

SB0061



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB0061

Introduced 1/16/2019, by Sen. Linda Holmes

SYNOPSIS AS INTRODUCED:

See Index

Amends the Animal Welfare Act. Provides that an animal shelter, animal control facility, or rescue group or transfer group shall not adopt out any dog or adopt out or return or release any cat unless it has been sterilized and microchipped. Increases administrative fines imposed by the Department of Agriculture for a violation of the Act. Increases fees for licenses issued under the Act. Provides that all fees, fines, and other money received by the Department under the Act shall be paid into the Department of Agriculture Animal Welfare Fund (rather than the General Revenue Fund) in the State Treasury for use in administering the Act. Amends the Animal Control Act. Provides that rabies impoundment, definitions, and the provisions of the Act are exclusive powers and functions of the State. Provides that the following administrative fines shall be imposed by the Department upon any entity that violates the Act or any rule adopted by the Department under this Act: (1) for the first violation, a fine of \$3,000; (2) for a second violation that occurs within 2 years after the first violation, a fine of \$5,000; and (3) for a third violation that occurs within 3 years of the first violation a fine of \$10,000. Provides that all fees, fines, and other moneys received by the Department under the Act shall be paid into the Department of Agriculture Animal Welfare Fund in the State Treasury for use in administering the Act. Makes conforming changes to the State Finance Act. Makes other changes.

LRB101 06747 SLF 51774 b

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

A BILL FOR

1 AN ACT concerning animals.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The State Finance Act is amended by adding
5 Section 5.891 as follows:

6 (30 ILCS 105/5.891 new)

7 Sec. 5.891. Department of Agriculture Animal Welfare Fund.

8 Section 10. The Animal Welfare Act is amended by changing
9 Sections 2, 3, 3.2, 3.3, 20.5, 21, and 22 as follows:

10 (225 ILCS 605/2) (from Ch. 8, par. 302)

11 Sec. 2. Definitions. As used in this Act unless the context
12 otherwise requires:

13 "Department" means the Illinois Department of Agriculture.

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

16 "Pet shop operator" means any person who sells, offers to
17 sell, exchange, or offers for adoption with or without charge
18 or donation dogs, cats, birds, fish, reptiles, or other animals
19 customarily obtained as pets in this State. However, a person
20 who sells only such animals that he has produced and raised
21 shall not be considered a pet shop operator under this Act, and

1 a veterinary hospital or clinic operated by a veterinarian or
2 veterinarians licensed under the Veterinary Medicine and
3 Surgery Practice Act of 2004 shall not be considered a pet shop
4 operator under this Act.

5 "Dog dealer" means any person who sells, offers to sell,
6 exchange, or offers for adoption with or without charge or
7 donation dogs in this State. However, a person who sells only
8 dogs that he has produced and raised shall not be considered a
9 dog dealer under this Act, and a veterinary hospital or clinic
10 operated by a veterinarian or veterinarians licensed under the
11 Veterinary Medicine and Surgery Practice Act of 2004 shall not
12 be considered a dog dealer under this Act.

13 "Secretary of Agriculture" or "Secretary" means the
14 Secretary of Agriculture of the United States Department of
15 Agriculture.

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

20 "Kennel operator" means any person who operates an
21 establishment, other than an animal control facility,
22 veterinary hospital, or animal shelter, where dogs or dogs and
23 cats are maintained for boarding, training or similar purposes
24 for a fee or compensation.

25 "Boarding" means a time frame greater than 12 hours or an
26 overnight period during which an animal is kept by a kennel

1 operator.

2 "Cat breeder" means a person who sells, offers to sell,
3 exchanges, or offers for adoption with or without charge cats
4 that he or she has produced and raised. A person who owns, has
5 possession of, or harbors 5 or less females capable of
6 reproduction shall not be considered a cat breeder.

7 "Dog breeder" means a person who sells, offers to sell,
8 exchanges, or offers for adoption with or without charge dogs
9 that he has produced and raised. A person who owns, has
10 possession of, or harbors 5 or less females capable of
11 reproduction shall not be considered a dog breeder.

12 "Animal control facility" means any facility operated by or
13 under contract for the State, county, or any municipal
14 corporation or political subdivision of the State for the
15 purpose of impounding or harboring seized, stray, homeless,
16 abandoned or unwanted dogs, cats, and other animals. "Animal
17 control facility" also means any veterinary hospital or clinic
18 operated by a veterinarian or veterinarians licensed under the
19 Veterinary Medicine and Surgery Practice Act of 2004 which
20 operates for the above mentioned purpose in addition to its
21 customary purposes.

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

1 any veterinary hospital or clinic operated by a veterinarian or
2 veterinarians licensed under the Veterinary Medicine and
3 Surgery Practice Act of 2004 which operates for the above
4 mentioned purpose in addition to its customary purposes.

5 "Day care operator" means a person who operates an
6 establishment, other than an animal control facility,
7 veterinary hospital, or animal shelter, where dogs or dogs and
8 cats are kept for a period of time not exceeding 12 hours.

9 "Foster home" means an entity that accepts the
10 responsibility for stewardship of animals that are the
11 obligation of an animal shelter, ~~or~~ animal control facility, or
12 rescue group or transfer group not to exceed 4 animals or
13 litters under 12 weeks of age at any given time. Permits to
14 operate as a "foster home" may ~~shall~~ be issued through the
15 animal shelter, ~~or~~ animal control facility, or rescue group or
16 transfer group.

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

22 "Guard dog" means a type of dog used primarily for the
23 purpose of defending, patrolling, or protecting property or
24 life at a commercial establishment other than a farm. "Guard
25 dog" does not include stock dogs used primarily for handling
26 and controlling livestock or farm animals, nor does it include

1 personally owned pets that also provide security.

2 "Release" means to set the animal free in a different
3 location where there is access to food, water, and shelter.

4 "Rescue group or transfer group" means a non-profit
5 organization that does not have a building or facility that
6 takes animals from animal shelters or animal control facilities
7 for adoption or return or transfers animals to other animal
8 shelters, animal control facilities, or another rescue group or
9 transfer group for adoption, return, or transfer.

10 "Return" means to return to the vicinity where the animal
11 was found.

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

15 "Probationary status" means the 12-month period following
16 a series of violations of this Act during which any further
17 violation shall result in an automatic 12-month suspension of
18 licensure.

19 "Owner" means any person having a right of property in an
20 animal, who keeps or harbors an animal, who has an animal in
21 his or her care or acts as its custodian, or who knowingly
22 permits a dog to remain on any premises occupied by him or her.

23 "Owner" does not include a feral cat caretaker participating in
24 a trap, spay/neuter, return or release program.

25 (Source: P.A. 99-310, eff. 1-1-16; 100-842, eff. 1-1-19;
26 100-870, eff. 1-1-19; revised 10-22-18.)

1 (225 ILCS 605/3) (from Ch. 8, par. 303)

2 Sec. 3. (a) Except as provided in subsection (b) of this
3 Section, no person shall engage in business as a pet shop
4 operator, dog dealer, kennel operator, day care operator, dog
5 breeder, or cat breeder or operate a guard dog service, an
6 animal control facility, or animal shelter, ~~or any combination~~
7 ~~thereof,~~ in this State without a license therefor issued by the
8 Department. ~~Only one license shall be required for any~~
9 ~~combination of businesses at one location, except that a~~
10 ~~separate license shall be required to operate a guard dog~~
11 ~~service.~~ Guard dog services that are located outside this State
12 but provide services within this State are required to obtain a
13 license from the Department. Out-of-state guard dog services
14 are required to comply with the requirements of this Act with
15 regard to guard dogs and sentry dogs transported to or used
16 within this State.

17 (b) This Act does not apply to a private detective agency
18 or private security agency licensed under the Private
19 Detective, Private Alarm, Private Security, Fingerprint
20 Vendor, and Locksmith Act of 2004 that provides guard dog or
21 canine odor detection services and does not otherwise operate a
22 kennel for hire.

23 (Source: P.A. 100-842, eff. 1-1-19.)

24 (225 ILCS 605/3.2)

1 Sec. 3.2. Foster homes. A person shall not operate a foster
2 home without first obtaining a permit from the animal shelter,
3 rescue group or transfer group, or animal control facility for
4 which that person will operate the foster home. ~~Upon~~
5 ~~application and payment of the required fees by the animal~~
6 ~~shelter, the Department shall issue foster home permits to the~~
7 ~~animal shelter.~~ The animal shelter, or rescue group or transfer
8 group, or animal control facility shall be responsible for the
9 records and have all the obligations of stewardship for animals
10 in the foster homes to which it issues permits.

11 Foster homes shall provide the care for animals required by
12 this Act and shall report any deviation that might affect the
13 status of the license or permit to the animal shelter, rescue
14 group or transfer group, or animal control facility.

15 A foster home shall not care for more than 4 animals or
16 more than 2 litters under 12 weeks of age at any one time.

17 (Source: P.A. 100-870, eff. 1-1-19.)

18 (225 ILCS 605/3.3)

19 Sec. 3.3. Adoption of dogs and cats.

20 (a) An animal shelter, ~~or~~ animal control facility, or
21 rescue group or transfer group shall not adopt out any dog or
22 adopt out or return or release any cat unless it has been
23 sterilized and microchipped. However, an animal shelter, ~~or~~
24 animal control facility, rescue group or transfer group may
25 adopt out a dog or cat that has not been sterilized and

1 microchipped if:

2 (1) if the cat or dog is less than 5 months of age and
3 there is written verification from a licensed veterinarian
4 that a sterilization appointment has been scheduled and the
5 adopting owner has executed a written agreement agreeing to
6 have sterilizing and microchipping procedures performed on
7 the animal to be adopted within a specified period of time
8 not to exceed 30 days after the date of the adoption, or

9 (2) the adopting owner has executed a written agreement
10 to have sterilizing and microchipping procedures performed
11 within 14 days after a licensed veterinarian certifies the
12 dog or cat is healthy enough for sterilizing and
13 microchipping procedures, and a licensed veterinarian has
14 certified that the dog or cat is too sick or injured to be
15 sterilized or it would be detrimental to the health of the
16 dog or cat to be sterilized or microchipped at the time of
17 the adoption.

18 (b) An animal shelter, ~~or~~ animal control facility, or
19 rescue group or transfer group may adopt out any dog or cat
20 that is not free of disease, injury, or abnormality if the
21 disease, injury, or abnormality is disclosed in writing to the
22 adopter, and the animal shelter or animal control facility
23 allows the adopter to return the animal to the animal shelter
24 or animal control facility.

25 (c) The requirements of subsections (a) and (b) of this
26 Section do not apply to adoptions subject to Section 11 of the

1 Animal Control Act.

2 (Source: P.A. 96-314, eff. 8-11-09.)

3 (225 ILCS 605/20.5)

4 Sec. 20.5. Administrative fines. The following
5 administrative fines shall be imposed by the Department upon
6 any person or entity who violates any provision of this Act or
7 any rule adopted by the Department under this Act:

8 (1) For the first violation, a fine of \$1,000 ~~\$500~~.

9 (2) For a second violation that occurs within 2 ~~3~~ years
10 after the first violation, a fine of \$2,500 ~~\$1,000~~.

11 (3) For a third violation that occurs within 3 years
12 after the first violation, mandatory probationary status
13 and a fine of \$3,000 ~~\$2,500~~.

14 (Source: P.A. 98-855, eff. 8-4-14.)

15 (225 ILCS 605/21) (from Ch. 8, par. 321)

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

18 a. for an original license to an individual \$250 ~~\$25~~

19 b. for an original license to a partnership, animal
20 shelter, animal control facility, or rescue group or transfer
21 group, or

22 corporation..... \$250 ~~\$25~~

23 c. for an annual renewal license \$100 ~~\$25~~

24 d. for each branch office license \$100 ~~\$25~~

- 1 e. for the renewal of any license not renewed by
- 2 July 1 of the year \$250 ~~\$40~~
- 3 f. (blank) ~~for a permit for a foster home~~ \$25
- 4 g. (blank) ~~for renewal of a permit for a foster home~~ .. \$25

5 (Source: P.A. 89-178, eff. 7-19-95.)

6 (225 ILCS 605/22) (from Ch. 8, par. 322)

7 Sec. 22. All fees, fines, and other money received by the
 8 Department under this Act shall be paid into the Department of
 9 Agriculture Animal Welfare Fund ~~General Revenue Fund~~ in the
 10 State Treasury for use in administering this Act.

11 (Source: Laws 1965, p. 2956.)

12 Section 15. The Animal Control Act is amended by changing
 13 Sections 2.01, 2.07, 11, 24, and 35 and by adding Sections
 14 2.19-1, 2.19-2, 2.19-3, and 28 as follows:

15 (510 ILCS 5/2.01) (from Ch. 8, par. 352.01)

16 Sec. 2.01. Administrator. "Administrator" means a
 17 veterinarian licensed by the State of Illinois and appointed
 18 pursuant to this Act, or ~~in the event a veterinarian cannot be~~
 19 ~~found and appointed pursuant to this Act,~~ a non-veterinarian
 20 may serve as Administrator under this Act. In the event the
 21 Administrator is not a veterinarian, the Administrator shall
 22 defer to the Deputy Administrator ~~veterinarian~~ regarding all
 23 medical decisions. A veterinarian shall be on call at all times

1 to make medical decisions for impounded injured or sick
2 animals.

3 (Source: P.A. 93-548, eff. 8-19-03.)

4 (510 ILCS 5/2.07) (from Ch. 8, par. 352.07)

5 Sec. 2.07. Deputy Administrator. "Deputy Administrator"
6 means a veterinarian licensed by the State of Illinois,
7 appointed by the Administrator or the County Board.

8 (Source: P.A. 93-548, eff. 8-19-03.)

9 (510 ILCS 5/2.19-1 new)

10 Sec. 2.19-1. Release. "Release" means to set the animal
11 free in a different location where there is access to food,
12 water, and shelter.

13 (510 ILCS 5/2.19-2 new)

14 Sec. 2.19-2. Rescue group or transfer group. "Rescue group
15 or transfer group" means a non-profit organization that does
16 not have a building or facility that takes animals from animal
17 shelters or animal control facilities for adoption or return or
18 transfers animals to other animal shelters, animal control
19 facilities, or another rescue group or transfer group for
20 adoption, return, or transfer.

21 (510 ILCS 5/2.19-3 new)

22 Sec. 2.19-3. Return. "Return" means to return to the

1 vicinity where the animal was found.

2 (510 ILCS 5/11) (from Ch. 8, par. 361)

3 Sec. 11. Animal placement. When not redeemed by the owner,
4 agent, or caretaker, a dog or cat must be scanned for a
5 microchip. If a microchip is present, the registered owner or
6 chip purchaser if the purchaser was a nonprofit organization,
7 animal shelter, animal control facility, pet store, breeder, or
8 veterinary office must be notified. After contact has been made
9 or attempted, dogs ~~or cats~~ deemed adoptable by the animal
10 control facility shall be offered for adoption, or made
11 available to a licensed animal shelter humane society or rescue
12 or transfer group. After contact has been made or attempted,
13 the animal control facility shall either: (1) offer the cat for
14 adoption; (2) return or release the cat after sterilization; or
15 (3) make the cat available to a licensed animal shelter, rescue
16 group or transfer group. If no placement is available, the
17 animal may be humanely dispatched pursuant to the Humane
18 Euthanasia in Animal Shelters Act. An animal control facility,
19 animal pound or animal shelter, or rescue group or transfer
20 group shall not adopt or release any dog or cat to anyone other
21 than the owner unless the animal has been rendered incapable of
22 reproduction and microchipped and if the cat or dog is less
23 than 5 months of age and there is written verification from a
24 licensed veterinarian that a sterilization appointment has
25 been scheduled and ~~or~~ the person wishing to adopt an animal

1 prior to the surgical procedures having been performed shall
2 have executed a written agreement promising to have such
3 service performed, including microchipping, within a specified
4 period of time not to exceed 30 days. Failure to fulfill the
5 terms of the agreement shall result in seizure and impoundment
6 of the animal and any offspring by the animal pound or shelter,
7 and any monies which have been deposited shall be forfeited and
8 submitted to the county Pet Population Control Fund on a yearly
9 basis. This Act shall not prevent humane societies, rescue
10 groups or transfer groups, or animal shelters from engaging in
11 activities set forth by their charters; provided, they are not
12 inconsistent with provisions of this Act and other existing
13 laws. No animal shelter or animal control facility shall
14 release dogs or cats to an individual representing a rescue
15 group or transfer group, unless the group has been licensed ~~or~~
16 ~~has a foster care permit~~ issued by the ~~Illinois~~ Department of
17 Agriculture or is a representative of a not-for-profit
18 out-of-state organization, animal shelter, or animal control
19 facility. The Department may suspend or revoke the license of
20 any animal shelter, rescue group or transfer group, or animal
21 control facility that fails to comply with the requirements set
22 forth in this Section or that fails to report its intake and
23 euthanasia statistics as required by law each year.

24 (Source: P.A. 100-870, eff. 1-1-19.)

25 (510 ILCS 5/24) (from Ch. 8, par. 374)

1 Sec. 24. Limitations. Nothing in this Act shall be held to
2 limit in any manner the power of any municipality or other
3 political subdivision to prohibit animals from running at
4 large, nor shall anything in this Act be construed to, in any
5 manner, limit the power of any municipality or other political
6 subdivision to further control and regulate dogs, cats, or
7 other animals in such municipality or other political
8 subdivision provided that no regulation, policy, or ordinance
9 is specific to breed or interferes with the foster care permits
10 of Department of Agriculture licensees. Rabies impoundment,
11 definitions, and the provisions of this Act are exclusive
12 powers and functions of the State. This is a denial and
13 limitation of home rule powers and functions under subsection
14 (h) of Section 6 of article VII of the Illinois Constitution.
15 (Source: P.A. 93-548, eff. 8-19-03.)

16 (510 ILCS 5/28 new)

17 Sec. 28. Administrative fines.

18 (a) The following administrative fines shall be imposed by
19 the Department upon any entity that violates this Act or any
20 rule adopted by the Department under this Act:

21 (1) For the first violation, a fine of \$3,000.

22 (2) For a second violation that occurs within 2 years
23 after the first violation, a fine of \$5,000.

24 (3) For a third violation that occurs within 3 years of
25 the first violation a fine of \$10,000.

1 All fees, fines, and other moneys received by the
2 Department under this Act shall be paid into the Department of
3 Agriculture Animal Welfare Fund in the State Treasury for use
4 in administering this Act.

5 (510 ILCS 5/35)

6 Sec. 35. Liability.

7 (a) Any municipality, ~~or~~ political subdivision, or State
8 university or community college allowing feral cat colonies and
9 trap, sterilize, and return or release programs to help control
10 cat overpopulation shall be immune from criminal liability and
11 shall not be civilly liable, except for willful and wanton
12 misconduct, for damages that may result from a feral cat. Any
13 municipality or political subdivision allowing dog parks shall
14 be immune from criminal liability and shall not be civilly
15 liable, except for willful and wanton misconduct, for damages
16 that may result from occurrences in the dog park.

17 (b) Any veterinarian, ~~or~~ animal shelter, ~~or~~ animal control
18 facility, or rescue group or transfer group who in good faith
19 contacts the registered owner, agent, or caretaker of a
20 microchipped animal shall be immune from criminal liability and
21 shall not, as a result of his or her acts or omissions, except
22 for willful and wanton misconduct, be liable for civil damages.

23 (c) Any veterinarian who sterilizes feral cats and any
24 feral cat caretaker who traps cats for a trap, sterilize, and
25 return or release program shall be immune from criminal

1 liability and shall not, as a result of his or her acts or
2 omissions, except for willful and wanton misconduct, be liable
3 for civil damages.

4 (d) Any animal shelter, ~~or~~ animal control facility, or
5 rescue group or transfer group worker who microchips an animal
6 shall be immune from criminal liability and shall not, as a
7 result of his or her acts or omissions, except for willful and
8 wanton misconduct, be liable for civil damages.

9 (Source: P.A. 97-240, eff. 1-1-12.)

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