

HOUSE BILL No. 6289

September 17, 2002, Introduced by Reps. Toy, Stewart, Caul, Birkholz, DeWeese, Vander Veen, Ehardt, Gielegem, Pappageorge, Faunce, Plakas, Rocca, Phillips, Allen and Cassis and referred to the Committee on Commerce.

A bill to amend 1969 PA 287, entitled

"An act to regulate pet shops, animal control shelters, and animal protection shelters; to establish uniform procedures and minimum requirements for adoption of dogs, cats, and ferrets; and to prescribe penalties and civil fines and to provide remedies,"

by amending the title and sections 1, 3, 4, 5, 5a, 9b, and 10 (MCL 287.331, 287.333, 287.334, 287.335, 287.335a, 287.339b, and 287.340), the title and section 1 as amended and section 9b as added by 1997 PA 7 and section 5a as added by 1980 PA 214.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

An act to regulate CERTAIN pet shops, animal control shelters, and animal protection shelters; to establish uniform procedures and minimum requirements for adoption of dogs, cats, and ferrets; ~~and~~ TO PROVIDE FOR CERTAIN POWERS AND DUTIES FOR CERTAIN STATE AGENCIES AND LOCAL GOVERNMENTAL UNITS; to prescribe

1 REMEDIES AND penalties; and TO IMPOSE ADMINISTRATIVE AND civil
2 fines. ~~and to provide remedies.~~

3 Sec. 1. As used in this act:

4 (a) "Adoption" means a transfer of ownership, with or with-
5 out remuneration, of a dog, cat, or ferret from an animal control
6 shelter or animal protection shelter to an individual for the
7 purpose of being a companion animal for that individual. ~~As~~
8 ~~used in~~ FOR PURPOSES OF this subdivision, a companion animal
9 includes, but is not limited to, a dog that is used for hunting
10 or as a guard dog.

11 (b) "Alteration" means a professional sterilization proce-
12 dure performed by a veterinarian that renders a dog, cat, or
13 ferret incapable of reproducing.

14 (c) "Altered", in reference to a dog, cat, or ferret, means
15 having undergone alteration.

16 (d) "Animal" means a mammal ~~except livestock~~ BUT DOES NOT
17 INCLUDE EITHER OF THE FOLLOWING:

18 (i) LIVESTOCK as defined in 1937 PA 284, MCL 287.121 to
19 287.131. ~~, and rodents.~~

20 (ii) RODENTS.

21 (e) "Animal control shelter" means a facility operated by a
22 municipality for the impoundment and care of animals that are
23 found in the streets or at large, animals that are otherwise held
24 due to the violation of a municipal ordinance or state law, or
25 animals that are surrendered to the animal control shelter.

26 (f) "Animal protection shelter" means a facility operated by
27 a person, humane society, society for the prevention of cruelty

1 to animals, or any other nonprofit organization for the care of
2 homeless animals.

3 (g) "Cat" means a domestic cat of any age of the species
4 felis catus.

5 (h) "Department" means the state department of agriculture.

6 (i) "Director" means the director of the department or his
7 or her authorized representative.

8 (j) "Dog" means a domestic dog of any age of the species
9 canis familiaris.

10 (k) "Ferret" means an animal of any age of the species
11 mustela furo.

12 (l) "Health certificate" means a certificate in a form pre-
13 scribed by the department in which a veterinarian attests to the
14 age, sex, breed, and description of an animal, and to the fact
15 that at the time of preparation of the certificate, the veteri-
16 narian examined the animal and found the animal free from visual
17 evidence of communicable disease.

18 (m) "Municipality" means a county, city, village, or
19 township.

20 (n) "Person" means an individual, partnership, COOPERATIVE,
21 corporation, association, JOINT VENTURE, governmental entity, or
22 other legal entity INCLUDING, BUT NOT LIMITED TO, CONTRACTUAL
23 RELATIONSHIPS.

24 (o) "Pet shop" means a place where animals are sold,
25 EXCHANGED, OR TRANSFERRED or offered for sale, exchange, or
26 transfer.

1 (p) "Veterinarian" means a person licensed to practice
2 veterinary medicine under article 15 of the public health code,
3 1978 PA 368, MCL 333.16101 to 333.18838.

4 Sec. 3. (1) ~~No~~ A person shall NOT operate a pet shop
5 unless ~~he has~~ first HAVING received a license from the depart-
6 ment ~~of agriculture~~ under ~~the provisions of~~ this act.

7 (2) THE DEPARTMENT SHALL ISSUE A LICENSE UNDER THIS ACT FOR
8 A TERM OF 1 YEAR.

9 (3) AFTER ISSUANCE OF THE INITIAL LICENSE UNDER THIS ACT,
10 THE DEPARTMENT SHALL ANNUALLY RENEW THE LICENSE OF A LICENSE
11 HOLDER UPON SUBMISSION OF A COMPLETED RENEWAL APPLICATION AND
12 PAYMENT OF THE RENEWAL FEE IMPOSED UNDER SECTION 4 UNLESS FOUND
13 TO BE IN VIOLATION OF THIS ACT, RULES PROMULGATED UNDER THIS ACT,
14 OR AN ORDER ISSUED BY THE DEPARTMENT UNDER THIS ACT.

15 Sec. 4. (1) Applications FOR INITIAL LICENSURE OF A PET
16 SHOP shall be on a form as provided by the director ~~of~~
17 ~~agriculture~~ and accompanied by ~~a~~ AN INITIAL LICENSE AND
18 APPLICATION fee of ~~-\$150.00 for pet shops~~ \$100.00.

19 (2) UPON SUBMISSION OF THE RENEWAL FEE OF \$75.00 ACCOMPANIED
20 BY A COMPLETED RENEWAL APPLICATION OF A LICENSEE OTHERWISE NOT
21 INELIGIBLE UNDER SECTION 3(3), THE DEPARTMENT SHALL ISSUE A
22 RENEWAL LICENSE FOR A TERM OF 1 YEAR.

23 (3) A PET SHOP LICENSE EXPIRES ON JANUARY 1 OF EACH YEAR AND
24 IS NOT TRANSFERRABLE.

25 Sec. 5. (1) The ~~director of agriculture~~ DEPARTMENT shall
26 not issue ~~a~~ AN INITIAL license to operate a pet shop until ~~he~~
27 IT has inspected the premises OF THE PET SHOP to assure that it

1 complies with ~~the provisions of~~ this act and the rules ~~of~~
2 PROMULGATED BY the department ~~of agriculture~~ UNDER THIS ACT.

3 (2) THE DEPARTMENT SHALL CONDUCT INSPECTIONS OF THE PREMISES
4 OF A PET SHOP LICENSED UNDER THIS ACT AND ANIMAL CONTROL SHELTERS
5 AND ANIMAL PROTECTION SHELTERS REGISTERED UNDER THIS ACT. THE
6 DEPARTMENT, ON ITS OWN INITIATIVE OR IN RESPONSE TO COMPLAINTS,
7 SHALL INVESTIGATE PERSONS OPERATING OR APPEARING TO OPERATE A PET
8 SHOP WITHOUT BEING LICENSED OR AN ANIMAL CONTROL SHELTER OR
9 ANIMAL PROTECTION SHELTER WITHOUT BEING REGISTERED UNDER THIS
10 ACT.

11 (3) THE DEPARTMENT SHALL DEVELOP, MAINTAIN, AND UPDATE NOT
12 LATER THAN JANUARY 1 OF EACH YEAR A LIST OF REQUIRED
13 INOCULATIONS. THE LICENSEE SHALL PROVIDE FOR THE REQUIRED INOCU-
14 LATIONS TO DOGS, CATS, AND FERRETS AT THE EARLIEST OF THE
15 FOLLOWING:

16 (A) BEFORE SALE.

17 (B) BEFORE BEING OFFERED FOR SALE.

18 (C) NOT LESS THAN 7 DAYS BEFORE IMPORTATION FOR SALE THROUGH
19 THE PET SHOP.

20 (4) THE DEPARTMENT SHALL DISTRIBUTE TO LICENSED PET SHOPS
21 THE UPDATED LIST OF REQUIRED INOCULATIONS NOT LATER THAN
22 JANUARY 1 OF EACH YEAR.

23 Sec. 5a. (1) A person who operates a pet shop shall not do
24 any of the following:

25 (a) Import or cause to be imported into this state ~~, or~~
26 ~~offer~~ A DOG OR CAT LESS THAN 8 WEEKS OF AGE.

1 (B) OFFER for sale or resale ~~,~~ a dog, ~~or~~ cat, OR FERRET
2 less than 8 weeks ~~old~~ OF AGE.

3 (C) ~~(b)~~ Import or cause to be imported into this state, or
4 offer for sale or resale, a dog, ~~or~~ cat, OR FERRET unless ~~the~~
5 ~~dog or cat~~ IT has ~~deciduous (baby)~~ teeth visibly present.

6 (D) IMPORT OR CAUSE TO BE IMPORTED INTO THIS STATE A DOG,
7 CAT, OR FERRET UNLESS ACCOMPANIED BY A HEALTH CERTIFICATE SIGNED
8 BY AN ACCREDITED VETERINARIAN CONTAINING THE RECORDS OF MEDICA-
9 TIONS AND INOCULATIONS ADMINISTERED TO THE ANIMAL.

10 (E) ~~(c)~~ Sell or offer for sale a dog, CAT, OR FERRET
11 unless the dog, CAT, OR FERRET has been inoculated ~~against dis-~~
12 ~~temper, hepatitis, and leptospirosis, para influenza~~ UNDER SEC-
13 TION 5(3) and, if indicated, has been treated for external and
14 internal parasites. THE INOCULATION AND TREATMENT MUST BE COM-
15 PLETED BEFORE THE DOG, CAT, OR FERRET IS OFFERED FOR SALE AND, IN
16 THE CASE OF AN IMPORTED DOG, CAT, OR FERRET, not less than 7 days
17 before the ~~dog's~~ entry into this state. ~~The dog shall be~~
18 ~~accompanied by a health certificate signed by a veterinarian,~~
19 ~~including records of the dog's medication and immunization.~~

20 ~~(d)~~ Sell or offer for sale a cat, unless the cat has been
21 inoculated against feline panleukopenia (cat distemper), rinot-
22 raecheitis and calici viruses and, if indicated, has been treated
23 for external and internal parasites, not less than 7 days prior
24 to the cat's entry into this state. ~~The cat shall be accompanied~~
25 ~~by a health certificate signed by a veterinarian, including~~
26 ~~records of the cat's medication and immunization.~~

1 (F) ~~(e)~~ Sell or deliver a dog, ~~or~~ cat, OR FERRET without
2 providing to the purchaser a MICHIGAN PET SHOP health certificate
3 FOR THE INDIVIDUAL ANIMAL signed by a LICENSED veterinarian.
4 ~~licensed by this state, for the dog or cat.~~ The certificate
5 shall include a health record indicating the date and type of
6 ~~vaccinations which have been~~ INOCULATIONS OR OTHER TREATMENTS
7 given to the dog, ~~or~~ cat, OR FERRET.

8 (2) A PERSON SHALL NOT GIVE FALSE INFORMATION IN A MATTER
9 PERTAINING TO ACTIVITIES REGULATED BY THIS ACT AND SHALL NOT
10 RESIST, IMPEDE, OR HINDER THE DIRECTOR'S AUTHORIZED REPRESENTA-
11 TIVE IN THE DISCHARGE OF HIS OR HER DUTIES UNDER THIS ACT.

12 Sec. 9b. (1) If a person violates this act, ~~or~~ a rule
13 promulgated under this act, OR AN ORDER ISSUED UNDER THIS ACT,
14 the director, after notice and an opportunity for ~~an~~
15 ~~evidentiary~~ A hearing under the administrative procedures act of
16 1969, 1969 PA 306, MCL 24.201 to 24.328, may do ~~either or both~~
17 ANY of the following:

18 (a) Suspend or revoke a license or registration issued to
19 the person under this act.

20 (b) Impose an administrative fine of not LESS THAN \$300.00
21 AND NOT more than \$1,000.00 for each violation. The director
22 shall advise the attorney general of the failure of a person to
23 pay an administrative fine under this section. The attorney gen-
24 eral shall bring a civil action to recover the administrative
25 fine and costs and fees. The administrative fine shall be depos-
26 ited in the general fund of the state treasury.

1 (C) IF THE DIRECTOR DETERMINES THAT A VIOLATION OCCURRED
2 DESPITE THE EXERCISE OF DUE CARE OR IF THE VIOLATION WAS
3 DETERMINED NOT TO HAVE RESULTED IN SUBSTANTIAL HARM TO HUMAN OR
4 ANIMAL HEALTH, THE DIRECTOR MAY ISSUE A WARNING INSTEAD OF IMPOS-
5 ING AN ADMINISTRATIVE FINE.

6 (D) ISSUE ORDERS TO A LICENSEE OR REGISTRANT UNDER THIS ACT.

7 (2) THE REMEDIES AND SANCTIONS UNDER THIS ACT ARE INDEPEN-
8 DENT AND CUMULATIVE. THE USE OF A REMEDY OR SANCTION UNDER THIS
9 ACT DOES NOT BAR OTHER LAWFUL REMEDIES AND SANCTIONS AND DOES NOT
10 LIMIT CRIMINAL OR CIVIL LIABILITY. In addition to any other
11 action authorized by this act, the director may bring an action
12 to do 1 or more of the following:

13 (a) Obtain a declaratory judgment that a method, act, or
14 practice is in violation of this act.

15 (b) Obtain an injunction against a person who is engaging,
16 or about to engage, in a method, act, or practice that violates
17 this act. THE ACTION SHALL BE BROUGHT IN A COURT OF COMPETENT
18 JURISDICTION IN THE COUNTY IN WHICH THE VIOLATION OCCURRED OR IS
19 ABOUT TO OCCUR.

20 (C) OBTAIN A CIVIL FINE OF NOT MORE THAN \$5,000.00 FOR EACH
21 VIOLATION.

22 (D) ISSUE AN APPEARANCE TICKET AS DESCRIBED AND AUTHORIZED
23 BY SECTIONS 9A TO 9G OF CHAPTER 4 OF THE CODE OF CRIMINAL PROCE-
24 DURE, 1927 PA 175, MCL 764.9A TO 764.9G, WITH A FINE OF NOT LESS
25 THAN \$300.00 AND NOT MORE THAN \$1,000.00, OR IMPRISONMENT OF NOT
26 LESS THAN 30 DAYS, OR BOTH.

1 (3) If a person fails to comply with a contract for the
2 alteration of a dog, cat, or ferret as required under section 8a,
3 a court with appropriate jurisdiction may order transfer of
4 ownership of the adopted animal only to 1 of the following:

5 (a) The facility from which the animal was adopted.

6 (b) A veterinarian, animal control shelter, or animal pro-
7 tection shelter willing to accept the animal and either humanely
8 euthanize the animal or adopt the animal to an owner who agrees
9 to have the animal altered.

10 Sec. 10. (1) ~~Any~~ A person who violates ~~the provisions~~
11 ~~of~~ this act or any rule of the department ~~of agriculture~~
12 promulgated under ~~the provisions of~~ this act is guilty of a
13 misdemeanor AND MAY BE FINED NOT MORE THAN \$1,000.00 FOR EACH
14 FIRST OFFENSE.

15 (2) A SECOND OR SUBSEQUENT VIOLATION OF THE SAME SECTION OR
16 RULE SHALL INCUR A FINE OF AT LEAST TWICE THE PREVIOUS
17 VIOLATION.

18 (3) THE COURT MAY ALLOW THE DEPARTMENT TO RECOVER REASONABLE
19 COSTS AND ATTORNEY FEES INCURRED IN A PROSECUTION RESULTING IN A
20 VIOLATION COMMITTED KNOWINGLY AND WITH MALICIOUS INTENT.