An Act

ENROLLED HOUSE
BILL NO. 2921

By: Richardson, Renegar, Denney and Bennett of the House

and

Brecheen and Allen of the Senate

An Act relating to pet breeders; creating the Commercial Pet Breeders Act of 2012 administered by the State Board of Agriculture; defining terms; authorizing Board to adopt certain rules; requiring commercial pet breeder license; providing for initial and annual inspections; requiring inspection report; prohibiting inspections by certain group; establishing license requirements; requiring separate licenses; permitting denial, renewal or revocation of license for certain reasons; establishing license renewal procedure; requiring certain notice; setting out certain duties; requiring submission of annual report; mandating certain records be kept; providing for penalties; directing Board to maintain and post certain information on its website; creating the Commercial Pet Breeders Assistance Revolving Fund; providing for deposits; setting forth limitations on monies deposited in the fund; prohibiting transfer of funds; stating uses for fund; providing for promulgation of certain emergency rules; repealing 59 O.S. 2011, Sections 5001, 5002, 5003, 5004, 5005, 5006, 5007, 5008, 5009, 5010, 5011, 5012, 5013, 5014, 5015, 5016, 5017, 5018, 5019, 5020, 5021, 5022, 5023, 5024, 5025, 5026, 5027, 5028 and 5029, which relate to the Commercial Pet Breeders Act; providing for codification; providing for noncodification; providing an effective date; and declaring an emergency.

SUBJECT: Commercial Pet Breeders Act of 2012

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 30.1 of Title 4, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Commercial Pet Breeders Act of 2012" and shall be administered by the State Board of Agriculture.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 30.2 of Title 4, unless there is created a duplication in numbering, reads as follows:

As used in the Commercial Pet Breeders Act of 2012:

1. "Adult animal" means an intact female animal twelve (12) months of age or older;

2. "Animal" means a dog or a cat;

3. "Board" means the State Board of Agriculture;

4. "Cat" means a mammal that is wholly or partly of the species Felis domesticus;

5. "Commercial breeder" and "commercial pet breeder" mean any individual, entity, association, trust, or corporation who possesses eleven or more intact female animals for the use of breeding or dealing in animals for direct or indirect sale or for exchange in return for consideration;

6. "Commercial pet breeder license" means a license issued to any person that qualifies and is licensed as a commercial pet breeder;

7. "Department" means the Oklahoma Department of Agriculture, Food, and Forestry;

8. "Dog" means a mammal that is wholly or partly of the species Canis familiaris;

9. "Facility" means the premises used by one or more commercial breeders for keeping, housing, or breeding animals. The term includes all buildings, property, and confinement areas in a single location used to conduct the commercial breeding business;

10. "Family member" means the parent, spouse, child, or sibling of an individual;

11. "Humane society" means a nonprofit organization exempt from federal income taxation as an organization described in Section 501(c)(3), Internal Revenue Code of 1986, as amended, that has as a principal purpose the prevention of animal cruelty or the sheltering of, caring for, and providing of homes for lost, stray, and abandoned animals;

12. "Inspector" means an authorized agent of the Board or any other qualified person authorized by the Department to conduct inspections;

13. "Intact female animal" means a female animal, nine (9) months of age or older, and not spayed;

14. "Kitten" means a cat less than twelve (12) months old;

15. "Local animal control authority" means a municipal or county animal control office with authority over the premises in which an animal is kept or, in an area that does not have an animal control office, the county sheriff;

16. "Marketing" means the solicitation for sale of animals;

17. "Noncommercial breeder" means any individual, entity, association, trust, or corporation who possesses ten or fewer intact female animals for the use of breeding or dealing in animals for direct or indirect sale or for exchange in return for consideration;

18. "Person" means any individual, association, trust, corporation, limited liability company, partnership, or other entity;

19. "Pet" means a dog or cat, including a puppy or kitten;

20. "Possess" means to have custody of or control over;

21. "Puppy" means a dog less than twelve (12) months old; and

22. "Veterinarian" means a person currently licensed to practice veterinary medicine in Oklahoma.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 30.3 of Title 4, unless there is created a duplication in numbering, reads as follows:

A. The State Board of Agriculture shall enforce and administer the provisions of the Commercial Pet Breeders Act of 2012.

B. The Board shall adopt the rules necessary to enforce and administer the Commercial Pet Breeders Act of 2012, including but not limited to rules that:

1. Establish standards for care;

2. Establish reasonable and necessary fees;

3. Establish exemptions for intact female animals held solely for the purpose of training and that are not bred, with documentation to include sales and training records;

4. Establish provisions related to initial and renewal applications, revocation or nonrenewal of licenses, procedures for sale of animals, and procedures for making complaints; and

5. Establish any other rules deemed necessary by the Board.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 30.4 of Title 4, unless there is created a duplication in numbering, reads as follows:

A. A person shall not act, offer to act, or hold himself or herself out as a commercial pet breeder in this state unless the person holds a commercial pet breeder license obtained pursuant to the Commercial Pet Breeders Act of 2012 for each facility that the person owns or operates in this state.

B. It shall be unlawful for any person to act as a commercial pet breeder licensee, or to hold himself or herself out as such, unless the person shall have been licensed to do so under the Commercial Pet Breeders Act of 2012.

C. An applicant for a commercial pet breeder license shall meet the criteria established by the State Board of Agriculture through rules promulgated pursuant to the Commercial Pet Breeders Act of 2012.

D. Any commercial pet breeder that applies for a commercial pet breeder license no later than September 1, 2012, shall not be required to meet any cage-size requirement more stringent than United States Department of Agriculture standards. Regardless of license application date, any commercial pet breeder replacing or adding cages after September 1, 2012, shall meet the cage-size requirements as of the date of replacement or addition.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 30.5 of Title 4, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Department of Agriculture, Food, and Forestry may contract with a local veterinarian licensed by the state, other state agency or any other qualified person to conduct or assist in an initial prelicense inspection and annual inspections.

B. The Department shall arrange for an inspection at a facility prior to issuance of an initial commercial pet breeder license for that facility.

1. The Department shall not issue a commercial pet breeder license to any person until the Department receives an initial prelicense inspection report from the inspector in a format approved by the Department certifying that the facility meets the requirements of the Commercial Pet Breeders Act of 2012.

2. Prior to the initial prelicense inspection, each applicant shall pay to the Department a nonrefundable inspection fee.

C. The Department, at least annually, shall arrange for the inspection of each facility of a licensed commercial breeder. The inspection shall be conducted during normal business hours and the commercial breeder or a representative of the commercial breeder shall be present during the inspection.

D. The inspector shall submit an inspection report to the Department not later than ten (10) days after the date of the inspection on a form prescribed by the Department and provide a copy of the report to the commercial breeder or the representative.

E. On receipt of a valid written complaint alleging a violation of the Commercial Pet Breeders Act of 2012, an authorized agent of the State Board of Agriculture, a local animal control authority, or an inspector designated by the Department may investigate the alleged violation.

F. The Department shall not hire any humane society group or member of any humane society group to perform any inspection required by the Commercial Pet Breeders Act of 2012.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 30.6 of Title 4, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Department of Agriculture, Food, and Forestry shall issue a commercial pet breeder license to each commercial pet breeder who:

1. Meets the requirements of the Commercial Pet Breeders Act of 2012;

2. Applies to the Department on the form prescribed by the Department; and

3. Pays the required fee.

B. A commercial pet breeder shall obtain a separate license for each facility where breeding animals are kept. A separate license shall be issued for each facility of the commercial pet breeder, whether or not the breeder has eleven or more intact female animals at each facility.

C. If a single facility is shared by more than one person, each person shall be required to become individually licensed if eleven or more intact females used for breeding are housed at the facility.

D. A license issued under the Commercial Pet Breeders Act of 2012 is valid until July 1 of each calendar year and is nontransferable.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 30.7 of Title 4, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Department of Agriculture, Food, and Forestry may deny a license, or renewal thereof, or revoke a license of any applicant or commercial pet breeder who fails to meet the standards of animal care or fails to follow the application process adopted by the Department, or if the person:

1. Is convicted of a crime involving animal cruelty;

2. Is convicted of violating the Commercial Pet Breeders Act of 2012 more than three times;

3. Is convicted of a type of felony specified by subparagraphs a through pp of paragraph 2 of Section 571 of Title 57 of the Oklahoma Statutes;

4. Is convicted of a felony punishable under the Oklahoma Racketeer-Influenced and Corrupt Organizations Act; or

5. Has held or applied for a United States Department of Agriculture license pursuant to the Animal Welfare Act and whose license was suspended or revoked, or whose application was refused due to the improper care of animals.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 30.8 of Title 4, unless there is created a duplication in numbering, reads as follows:

A. A commercial pet breeder who is not in violation of the Commercial Pet Breeders Act of 2012 or any rule adopted under the Commercial Pet Breeders Act of 2012 may renew the license of the person by:

1. Submitting a renewal application to the Oklahoma Department of Agriculture, Food, and Forestry on the form prescribed by the Department;

2. Complying with any other renewal requirements adopted by the Department; and

3. Paying the required fee.

B. Any person who fails to apply for a renewal in a manner prescribed by the Department, and whose license has expired, may not engage in activities that require a license until the license has been renewed.

C. Not later than sixty (60) days before the expiration of the license, the Department shall send written notice of the impending license expiration to the commercial pet breeder at the last-known address according to the records of the Department.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 30.9 of Title 4, unless there is created a duplication in numbering, reads as follows:

A commercial pet breeder shall notify the Oklahoma Department of Agriculture, Food, and Forestry in writing not later than ten (10) days after the date any change occurs in the address, name, management, substantial control, or ownership of the business or operation.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 30.10 of Title 4, unless there is created a duplication in numbering, reads as follows:

A commercial pet breeder shall:

1. Prominently display a copy of the commercial pet breeder license at the facility of the commercial pet breeder;

2. Include the commercial pet breeder license number in each advertisement for the sale or transfer of an animal by the commercial pet breeder; and

3. Include in each contract for the sale or transfer of an animal by the commercial pet breeder the commercial pet breeder license number.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 30.11 of Title 4, unless there is created a duplication in numbering, reads as follows:

A. Not later than February 1 of each year, a commercial pet breeder shall submit to the Oklahoma Department of Agriculture, Food, and Forestry an annual report on a form prescribed by the Department setting forth the number of adult intact female animals held at the facility at the end of the prior year and such other information regarding the commercial pet breeder's prior year's operations as required by the Department.

B. The commercial pet breeder shall keep a copy of the annual report at the facility of the commercial pet breeder and, on request, make the report available to the authorized agent of the Board, a local animal control authority, or any other inspector designated by the Department.

C. A license holder that has more than one facility shall keep separate records and file a separate report for each facility.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 30.12 of Title 4, unless there is created a duplication in numbering, reads as follows:

A. A commercial pet breeder shall maintain a separate health record for each animal in the facility of the commercial breeder documenting the healthcare of the animal.

B. The health record shall include:

1. The breed, sex, color, and identifying marks of the animal; and

2. A record of all inoculations, medications, and other veterinary medical treatment received by the animal while in the possession of the commercial pet breeder.

C. The commercial pet breeder shall make the health records available on request to the Oklahoma Department of Agriculture, Food, and Forestry, an authorized agent of the Board, a local animal control authority, or any other inspector designated by the Department.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 30.13 of Title 4, unless there is created a duplication in numbering, reads as follows:

A. After notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Commercial Pet Breeders Act of 2012 or any rule promulgated or order issued pursuant thereto, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars ($100.00) and not more than Ten Thousand Dollars ($10,000.00) for each violation. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation. During

each license year of the facility, a facility shall not be subject to more than Ten Thousand Dollars ($10,000.00) in administrative penalties assessed pursuant to this subsection.

B. A person commits an offense if the person violates the Commercial Pet Breeders Act of 2012 or any rule adopted under the Commercial Pet Breeders Act of 2012. Each animal to which a violation applies and each day that violation continues constitutes a separate offense. An offense under this subsection is a misdemeanor punishable as provided in subsection F of this section.

C. A person commits an offense if the person knowingly falsifies information in a license application, annual report, or record required under the Commercial Pet Breeders Act of 2012. An offense under this subsection is a misdemeanor punishable as provided in subsection F of this section.

D. An unlicensed commercial pet breeder commits an offense if the breeder advertises animals for sale. An offense under this subsection is a misdemeanor punishable as provided in subsection F of this section.

E. A commercial pet breeder commits an offense if the commercial breeder interferes with, hinders, or thwarts any inspection or investigation under the Commercial Pet Breeders Act of 2012 or refuses to allow an inspector full access to all areas of the facility where animals are kept or cared for and all records required to be kept under the Commercial Pet Breeders Act of 2012 or any rule adopted under the Commercial Pet Breeders Act of 2012. An offense under this subsection is a misdemeanor punishable as provided in subsection F of this section.

F. 1. Any violation of subsection B, C or D of this section shall be punishable by a fine not to exceed Five Hundred Dollars ($500.00).

2. Any violation of subsection E of this section shall be punishable by a fine not to exceed One Thousand Dollars ($1,000.00).

G. In addition to penalties and fines, the Board shall have authority to obtain injunctions against anyone who violates the Commercial Pet Breeders Act of 2012, and shall have authority to obtain or impose civil monetary penalties on anyone who violates the Commercial Pet Breeders Act of 2012, and upon obtaining a court order, shall have authority to seize and impound animals in the

possession, custody, or care of that person if there is reason to believe that the health, safety, or welfare of the animals is endangered, or the animals are in imminent danger. The reasonable costs of transportation, care, and feeding of seized and impounded animals shall be paid by the person from whom the dogs or cats were seized and impounded.

H. Nothing in the Commercial Pet Breeders Act of 2012 shall preclude the Board from seeking penalties in district court in the maximum amount allowed by law. The assessment of penalties in an administrative enforcement proceeding shall not prevent the subsequent assessment by a court of the maximum civil or criminal penalties for violations of the Commercial Pet Breeders Act of 2012 and rules promulgated pursuant thereto.

I. Any person assessed an administrative or civil penalty may be required to pay, in addition to the penalty amount and interest thereon, attorney fees and costs associated with the collection of the penalties.

J. If any person refuses, denies or interferes with any right of access, the Board shall have the right to apply to and obtain from a district court an administrative or other warrant as necessary to enforce the right of access and inspection.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 30.14 of Title 4, unless there is created a duplication in numbering, reads as follows:

The State Board of Agriculture shall maintain and post on its website the directory of commercial pet breeders licensed pursuant to the Commercial Pet Breeders Act of 2012. The Board shall post on its website the directory of commercial pet breeders who have been denied licensing, or whose licenses have been revoked.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 30.15 of Title 4, unless there is created a duplication in numbering, reads as follows:

A. The Commercial Pet Breeders Act of 2012 shall not affect the applicability of any other law, rule, order, ordinance or other legal requirement of the federal government, this state, or a political subdivision of this state.

B. The Commercial Pet Breeders Act of 2012 shall not prevent a municipality or county from prohibiting or further regulating by order or ordinance the possession, breeding, or selling of dogs or cats.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 30.16 of Title 4, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created in the State Treasury a revolving fund for the Oklahoma Department of Agriculture, Food, and Forestry to be designated the Commercial Pet Breeders Assistance Revolving Fund. All monies accruing to the credit of the Commercial Pet Breeders Assistance Revolving Fund are hereby appropriated and may be budgeted and expended by the Department for the purposes set forth in subsection C of this section. The fund shall be a continuing fund not subject to fiscal year limitations and shall consist of:

1. All monies received by the Department for sheltering of seized animals pursuant to the Commercial Pet Breeders Act of 2012; and

2. Money received by the Department in the form of gifts, grants, reimbursements, or from any other source intended to be used for the purposes specified by or collected pursuant to the provisions of this section of the Commercial Pet Breeders Act of 2012.

B. The monies deposited in the Commercial Pet Breeders Assistance Revolving Fund shall be excluded from budget and expenditure limitations and shall at no time become part of the general budget of the Department or any other state agency. Except as provided for in this section, no monies from the Commercial Pet Breeders Assistance Revolving Fund shall be transferred for any purpose to any other state agency or any account of the Department or be used for the purpose of contracting with any other state agency or reimbursing any other state agency for any expense.

C. The Commercial Pet Breeders Assistance Revolving Fund shall be utilized for defraying veterinary costs for animals in the event of a removal of animals from a commercial pet breeder. The fund may, in the discretion of the State Board of Agriculture, also be used to defray costs associated with care of animals including, but not limited to, feed and shelter.

SECTION 17. 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 the Commercial Pet Breeders Act of 2012. All fees promulgated by the Board of Commercial Pet Breeders shall be enforceable by the State Board of Agriculture. Any license issued by the Board of Commercial Pet Breeders and in effect on June 30, 2012, shall be transferred to the Oklahoma Department of Agriculture, Food, and Forestry. On July 1, 2012, any funds in the possession of the Board of Commercial Pet Breeders shall be transferred to the Department for the implementation of the Commercial Pet Breeders Act of 2012.

SECTION 18. REPEALER 59 O.S. 2011, Sections 5001, 5002, 5003, 5004, 5005, 5006, 5007, 5008, 5009, 5010, 5011, 5012, 5013, 5014, 5015, 5016, 5017, 5018, 5019, 5020, 5021, 5022, 5023, 5024, 5025, 5026, 5027, 5028 and 5029, are hereby repealed.

SECTION 19. This act shall become effective July 1, 2012.

SECTION 20. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 17th day of May, 2012.

Presiding Officer of the House of Representatives

Passed the Senate the 22nd day of May, 2012.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Governor this 23rd

day of May, **20** 12,

at 11:02 **o'clock** A **M.**

By:

Approved by the Governor of the State of Oklahoma the 29th **day of**

May, **20** 12, **at** 10:00 **o'clock** A **M.**

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this

29th **day of** May, **20** 12,

at 3:51 **o'clock** P **M.**

By: