

## **Chapter 97. Retail Pet Stores**

### **4-97-101. Title.**

This chapter may be cited as the "Arkansas Retail Pet Store Consumer Protection Act of 1991".

### **4-97-102. Legislative intent.**

It is the purpose of this chapter to require certain guarantees from retail pet stores to the purchasers of dogs and cats which are consistent with their unique status as companions rather than commodities. A further purpose is to provide a means by which it can be ensured that the treatment, care, and disposition of those animals is humane and that the treatment, care, and disposition are consistent with providing to the retail consumer animals which are physically and temperamentally sound, healthy, and fit as companions; to provide a means by which the acquisition and care of those animals can be monitored; and to ensure that the animals and facilities are managed in a manner noninjurious to the public health. Therefore, it is hereby determined and declared that the supervision by the state of the sale of dogs and cats by retail pet stores, and the inspection of such animals, whether or not found within the public area of the store, is within the public interest.

**History.** Acts 1991, No. 1225, § 2.

### **4-97-103. Definitions.**

For the purposes of this chapter:

- (1) "Animal" means a dog or cat of any age;
- (2) "Authorized person" means the Director of the Department of Health or his or her delegate, or any law enforcement officer;
- (3) "Cattery" means an enterprise wherein or whereon the business of grooming or boarding cats, or breeding cats for sale, and selling those cats, is carried on, and which does not in its usual course of business acquire cats for resale to the public;
- (4) "Consumer" means any individual purchasing an animal from a retail pet store. A retail pet store shall not be considered a consumer;
- (5) "D.V.M." means a person who has graduated from an accredited school of veterinary medicine or has received equivalent formal education, and who has a valid license to practice veterinary medicine within the State of Arkansas;
- (6) "Director" means the Director of the Department of Health;

(7) "Euthanasia" means the humane killing of an animal accomplished by a method that utilizes anesthesia produced by an agent that causes painless loss of consciousness and subsequent death, and administered by a licensed veterinarian or a euthanasia technician licensed by the Drug Enforcement Administration and certified by the Department of Health;

(8) "Kennel" means an enterprise wherein or whereon the business of grooming or boarding dogs, or breeding dogs for sale, and selling such dogs, is carried on, and which does not in its usual course of business acquire dogs for resale to the public;

(9) "Person" means any individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or other legal entity;

(10) "Records" of a retail pet store means:

(A) The permanent record of each animal's health history showing the animal's vaccinations, inoculations, wormings, and other veterinary medical procedures performed on that animal; and

(B) The permanent journal giving a perpetual, sequential listing of animals which are kept at the retail pet store for thirty (30) days or longer. The journal shall contain the animal's identifying number, arrival date, exit date, and disposition; and

(11) (A) "Retail pet store" means any room or group of rooms, run, cage, compartment, exhibition pen, or tether, any part of which is within the State of Arkansas, wherein any animal is sold or kept, displayed, or offered for sale, to the public. It excludes kennels and catteries which sell animals directly to consumers. Also excluded are duly authorized animal shelters and duly incorporated humane societies dedicated to the care of unwanted animals which make those animals available for adoption, whether or not a fee for such adoption is charged.

(B) As used in this chapter, the term "retail pet store" includes its owners, officers, agents, operators, managers, and employees, and refers to any such enterprise whether in fact registered or not.

**History.** Acts 1991, No. 1225, § 3.

#### **4-97-104. Registration required.**

(a)(1) Any person who owns, operates, or establishes a retail pet store within the State of Arkansas shall register, by reporting in writing to the director:

(A) The name of the retail pet store;

(B) The location of each housing facility for animals owned by it, or in its care, custody, or control;

(C) The name and address of its principal agent; and

(D) The date its operation began.

(2) The report shall reflect the name and position of the individual under whose direction it is prepared and shall be made under oath before a notary public.

(b) Each registration shall be valid for a period of one (1) year. On or before the anniversary date of the original registration, reregistration shall be required, except that if at any time prior to the required reregistration date the information originally reported to the director changes or requires additions, that fact shall be reported to the director without delay.

(c)(1) A retail pet store in operation on or before April 10, 1991, shall register within ninety (90) days after April 10, 1991.

(2) A retail pet store which begins operation within ninety (90) days after April 10, 1991, shall register within thirty (30) days after the beginning of operation.

(3) A retail pet store which begins operation subsequent to ninety (90) days after April 10, 1991, shall register at least thirty (30) days prior to the beginning of operation.

(4) The date of the first acquisition of an animal for retail sale shall be deemed the date on which the operation begins.

(d) A fee of one hundred dollars (\$100) shall accompany the initial registration, and a fee of fifty dollars (\$50.00) shall accompany each subsequent reregistration. No fee shall be required for interim reports of change or addition.

(e) Each instance of failure to register or report as required by this chapter is a Class A misdemeanor.

(f)(1) The director shall maintain a list of registered retail pet stores containing all information reported with the initial registration, including the date thereof, and the dates and information provided with all subsequent amendments and reregistrations.

(2) The director shall make the list of registered retail pet stores available to the public, upon request, at no charge.

**History.** Acts 1991, No. 1225, § 4.

#### **4-97-105. Consumer guarantees.**

(a)(1) A retail pet store shall provide to the consumer at the time of sale of an animal a written notice, printed or typed, setting forth the rights provided in subsection (b) of this section.

(2) The notice of rights shall have added to it by the retail pet store:

(A) The animal's identifying number;

(B) A description of the animal, including its breed, sex, and color;

(C) The date of sale;

(D) The name, address, and telephone number of the consumer; and

(E) The sales price of the animal.

(3)(A) The notice may be contained in a written contract, an animal history certificate, or a separate document, provided such notice is in 10-point boldface type.

(B) The retail pet store shall certify the information by signing the document in which it is contained.

(b)(1) If, within ten (10) days following the sale of an animal subject to this chapter, a licensed veterinarian of the consumer's choosing certifies such animal

to be unfit for purchase due to illness, a congenital malformation which adversely affects the health of the animal, or the presence of symptoms of a contagious or infectious disease, the retail pet store, in addition to any other warranty, shall afford the consumer the right to retain the animal and to receive reimbursement from the retail pet store for veterinary services from a licensed veterinarian of the consumer's choosing, for the purpose of curing or attempting to cure the animal.

(2) The reasonable value of reimbursable services rendered to cure or attempt to cure the animal shall not exceed the purchase price of the animal. The value of such services is reasonable if comparable to the value of similar services rendered by other licensed veterinarians in proximity to the treating veterinarian.

(3) The reimbursement shall not include the costs of initial veterinary examination fees and diagnostic fees not directly related to the veterinarian's certification that the animal is unfit for purchase pursuant to this section.

(c) The certification that an animal is unfit for purchase, which shall be provided by an examining veterinarian to a consumer upon the examination of an animal subject to the provisions of this section, shall include, but not be limited to, information which identifies the type of animal, its breed, sex, and color, the owner, the date, and diagnosis of the animal, the treatment recommended if any, and an estimate or the actual cost of such treatment. Such form shall also include the notice prescribed in subsection (a) of this section.

(d)(1) The reimbursement required by subsection (b) of this section shall be made by the retail pet store not later than ten (10) business days following receipt of a signed veterinary certification as herein required.

(2) Such certification shall be presented to the retail pet store not later than three (3) business days following receipt thereof by the consumer.

(e)(1) A veterinary finding of intestinal parasites shall not be grounds for declaring the animal unfit for sale unless the animal is clinically ill due to such condition.

(2) An animal may not be found unfit for sale on account of an injury sustained or illness contracted subsequent to the consumer's taking possession thereof.

(f)(1) In the event that a retail pet store wishes to contest a demand for reimbursement made by a consumer pursuant to this section, such retail pet store shall have the right to require the consumer to produce the animal for examination by a licensed veterinarian designated by such retail pet store.

(2) Upon such examination, if the consumer and the retail pet store are unable to reach an agreement within ten (10) business days following receipt of the animal for such examination, the consumer may initiate an action in a court of competent jurisdiction to recover or obtain such reimbursement.

(g) Nothing in this section shall be construed in any way to limit the rights or remedies which are otherwise available to a consumer under any law.

**History.** Acts 1991, No. 1225, § 5.

#### **4-97-106. Public health - Enforcement.**

The State Board of Health may propose, adopt, promulgate, and enforce, in accordance with the Arkansas Administrative Procedure Act, § [25-15-201](#) et seq., such additional rules, regulations, and standards as may be necessary to carry out the intent of this chapter.

**History.** Acts 1991, No. 1225, § 6.

#### **4-97-107. Unlawful disposition of animals.**

(a) It is unlawful for a retail pet store to knowingly give, sell, exchange, barter, or otherwise transfer an animal to any other person if the ultimate destination of the animal is research or killing for dissection.

(b) It is unlawful for a retail pet store to kill any animal in its care, custody, or control without a prior written or oral recommendation from a doctor of veterinary medicine citing the animal's interest justifying the killing of the animal.

(c) It is unlawful for a retail pet store, its owners, officers, agents, operator, manager, or employees, or any other person, to kill any animal in its care, custody, or control by any means other than euthanasia as defined in § [4-97-103](#).

(d) Violations of this chapter or regulations promulgated hereunder shall constitute Class A misdemeanors.

**History.** Acts 1991, No. 1225, § 7.

#### **4-97-108. Inspection - Public notice.**

(a) Any authorized person is entitled to inspect the premises and records of a retail pet store at reasonable hours.

(b) Retail pet stores shall make their premises available for inspection by authorized persons at reasonable hours.

(c) Each failure to make premises or records available to an authorized person whose identity is made known to an owner, officer, agent, operator, manager, or employee of a retail pet store is a Class A misdemeanor.

(d)(1)(A) Every retail pet store required to be registered shall post a public notice on each of its premises, in type not less than one inch (1") in height, in a location conspicuous to the public, that complaints regarding treatment or care of its animals may be made to the State Board of Health or to any law enforcement officer.

(B) The public notice shall refer to this chapter.

(2) Failure to post the public notice is a Class A misdemeanor.

(e) Within thirty (30) days of the receipt by the director of an initial registration report, and the receipt of proper fees therefor, the director shall provide a public notice conforming with subsection (d) of this section to the registrant. Additional public notices for multiple locations and replacements of notices already provided may be obtained from the director upon the payment of a fee of ten dollars (\$10.00) for each additional public notice.

**History.** Acts 1991, No. 1225, § 8.

#### **4-97-109. Applicability to other laws.**

Nothing in this chapter shall be construed to prevent or limit the application of any other law.

**History.** Acts 1991, No. 1225, § 10.