

SENATE BILL No. 224

By Committee on Assessment and Taxation

3-12

1 AN ACT enacting the Kansas retail pet shop act; establishing the Kansas
2 retail pet shop act fee fund.

3
4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. Sections 1 through 8, and amendments thereto, shall be
6 known and may be cited as the Kansas retail pet shop act.

7 Sec. 2. As used in the Kansas retail pet shop act:

8 (a) "Act" means the Kansas retail pet shop act.

9 (b) "Department" means the Kansas department of agriculture.

10 (c) "Dog broker" means a person that buys, sells or offers to sell dogs
11 at wholesale for resale to another person or who sells or otherwise
12 annually provides one or more dogs to a retail pet shop. "Dog broker" does
13 not include an animal control shelter, an animal protection shelter, a
14 humane society, a medical kennel for dogs, a research kennel for dogs, a
15 retail pet shop or a veterinarian.

16 (d) "Hobby breeder" means a breeder that:

17 (1) Has four or fewer intact female dogs; and

18 (2) does not sell dogs through a dog broker.

19 (e) "Qualified breeder" means an in-state or out-of-state breeder that:

20 (1) Is licensed by the United States department of agriculture under 7
21 U.S.C. § 1233;

22 (2) is licensed, if required, by the state where the breeder is located;

23 (3) has not been issued a report of a direct noncompliance violation
24 by the United States department of agriculture under the animal welfare
25 act for a period of three years prior to offering for sale, delivering,
26 bartering, auctioning, brokering, giving away, transferring or selling a dog;
27 and

28 (4) has not had three or more noncompliance violations documented
29 in any report issued by the United States department of agriculture under
30 the animal welfare act for a period of 12 months prior to offering for sale,
31 delivering, bartering, auctioning, brokering, giving away, transferring or
32 selling a dog.

33 (f) "Retail pet shop" means a store that:

34 (1) Sells dogs to the public; and

35 (2) at the time of the sale, the salesperson, buyer and the dog for sale
36 are physically present so that the buyer may personally observe the dog

1 prior to purchase.

2 "Retail pet shop" does not include an animal control shelter, an animal
3 protection shelter, a humane society, a medical kennel, a research kennel
4 or a veterinarian.

5 (g) "Secretary" means the secretary of the Kansas department of
6 agriculture or the secretary's designee.

7 (h) "Veterinarian" means a person who is licensed to practice
8 veterinary medicine in Kansas or a person who is licensed by the
9 applicable state licensing authority to practice veterinary medicine in
10 another state or states.

11 Sec. 3. (a) (1) A retail pet shop shall not:

12 (A) Import or cause to be imported into this state a dog that is less
13 than eight weeks old; or

14 (B) sell, exchange, transfer, offer for sale, exchange or transfer,
15 deliver, barter, auction, broker or give away a dog that is less than eight
16 weeks old.

17 (2) A retail pet shop shall not import or cause to be imported a dog
18 into this state, or sell, adopt, exchange or transfer or offer for sale,
19 adoption, exchange or transfer a dog, unless all of the following
20 requirements have been met and have been properly documented before
21 the dog's entry into this state:

22 (A) The dog has been vaccinated against distemper, parvovirus and
23 canine adenovirus-2. If the dog is 12 weeks of age or older, the dog has
24 been vaccinated against rabies by a veterinarian and vaccinated against
25 leptospirosis;

26 (B) vaccinations, other than the rabies vaccination, have been
27 administered to the dog not less than seven days before the dog's entry into
28 this state, including vaccinations against other diseases not specified in this
29 subsection but required by Kansas law or the rules and regulations of the
30 department;

31 (C) the dog has been treated for external and internal parasites so that
32 the dog is not capable of spreading external or internal parasites to another
33 animal at the time it is imported into this state; and

34 (D) the interstate health certificate or certificate of veterinary
35 inspection, including records of medication and immunization for the dog,
36 is signed by an accredited veterinarian licensed to practice veterinary
37 medicine in the dog's state of origin.

38 (b) A retail pet shop shall not:

39 (1) Sell, exchange, transfer or deliver a dog without providing to the
40 purchaser a valid pet health certificate signed by a licensed veterinarian.
41 For purposes of this subsection, a pet health certificate is only valid for 30
42 days after the date the animal was examined by the veterinarian who
43 signed the pet health certificate;

- 1 (2) display, offer for sale, deliver, barter, auction, broker, give away,
2 transfer or sell a dog unless the dog was obtained from one of the
3 following sources:
- 4 (A) An animal control shelter;
 - 5 (B) an animal protection shelter;
 - 6 (C) a dog broker, if the dog broker originally obtained the dog from a
7 qualified breeder;
 - 8 (D) a qualified breeder; or
 - 9 (E) a hobby breeder;
- 10 (3) deliver, barter, auction, broker, give away, transfer or sell a dog:
- 11 (A) Without a pet health certificate;
 - 12 (B) without a permanent implanted identification microchip;
 - 13 (C) to an individual who is younger than 18 years of age;
 - 14 (D) that was acquired from a qualified breeder or a dog broker
15 without providing to the retail purchaser, at any time before the final
16 transaction, documentation that includes all the following:
 - 17 (i) The name and address of the breeder that bred the dog;
 - 18 (ii) the United States department of agriculture license number of the
19 breeder that bred the dog, if applicable, and a copy of the most current
20 unredacted United States department of agriculture inspection report for
21 the breeder;
 - 22 (iii) the dog's birth date, if known;
 - 23 (iv) the date that the pet shop took possession of the dog;
 - 24 (v) a document, signed by a veterinarian, that describes any known
25 congenital or hereditary condition that adversely affects the health of the
26 dog at the time of examination; and
 - 27 (vi) a certification signed by the owner, manager, or authorized
28 employee of the retail pet shop certifying that all information required to
29 be provided to the person acquiring the dog by this subsection is accurate.
30 A retail pet shop shall keep a copy of the certification for a period of at
31 least two years from the date of the acquisition. The owner, manager or
32 authorized employee of the retail pet shop shall make the copy of the
33 certification that shall be available for inspection or duplication by the
34 department or an animal control officer of the municipality or county in
35 which the retail pet shop is located; or
 - 36 (E) that was acquired from a qualified breeder or a dog broker, unless
37 all of the following information regarding the dog is available to the
38 general public at the retail pet shop:
 - 39 (i) The name and address of the breeder that bred the dog;
 - 40 (ii) the United States department of agriculture license number of the
41 breeder that bred the dog, if applicable; and
 - 42 (iii) the dog's birth date, if known; or
- 43 (4) alter or knowingly provide false information on any document

1 required under this act.

2 (c) This section does not apply to a dog that is being sold, delivered,
3 bartered, auctioned, given away, brokered or transferred from the premises
4 where the dog was bred and reared.

5 (d) This section shall take effect on and after January 1, 2020.

6 Sec. 4. (a) On and after January 1, 2020, a retail pet shop shall not
7 engage in the sale of dogs unless:

8 (1) An initial notice of operation as a retail pet shop has been
9 provided to the secretary, on forms provided by the secretary, that shall
10 include information requested by the secretary, including, but not limited to:
11

12 (1) Identification, contact and address information regarding the
13 business and owners or managers; a statement that the business is current
14 with all filing requirements with the secretary of state under Kansas law,
15 and documentation as requested by the secretary sufficient to show that the
16 requirements of this act are met. The statements made in the notice of
17 operation shall be made under penalty of perjury;

18 (2) an initial fee of \$1,000 has been submitted to the secretary with
19 the initial notice of operation as a retail pet shop;

20 (3) the retail pet shop has agreed to make available to the secretary,
21 for inspection or duplication, all documentation required to be kept by the
22 owner or operator of the retail pet shop under the provisions of this act;

23 (4) the retail pet shop has agreed to inform the secretary of any
24 changes in any information supplied to the secretary within 15 days of
25 such change;

26 (5) the retail pet shop has agreed to provide the secretary with copies
27 of any information or documentation requested by the secretary relating to
28 the provisions and requirements of this act, not to exceed 20 pages per
29 request, by first class mail, private mail service, fax or by electronic
30 means, within three business days of a request by the secretary; and

31 (6) the retail pet shop has agreed that the secretary may enter and
32 inspect the premises of the retail pet shop at any time during regular
33 business hours for compliance with the provisions of this act.

34 (b) On and after January 1, 2020, on the annual anniversary of the
35 submission of the initial notice of operation and initial fee, an annual
36 operation fee, not to exceed \$300, shall be submitted to the secretary by
37 the retail pet shop, along with verification under penalty of perjury that all
38 information supplied to the secretary remains correct, as a requirement of
39 this act and continued operation as a retail pet shop.

40 Sec. 5. (a) The secretary shall remit all moneys received by the
41 secretary from fees, charges or penalties pursuant to this act to the state
42 treasurer in accordance with the provisions of K.S.A. 75-4215, and
43 amendments thereto. Upon receipt of each such remittance, the state

1 treasurer shall deposit the entire amount in the state treasury to the credit
2 of the Kansas retail pet shop act fee fund, which is hereby established in
3 the state treasury. All expenditures from the Kansas retail pet shop act fee
4 fund shall be made in accordance with appropriation acts upon warrants of
5 the director of accounts and reports issued pursuant to vouchers approved
6 by the secretary of agriculture or the secretary's designee.

7 (b) On or before the 10th of each month, the director of accounts and
8 reports shall transfer from the state general fund to the Kansas retail pet
9 shop act fee fund interest earnings based on:

10 (1) The average daily balance of money in the Kansas retail pet shop
11 act fee fund for the preceding month; and

12 (2) the net earnings rate of the pooled money investment fund
13 portfolio for the preceding month.

14 Sec. 6. (a) Any person who violates any provision or requirement of
15 this act or the rules and regulations adopted by the secretary as authorized
16 by this act is guilty of a misdemeanor and shall, upon conviction, be
17 subject to a fine of up to \$1,000 for a first offense, up to \$2,000 for a
18 second offense, and up to \$5,000 for a third or subsequent offense. In
19 addition to or instead of a fine as specified in this subsection, a person,
20 upon conviction, may be sentenced to a definite term of confinement in the
21 county jail, which shall be fixed by the court and shall not exceed one
22 month. Such criminal penalty shall be in addition to and shall not prohibit
23 or be a prerequisite to any other civil action or remedy or civil penalty
24 applicable under Kansas law.

25 (b) The secretary shall prepare and refer such evidence as may be
26 available concerning criminal violations of this act or of any rules and
27 regulations or order hereunder to the attorney general, or in consultation
28 with the attorney general to the proper county or district attorney, who
29 may, in such prosecutor's discretion, with or without such a reference,
30 institute the appropriate criminal proceedings under the laws of this state.
31 The secretary may pay extradition and witness expenses and other costs
32 associated with the case. The secretary and persons employed by the
33 secretary shall assist in the prosecution of criminal cases as requested by
34 the attorney general or county or district attorney.

35 (c) This act does not limit the power of this state to punish a person
36 for conduct that constitutes a crime under other laws of this state.

37 (d) In addition to or instead of any other criminal or civil proceeding,
38 the secretary may impose a civil penalty of up to \$1,000 for a first offense,
39 \$2,000 for a second offense, and up to \$5,000 for a third or subsequent
40 offense for a violation of any provision or requirement of this act or of the
41 rules and regulations or order of the secretary. Proceedings under this
42 subsection shall be pursuant to the Kansas administrative procedure act.
43 Any person aggrieved by an order of the secretary pursuant to this

1 subsection may appeal pursuant to the Kansas judicial review act.

2 (e) In addition to or instead of any other criminal or civil proceeding,
3 the secretary may bring an action in the district court for a temporary
4 restraining order or a temporary or permanent injunction, restraining any
5 person from violating or continuing to violate any of the provisions of this
6 act, or any rule and regulation under this act. The district court shall not
7 require a bond for an action by the secretary under this subsection.

8 (f) This section shall take effect on and after January 1, 2020.

9 Sec. 7. The Kansas legislature, by enactment of this act, intends,
10 effective on January 1, 2020, to preempt any local ordinance or resolution
11 adopted to regulate the sale, delivery, barter, auction, broker or transfer of
12 a dog to a person from a retail pet shop. Any such local ordinance or
13 resolution shall be void and unenforceable after January 1, 2020. On and
14 after January 1, 2020, no political subdivision or agency may enact or
15 enforce a law, ordinance, resolution or regulation that regulates or
16 prohibits any conduct covered by this act.

17 Sec. 8. The secretary of agriculture shall administer and enforce the
18 provisions of this act and may adopt rules and regulations as necessary to
19 implement and enforce the provisions of this act.

20 Sec. 9. This act shall take effect and be in force from and after its
21 publication in the statute book.