

ANIMAL WELFARE ACT

(Ill. Compiled Statutes, Ch. 225, Par. 605/1 et seq.)

AN ACT to provide for animal welfare by licensing and regulating dealers in animals, and to provide penalties for the violation thereof. Laws 1965, p. 2956, approved and eff. Aug. 13, 1965. Title amended by P.A. 78-900, § 2, eff. Oct. 1, 1973.

605/1. Short title

§ 1. This Act shall be known and may be cited as the Animal Welfare Act.

Amended by P.A. 78-900, § 1, eff. Oct. 1, 1973.

605/2. Definitions

§ 2. Definitions. As used in this Act unless the context otherwise requires:

"Department" means the Illinois Department of Agriculture.

"Director" means the Director of the Illinois Department of Agriculture.

"Pet shop operator" means any person who sells, offers to sell, exchange, or offers for adoption with or without charge or donation dogs, cats, birds, fish, reptiles, or other animals customarily obtained as pets in this State. However, a person who sells only such animals that he has produced and raised shall not be considered a pet shop operator under this Act, and a veterinary hospital or clinic operated by a veterinarian or veterinarians licensed under "The Veterinary Medicine and Surgery Practice Act", as now or hereafter amended,¹ shall not be considered a pet shop operator under this Act.

"Dog dealer" means any person who sells, offers to sell, exchange, or offers for adoption with or without charge or donation dogs in this State. However, a person who sells only dogs that he has produced and raised shall not be considered a dog dealer under this Act, and a veterinary hospital or clinic operated by a veterinarian or veterinarians licensed under "The Veterinary Medicine and Surgery Practice Act", as now or hereafter amended, shall not be considered a dog dealer under this Act.

"Secretary of Agriculture" or "Secretary" means the Secretary of Agriculture of the United States Department of Agriculture.

"Person" means any person, firm, corporation, partnership, association or other legal entity, any public or private institution, the State of Illinois, or any municipal corporation or political subdivision of the State.

"Kennel operator" means any person who operates an establishment, other than an animal control facility, veterinary hospital, or animal shelter, where dogs or dogs and cats are maintained for boarding, training or similar purposes for a fee or compensation; or who sells, offers to sell, exchange, or offers for adoption with or without charge dogs or dogs and cats which he has produced and raised. A person who owns, has possession of, or harbors 5 or less females capable of reproduction shall not be considered a kennel operator.

"Cattery operator" means any person who operates an establishment, other than an animal control facility or animal shelter, where cats are maintained for boarding, training or similar purposes for a fee or compensation; or who sells, offers to sell, exchange, or offers for adoption with or without charges cats which he has produced and raised. A person who owns, has possession of, or harbors 5 or less females capable of reproduction shall not be considered a cattery operator.

"Animal control facility" means any facility operated by or under contract for the State, county, or any municipal corporation or political subdivision of the State for the purpose of impounding or harboring seized, stray, homeless, abandoned or unwanted dogs, cats, and other animals. "Animal control facility" also means any veterinary hospital or clinic operated by a veterinarian or veterinarians licensed under "The Veterinary Medicine and Surgery Practice Act", as now or hereafter amended which operates for the above mentioned purpose in addition to its customary purposes.

"Animal shelter" means a facility operated, owned, or maintained by a duly incorporated humane society, animal welfare society, or other non-profit organization for the purpose of providing for and promoting the welfare, protection, and humane treatment of animals. "Animal shelter" also means any veterinary hospital

or clinic operated by a veterinarian or veterinarians licensed under "The Veterinary Medicine and Surgery Practice Act", as now or hereafter amended, which operates for the above mentioned purpose in addition to its customary purposes.

"Foster home" means an entity that accepts the responsibility for stewardship of animals that are the obligation of an animal shelter, not to exceed 4 animals at any given time. Permits to operate as a "foster home" shall be issued through the animal shelter.

"Guard dog service" means an entity that, for a fee, furnishes or leases guard or sentry dogs for the protection of life or property. A person is not a guard dog service solely because he or she owns a dog and uses it to guard his or her home, business, or farmland.

"Guard dog" means a type of dog used primarily for the purpose of defending, patrolling, or protecting property or life at a commercial establishment other than a farm. "Guard dog" does not include stock dogs used primarily for handling and controlling livestock or farm animals, nor does it include personally owned pets that also provide security.

"Sentry dog" means a dog trained to work without supervision in a fenced facility other than a farm, and to deter or detain unauthorized persons found within the facility.

Amended by P.A. 79-997, § 1, eff. Oct. 1, 1975.

Amended by P.A. 89-178, § 5, eff. July 19, 1995.

Amended by P.A. 90-385, § 3, and P.A. 90-403, § 3 eff. Aug. 15, 1997

¹ 225 ILCS 115/1 et seq.

605/2.1. Cooperation with Secretary of Agriculture of United States

§ 2.1. The Department may cooperate with the Secretary of Agriculture in carrying out Public Law 89-544, entitled, "An Act to authorize the Secretary of Agriculture to regulate the transportation, sale, and handling of dogs, cats, and certain other animals intended to be used for purposes of research or experimentation, and for other purposes",¹ and the rules and regulations issued by the Secretary under that Act. The Director may promulgate regulations to facilitate the cooperation, and to avoid any unnecessary duplication or any conflict of activities by the Department and the Secretary in regulating the activities or areas covered by this Act and Public Law 89-544. The regulations may be in addition to other regulations authorized by this Act.

Added by Laws 1967, p. 3079, eff. Aug. 17, 1967.

¹ 7 U.S.C.A. § 2131 et seq.

605/2.2. Sale of puppies and kittens--Records

§ 2.2. No dog dealer, kennel operator, or cattery operator shall separate a puppy or kitten from its mother, for the purpose of sale, until such puppy or kitten has attained the age of 8 weeks.

All licensees under this Act shall maintain records of the origin and sale of all dogs, and such records shall be made available for inspection by the Secretary or the Department upon demand. Such records must contain proof in proper form of purebreds and their pedigree, and evidence of such proof must be provided to any person acquiring a dog from a licensee under this Act. In addition, guard dog services shall be required to maintain records of transfer of ownership, death, or disappearance of a guard dog or sentry dog used by that guard dog service.

Added by P.A. 81-1016, § 1, eff. Jan. 1, 1980.

Amended by P.A. 89-178, § 5, eff. July 19, 1995.

605/3. Necessity of license

§ 3. No person shall engage in business as a pet shop operator, dog dealer, kennel operator, cattery operator, or operate a guard dog service, an animal control facility or animal shelter or any combination thereof, in this State without a license therefor issued by the Department. Only one license shall be required for any combination of businesses at one location, except that a separate license shall be required to operate a guard dog service. Guard dog services that are located outside this State but provide services within this State are required to obtain a license from the Department. Out-of-state guard dog services are required to comply with the requirements of this Act with regard to guard dogs and sentry dogs transported to or used within this State.

Amended by P.A. 78-900, § 1, eff. Oct. 1, 1973.

Amended by P.A. 89-178, § 5, eff. July 19, 1995.

605/3.1. Information on dogs and cats for sale

§ 3.1. Information on dogs and cats for sale. Every pet shop operator, dog dealer, and cattery operator shall provide the following information for every dog or cat available for sale:

- (a) The age, sex, and weight of the animal.
- (b) The breed of the animal.
- (c) A record of vaccinations and veterinary care and treatment.
- (d) A record of surgical sterilization or lack of surgical sterilization.
- (e) The name and address of the breeder of the animal.
- (f) The name and address of any other person who owned or harbored the animal between its birth and the point of sale.

Added by P.A. 87-819, §1, eff. July 1, 1992.

605/3.2 Information on foster homes

§ 3.2. Foster homes. A person shall not operate a foster home without first obtaining a permit from the animal shelter for which that person will operate the foster home. Upon application and payment of the required fees by the animal shelter, the Department shall issue foster home permits to the animal shelter. The animal shelter shall be responsible for the records and have all the obligations of stewardship for animals in the foster homes to which it issues permits.

Foster homes shall provide the care for animals required by this Act and shall report any deviation that might affect the status of the license or permit to the animal shelter.

A foster home shall not care for more than 4 animals at any one time.

Added by P.A. 89-178, § 5, eff. July 19, 1995.

605/4. § 4. Repealed by P.A. 81-198, § 2, eff. Jan. 1, 1980.

605/5. Original individual license--Application

§ 5. Applications by individuals for original licenses shall be made to the Department, shall be in writing on forms prescribed by the Department and shall be accompanied by the required fee, which shall not be returnable. Any such application shall require such information as in the judgment of the Department will enable the Department to pass on the qualifications of the applicant for a license. It shall include, but need not be limited to information concerning age, citizenship, present residence, location of the business licensed under this Act, including the location of all foster homes, description of facilities to be used, present and previous business connections and experience, bank and professional references, whether any license of the applicant under this Act or any federal, state, county or local law, ordinance or regulation, relating to dealing in or

handling dogs or cats, ever was suspended or revoked and whether the applicant ever has been convicted of a felony. Such felony conviction may be taken into consideration by the Department in determining qualifications for licensing but shall not operate as a bar to licensing.

Amended by P.A. 81-198, § 1, eff. Jan. 1, 1980.

Amended by P.A. 89-178, § 5, eff. July 19, 1995.

605/6. Original partnership or corporate license--Application

§ 6. Applications by partnerships or corporations for original licenses shall be made to the Department, shall be in writing on forms prescribed by the Department and shall be accompanied by the required fee, which shall not be returnable. Any such application shall list, but need not be limited to, the name of each partner, if a partnership, each director and officer, if a corporation, its address, its financial resources, and shall indicate and list the partners, directors or officers, as the case may be, or other persons authorized to represent or act for it under this Act.

Amended by P.A. 81-198, § 1, eff. Jan. 1, 1980.

605/6.5 Termination of application; forfeiture of license fee

§ 6.5. Termination of application; forfeiture of license fee. Failure of any applicant to meet all of the requirements for compliance within 60 days of receipt of a license application shall result in termination of the application and forfeiture of the license fee.

Amended by P.A. 90-385, § 3, and P.A. 90-403, § 3, eff. Aug. 15, 1997

605/7. Renewal license--Application

§ 7. Applications for renewal licenses shall be made to the Department, shall be in writing on forms prescribed by the Department, shall contain such information as will enable the Department to determine if the applicant is qualified to continue to hold a license and shall be accompanied by the required fee, which shall not be returnable.

Amended by P.A. 81-198, § 1, eff. Jan. 1, 1980.

605/8. Non-resident applicants for license--Consent to service of process--Authority to do business

§ 8. Each non-resident applicant for an original license or renewal license, except a foreign corporation, shall file with the Department an irrevocable consent that actions against the applicant may be filed in any appropriate court of any county or municipality of this State in which the plaintiff resides or in which some part of the transaction occurred out of which the alleged cause of action arose and that process in any action may be served on the applicant by leaving 2 copies thereof with the Director. Such consent shall stipulate and agree that such service of process shall be taken and held to be valid and binding for all purposes. The Director shall send forthwith one copy of such process to the applicant at the address shown on the records of the Department by registered mail. No foreign corporation shall receive a license under this Act until it has been authorized to do business in this State by the Secretary of State.

605/9. License--Term--Renewal--Expiration--Display--Branch office licenses

§ 9. Each license shall be issued for the term of one fiscal year or for such part thereof as remains at the

time of the issuance of the license. Each license shall be renewed during the month of June of each year. Each license not renewed during June of each year shall expire on June 30 of that year.

A license must be prominently displayed at each place of business of the licensee. Where the licensee conducts business at more than one address, branch office licenses shall be issued on payment of the required fee.

Each license shall be signed by the Director of the Department and shall be issued under the seal of the Department.

Amended by P.A. 79-997, § 1, eff. Oct. 1, 1975.

605/10. Refusal, suspension or revocation of license--Grounds

§ 10. Grounds for discipline. The Department may refuse to issue or renew or may suspend or revoke a license on any one or more of the following grounds:

- a. Material misstatement in the application for original license or in the application for any renewal license under this Act;
- b. A violation of this Act or of any regulations or rules issued pursuant thereto;
- c. Aiding or abetting another in the violation of this Act or of any regulation or rule issued pursuant thereto;
- d. Allowing one's license under this Act to be used by an unlicensed person;
- e. Conviction of any crime an essential element of which is misstatement, fraud or dishonesty or conviction of any felony, if the Department determines, after investigation, that such person has not been sufficiently rehabilitated to warrant the public trust;
- f. Conviction of a violation of any law of Illinois except minor violations such as traffic violations and violations not related to the disposition of dogs, cats and other animals or any rule or regulation of the Department relating to dogs or cats and sale thereof;
- g. Making substantial misrepresentations or false promises of a character likely to influence, persuade or induce in connection with the business of a licensee under this Act;
- h. Pursuing a continued course of misrepresentation of or making false promises through advertising, salesman, agents or otherwise in connection with the business of a licensee under this Act;
- i. Failure to possess the necessary qualifications or to meet the requirements of the Act for the issuance or holding a license; or
- j. Proof that the licensee is guilty of gross negligence, incompetency, or cruelty with regard to animals.

The Department may refuse to issue or may suspend the license of any person who fails to file a return, or to pay the tax, penalty or interest shown in a filed return, or to pay any final assessment of tax, penalty or interest, as required by any tax Act administered by the Illinois Department of Revenue, until such time as the requirements of any such tax Act are satisfied.

The Department may order any licensee to cease operation for a period not to exceed 72 hours to correct deficiencies in order to meet licensing requirements.

Amended by P.A. 84-221, Art. II, § 4, eff. Sept. 1, 1985.

Amended by P.A. 89-178, § 5, eff. July 19, 1995.

Amended by P.A. 90-385, § 3, and P.A. 90-403 § 3, eff. Aug. 15, 1997

605/11. Investigations--Hearings--Notice--Witnesses

§ 11. The Department may upon its own motion and shall upon the verified complaint in writing of any person who has been the recipient of an animal through purchase, gift or adoption setting forth facts which if proved would constitute grounds for refusal to issue or renew or for suspension or revocation of a license under this Act, investigate the actions of any applicant or any person or persons holding or claiming to hold a license. The Department shall, before refusing to issue or renew, and before suspension or revocation of a license, at

least 10 days prior to the date set for the hearing, notify in writing the applicant for or holder of a license, hereinafter called the respondent, that a hearing will be held on the date designated to determine whether the respondent is privileged to hold such license, and shall afford the respondent an opportunity to be heard in person or by counsel in reference hereto. Such written notice may be served by delivery of the same personally to the respondent, or by mailing the same by registered or certified mail to the place of business last theretofore specified by the respondent in the last notification to the Department.

At the time and place fixed in the notice, the Department shall proceed to hear the charges and both the respondent and the complainant shall be accorded ample opportunity to present in person or by counsel such statements, testimony, evidence and argument as may be pertinent to the charges or to any defense thereto. The Department may continue such hearing from time to time.

The Department, over the signature of the Director is authorized to subpoena and bring before the Department any person or persons in this State and to take testimony either orally or by deposition or by exhibit, with the same fees and mileage and in the same manner as prescribed by law in judicial proceedings in civil cases in circuit courts of this state.

Any authorized agent of the Department may administer oaths to witnesses at any hearing which the Department is authorized by law to conduct.

Amended by P.A. 83-338, § 1, eff. Sept. 14, 1983.

605/12. Certified shorthand reporter--Record of proceedings-- Transcript

§ 12. Record of hearing. In accordance with Section 11 of the Illinois Administrative Procedure Act¹, the Department shall preserve a record of all proceedings at the hearing of any case involving refusal to issue or renew a license, or the suspension or revocation of a license, or the referral of a case for criminal prosecution. The record of any such proceeding consists of the notice of hearing, complaint, and all other documents in the nature of pleadings and written motions filed in the proceedings, the transcript of testimony and the report and orders of the Department. Copies of the transcript of the record may be obtained from the Department in accordance with the Illinois Administrative Procedure Act.²

¹ 5 ILCS 100/10-35.

² 5 ILCS 100/1-1 et seq.

Amended by P.A. 81-198, § 1, eff. Jan. 1, 1980.

Amended by P.A. 88-457, § 5, eff. Aug. 20, 1993.

605/13. Cases involving refusal, suspension or revocation of license-- Service of report--Motion for rehearing

§ 13. In any case involving the refusal to issue or renew a license, or the suspension or revocation of a license, or the referral of a case for criminal prosecution, a copy of the Department's report shall be served upon the respondent, either personally or by registered or certified mail as provided in this Act, for the service of the notice of hearing. Within 20 days after such service, the respondent may present to the Department a motion in writing for a rehearing, which written motion shall specify the particular grounds therefor. If no motion for rehearing is filed, then upon the expiration of the time specified for filing such a motion, or if a motion for rehearing is denied, then upon such denial, the Director may enter an order in accordance with recommendations of the report. If the respondent orders and pays for a transcript of the record within the time for filing a motion for rehearing, the 20 day period within which such a motion may be filed shall commence upon the delivery of the transcript to the respondent.

Amended by P.A. 81-198, § 1, eff. Jan. 1, 1980.

605/14. Attendance of witnesses and production of documents

§ 14. Any circuit court may upon application of the Director or of the applicant or licensee against whom proceedings under Section 11 of this Act are pending, enter an order requiring the attendance of witnesses and their testimony, and the production of documents, papers, files, books and records in connection with any hearing in any proceedings under that Section. The court may compel obedience to its order by proceedings for contempt.

605/15. Review under Administrative Review Law

§ 15. Any person affected by a final administrative decision of the Department may have such decision reviewed judicially by the circuit court of the county wherein such person resides, or in the case of a corporation, wherein the registered office is located. If the plaintiff in the review proceeding is not a resident of this state, the venue shall be in Sangamon County. The provisions of the Administrative Review Law, and all amendments and modifications thereof,¹ and the rules adopted pursuant thereto, shall apply to and govern all proceedings for the judicial review of final administrative decisions of the Department hereunder. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure.²

The Department shall not be required to certify the record of the proceeding unless the plaintiff in the review proceedings has purchased a copy from the certified shorthand reporter who prepared the record. Exhibits shall be certified without cost.

Amended by P.A. 82-783, Art. XI, § 14, eff. July 13, 1982.

¹ 735 ILCS 5/3-101 et seq.

² 735 ILCS 5/3-101.

605/16. Surrender of license upon revocation or suspension

§ 16. Upon the revocation or suspension of any license, the licensee shall forthwith surrender the license and any branch office licenses to the Department, and if the licensee fails to do so, the Department shall have the right to seize the same.

605/17. § 17. Repealed by P.A. 78-900, § 3, eff. Oct. 1, 1973.

605/18. Sanitary and health conditions

§ 18. The licensee shall:

- a. Maintain sanitary conditions.
- b. Insure proper ventilation.
- c. Provide adequate nutrition.
- d. Provide humane care and treatment of all animals under his jurisdiction.
- e. Take reasonable care to release for sale, trade, or adoption only those animals which are free of disease, injuries or abnormalities. A health certificate, meeting the requirements of the Department and issued by a licensed veterinarian for any such animal within 5 days before such sale, trade or adoption is prima facie evidence that the licensee has taken reasonable care, as required by this paragraph.

f. Inspection of the premises of a licensee to determine compliance with this Act may be made only by the Department.

Amended by P.A. 78-900, § 1, eff. Oct. 1, 1973.

605/19. Regulations

§ 19. The Director may issue regulations, consistent with the provisions of this Act, for the administration and enforcement thereof and may prescribe forms which shall be used in connection therewith.

605/20. Violations

§ 20. Any person violating any provision of this Act or any rule, regulation or order of the Department issued pursuant to this Act is guilty of a Class C misdemeanor and every day a violation continues constitutes a separate offense.

Amended by P.A. 77-2688, § 1, eff. Jan. 1, 1973.

Amended by P.A. 89-178, § 5, eff. July 19, 1995.

605/21. Fees

§ 21. The following fees shall accompany each application for a license, which fees shall not be returnable:

- a. for an original license to an individual \$25
- b. for an original license to a partnership or corporation \$25
- c. for an annual renewal license \$25
- d. for each branch office license \$25
- e. for the renewal of any license not renewed by July 1 of the year \$40
- f. for a permit for a foster home \$25
- g. for renewal of a permit for a foster home \$25

Amended by P.A. 79-997, § 1, eff. Oct. 1, 1975.

Amended by P.A. 89-178, § 5, eff. July 19, 1995.

605/22. Disposition of funds

§ 22. All fees and other money received by the Department under this Act shall be paid into the General Revenue Fund in the State Treasury.