

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 1662
Economic Matters

(Delegate Kramer, *et al.*)

Finance

Business Regulation – Retail Pet Stores

This bill prohibits a retail pet store from offering for sale, transferring, or otherwise disposing of cats or dogs. Existing provisions related to the conditions of their sale by a retail pet store are repealed. The bill may not be construed to prohibit a retail pet store from collaborating with an animal welfare organization or animal control unit to offer space for or showcase cats or dogs for adoption. Violation of the bill is an unfair or deceptive trade practice under the Maryland Consumer Protection Act (MCPA), subject to MCPA's civil (but not criminal) penalty provisions. The bill does not limit 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. **The bill takes effect October 1, 2018, but the prohibition against selling cats and dogs takes effect January 1, 2020.**

Fiscal Summary

State Effect: General fund revenues may decrease beginning as early as FY 2019 due to fewer taxable sales of cats and dogs, as discussed below. The amount, if any, cannot be reliably estimated at this time. The bill's imposition of existing penalty provisions does not have a material impact on State finances or operations. The Office of the Attorney General, Consumer Protection Division, can handle the bill's requirements with existing resources.

Local Effect: The bill's imposition of existing penalty provisions does not have a material impact on local government finances or operations.

Small Business Effect: Meaningful.

Analysis

Bill Summary: Effective October 1, 2018, it is the intent of the General Assembly that animal welfare organizations initiate contact with retail pet stores that will no longer be able to offer cats and dogs for sale to facilitate collaboration on showcasing cats and dogs for (1) adoption from an animal control unit or animal welfare organization or (2) purchase from local breeders. It is the further intent of the General Assembly that the Senate Finance Committee and the House Economic Matters Committee monitor implementation of the bill.

Current Law/Background: In general, a dog or cat younger than eight weeks of age may not be sold or distributed in the State unless it is accompanied by its female parent. The sale of cats and dogs by retail pet stores are subject to additional specified requirements.

A person must obtain a local kennel license if the person (1) owns or has custody of six or more unspayed female dogs over six months old and kept for the purpose of breeding and selling their offspring or (2) sells dogs from six or more litters per year.

Sale of Cats and Dogs by Retail Pet Stores

A retail pet store is prohibited from offering a cat or dog for sale unless the cat or dog 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 cat or dog, the retail pet store ensures that each such person holds a current license from the U.S. Department of Agriculture (USDA) and has not received specified citations from USDA under the federal Animal Welfare Act (AWA).

A retail pet store that sells dogs must post information on each dog's cage, including (1) the breed, age, and date of birth of the dog, if known and (2) specified information on the entity from which the dog was obtained, as applicable.

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;

- documentation of inoculations and other medical treatments or conditions; and
- specified information on the entity from which the dog was obtained, as applicable.

A retail pet store must provide a health certificate from a State-licensed veterinarian, issued within 30 days before the date of sale, to a purchaser at the time of a sale of a dog. The certificate must state that the dog (1) has no known disease, illness, or congenital or hereditary condition which is diagnosable with reasonable accuracy and (2) does not appear to be clinically ill from parasitic infection at the time of the examination. A person who has purchased a dog from a retail pet store is entitled to a remedy under certain conditions related to the health of the dog.

Generally, a violation of retail pet store laws is an unfair or deceptive trade practice under 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.

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 civil penalty 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; these criminal penalties do not apply to violations of the bill.

State Fiscal Effect: Although the bill's prohibition against the retail sale of cats and dogs does not take effect until January 1, 2020, retail pet stores may stop selling them earlier than that date in anticipation of the new prohibition. The sale of cats and dogs is subject to the State sales tax. Therefore, general fund revenues decrease beginning as early as fiscal 2019 to the extent that the bill reduces the number of such taxable sales. The amount, if any, cannot be reliably estimated at this time. The bill's imposition of existing penalty provisions does not have a material impact on State finances or operations. The Office of the Attorney General, Consumer Protection Division, can handle the bill's requirements with existing resources.

Small Business Effect: Retail pet stores that are small businesses are prohibited from selling, transferring, or otherwise disposing of cats or dogs, which for some stores may significantly reduce revenues. Further, dog and cat breeders that are small businesses lose a potential customer in retail pet stores and must sell directly to consumers.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Agriculture; Department of Labor, Licensing, and Regulation; Comptroller's Office; Department of Legislative Services

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Analysis by: Stephen M. Ross

Direct Inquiries to:
(410) 946-5510
(301) 970-5510