadening an existing

prohibition and recordkeeping requirement may further exacerbate difficulties in complying with current law as noted in Additional Comments.

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## Analysis

**Current Law/Background:** A retail pet store is prohibited from offering a dog or cat for sale unless the dog or cat is obtained from:

- an animal welfare organization;
- an animal control unit; or
- the original breeder of the animal – or a dealer that obtained the animal from the original breeder – if, as of the day the retail pet store receives the dog or cat, the retail pet store ensures that each such person holds a current license from USDA and has not received specified citations from USDA under AWA.

Specifically, the retail pet store must ensure that a breeder or dealer has not received:

- a citation on a final inspection report for a *direct* violation within the two-year period before the day the dog or cat is received by the retail pet store (this is the citation altered by the bill);
- citations on two or more consecutive final inspection reports for one or more repeat noncompliant items within the two-year period before the day the dog or cat is received by the retail pet store;
- a citation on both of the two most recent final inspection reports for a no-access violation; or
- three or more citations on the most recent final inspection report for separate noncompliant items other than no-access violations.

A retail pet store that sells dogs must post conspicuously on each dog's cage (1) the breed, age, and date of birth of the dog, if known; (2) the state in which the breeder and, if applicable, the dealer of the dog is located; and (3) the USDA license number of the breeder and, if applicable, the dealer. The store must also maintain a written record for each dog for two years that includes, in addition to other information, the following:

- the breed, age, and date of birth of the dog, if known;
- the sex, color, and any identifying markings of the dog;
- the name and address of the breeder and, if applicable, the dealer who supplied the dog; the facility where the dog was born; and the transporter or carrier of the dog, if any; and
- the USDA license number of the breeder and, if applicable, the dealer.

Generally, a violation of retail pet store laws is an unfair or deceptive trade practice under the Maryland Consumer Protection Act (MCPA), subject to MCPA's enforcement and penalty provisions.

### *Animal Welfare Act*

The federal AWA regulates certain animal activities, including commercial dog and cat breeding. AWA defines the minimum standards of care for dogs, cats, and certain other species of animals bred for commercial resale and exhibition. It also requires that certain commercial breeders be licensed and routinely inspected by USDA.

According to correspondence with USDA, a "critical" noncompliance citation covers a variety of noncompliances, including "direct" noncompliances. Examples of critical noncompliances include:

- noncompliances that had a serious or severe adverse effect on the health and well-being of the animal or had the high potential to have that effect in the immediate future (a direct noncompliance);
- repeated inspection refusals;
- intentional record falsification to mislead USDA or other government agencies; and
- knowingly obtaining dogs or cats from prohibited sources or obtaining animals by use of false pretenses, misrepresentation, or deception.

### *Maryland Consumer Protection Act*

An unfair or deceptive trade practice under MCPA includes, among other acts, any false, falsely disparaging, or misleading oral or written statement, visual description, or other representation of any kind which has the capacity, tendency, or effect of deceiving or misleading consumers. The prohibition against engaging in any unfair or deceptive trade practice encompasses the offer for or actual sale, lease, rental, loan, or bailment of any consumer goods, consumer realty, or consumer services; the extension of consumer credit; the collection of consumer debt; or the offer for or actual purchase of consumer goods or consumer realty from a consumer by a merchant whose business includes paying off consumer debt in connection with the purchase of any consumer goods or consumer realty from a consumer.

The Consumer Protection Division is responsible for enforcing MCPA and investigating the complaints of aggrieved consumers. The division may attempt to conciliate the matter, issue a cease and desist order, or file a civil action in court. A merchant who violates MCPA is subject to a fine of up to \$1,000 for the first violation and up to \$5,000 for each subsequent violation. In addition to any civil penalties that may be imposed, any person

who violates MCPA is guilty of a misdemeanor and, on conviction, is subject to a fine of up to \$1,000 and/or imprisonment for up to one year.

**Additional Comments:** Independent of the bill, USDA's Animal and Plant Health Inspection Service removed most inspection data from its [website](#) in February 2017 because of concerns that it may violate individual privacy under federal law. As of April 10, 2017, some inspection information has been reposted, but it remains incomplete.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Office of the Attorney General (Consumer Protection Division); Department of Labor, Licensing, and Regulation; U.S. Department of Agriculture; Department of Legislative Services

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