



Sen. Don Harmon

Filed: 5/22/2007

09500HB0822sam002

LRB095 04192 CMK 36613 a

1 AMENDMENT TO HOUSE BILL 822

2 AMENDMENT NO. _____. Amend House Bill 822, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Animal Welfare Act is amended by changing
6 Section 2 and adding Section 20.5 as follows:

7 (225 ILCS 605/2) (from Ch. 8, par. 302)

8 Sec. 2. Definitions. As used in this Act unless the context
9 otherwise requires:

10 "Department" means the Illinois Department of Agriculture.

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

13 "Pet shop operator" means any person who sells, offers to
14 sell, exchange, or offers for adoption with or without charge
15 or donation dogs, cats, birds, fish, reptiles, or other animals
16 customarily obtained as pets in this State. However, a person

1 who sells only such animals that he has produced and raised
2 shall not be considered a pet shop operator under this Act, and
3 a veterinary hospital or clinic operated by a veterinarian or
4 veterinarians licensed under the Veterinary Medicine and
5 Surgery Practice Act of 2004 shall not be considered a pet shop
6 operator under this Act.

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

15 "Secretary of Agriculture" or "Secretary" means the
16 Secretary of Agriculture of the United States Department of
17 Agriculture.

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

22 "Kennel operator" means any person who operates an
23 establishment, other than an animal control facility,
24 veterinary hospital, or animal shelter, where dogs or dogs and
25 cats are maintained for boarding, training or similar purposes
26 for a fee or compensation; or who sells, offers to sell,

1 exchange, or offers for adoption with or without charge dogs or
2 dogs and cats which he has produced and raised. A person who
3 owns, has possession of, or harbors 5 or less females capable
4 of reproduction shall not be considered a kennel operator.

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

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

24 "Animal shelter" means a facility operated, owned, or
25 maintained by a duly incorporated humane society, animal
26 welfare society, or other non-profit organization for the

1 purpose of providing for and promoting the welfare, protection,
2 and humane treatment of animals. "Animal shelter" also means
3 any veterinary hospital or clinic operated by a veterinarian or
4 veterinarians licensed under the Veterinary Medicine and
5 Surgery Practice Act of 2004 which operates for the above
6 mentioned purpose in addition to its customary purposes.

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

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

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

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

26 "Probationary status" means the 12-month period following

1 a series of violations of this Act during which any further
2 violation shall result in an automatic 12-month suspension of
3 licensure.

4 (Source: P.A. 93-281, eff. 12-31-03.)

5 (225 ILCS 605/20.5 new)

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

10 (1) For the first violation, a fine of \$200.

11 (2) For a second violation that occurs within 3 years
12 after the first violation, a fine of \$500.

13 (3) For a third violation that occurs within 3 years
14 after the first violation, mandatory probationary status
15 and a fine of \$1,000.

16 Section 10. The Animal Control Act is amended by changing
17 Sections 9, 11, and 15.3 and by adding Sections 2.17c and 15.4
18 as follows:

19 (510 ILCS 5/2.17c new)

20 Sec. 2.17c. "Potentially dangerous dog" means a dog that is
21 unsupervised and found running at large with 3 or more other
22 dogs.

1 (510 ILCS 5/9) (from Ch. 8, par. 359)

2 Sec. 9. Any dog found running at large contrary to
3 provisions of this Act may be apprehended and impounded. For
4 this purpose, the Administrator shall utilize any existing or
5 available animal control facility or licensed animal shelter.
6 The dog's owner shall pay a \$25 public safety fine, \$20 of
7 which shall be deposited into the Pet Population Control Fund
8 and \$5 of which shall be retained by the county or
9 municipality. A dog found running at large contrary to the
10 provisions of this Act a second or subsequent time must be
11 spayed or neutered within 30 days after being reclaimed unless
12 already spayed or neutered; failure to comply shall result in
13 impoundment.

14 A dog that is actively engaged in a legal hunting activity,
15 including training, is not considered to be running at large if
16 the dog is on land that is open to hunting or on land on which
17 the person has obtained permission to hunt or to train a dog. A
18 dog that is in a dog-friendly area or dog park is not
19 considered to be running at large if the dog is monitored or
20 supervised by a person.

21 (Source: P.A. 93-548, eff. 8-19-03; 94-639, eff. 8-22-05.)

22 (510 ILCS 5/11) (from Ch. 8, par. 361)

23 Sec. 11. When not redeemed by the owner, agent, or
24 caretaker, a dog or cat must be scanned for a microchip. If a
25 microchip is present, the registered owner must be notified.

1 After contact has been made or attempted, dogs or cats deemed
2 adoptable by the animal control facility shall be offered for
3 adoption, or made available to a licensed humane society or
4 rescue group. If no placement is available, it shall be
5 humanely dispatched pursuant to the Humane Euthanasia in Animal
6 Shelters Act. An animal pound or animal shelter shall not adopt
7 or release any dog or cat to anyone other than the owner ~~when~~
8 ~~not redeemed by the owner~~ unless the animal has been rendered
9 incapable of reproduction and microchipped, or the person
10 wishing to adopt an animal prior to the surgical procedures
11 having been performed shall have executed a written agreement
12 promising to have such service performed, including
13 microchipping, within a specified period of time not to exceed
14 30 days. Failure to fulfill the terms of the agreement shall
15 result in seizure and impoundment of the animal and any
16 offspring by the animal pound or shelter, and any monies which
17 have been deposited shall be forfeited and submitted to the Pet
18 Population Control Fund on a yearly basis. This Act shall not
19 prevent humane societies from engaging in activities set forth
20 by their charters; provided, they are not inconsistent with
21 provisions of this Act and other existing laws. No animal
22 shelter or animal control facility shall release dogs or cats
23 to an individual representing a rescue group, unless the group
24 has been licensed or has a foster care permit issued by the
25 Illinois Department of Agriculture or is a representative of a
26 not-for-profit out-of-state organization. The Department may

1 suspend or revoke the license of any animal shelter or animal
2 control facility that fails to comply with the requirements set
3 forth in this Section or that fails to report its intake and
4 euthanasia statistics each year.

5 (Source: P.A. 93-548, eff. 8-19-03; 94-639, eff. 8-22-05.)

6 (510 ILCS 5/15.3)

7 Sec. 15.3. Dangerous dog; appeal.

8 (a) The owner of a dog found to be a dangerous dog pursuant
9 to this Act by an Administrator may file a complaint against
10 the Administrator in the circuit court within 35 days of
11 receipt of notification of the determination, for a de novo
12 hearing on the determination. The proceeding shall be conducted
13 as a civil hearing pursuant to the Illinois Rules of Evidence
14 and the Code of Civil Procedure, including the discovery
15 provisions. After hearing both parties' evidence, the court may
16 make a determination of dangerous dog if the Administrator
17 meets his or her burden of proof of a preponderance of the
18 evidence ~~of clear and convincing evidence~~. The final order of
19 the circuit court may be appealed pursuant to the civil appeals
20 provisions of the Illinois Supreme Court Rules.

21 (b) The owner of a dog found to be a dangerous dog pursuant
22 to this Act by the Director may, within 14 days of receipt of
23 notification of the determination, request an administrative
24 hearing to appeal the determination. The administrative
25 hearing shall be conducted pursuant to the Department of

1 Agriculture's rules applicable to formal administrative
2 proceedings, 8 Ill. Adm. Code Part 1, SubParts A and B. An
3 owner desiring a hearing shall make his or her request for a
4 hearing to the Illinois Department of Agriculture. The final
5 administrative decision of the Department may be reviewed
6 judicially by the circuit court of the county wherein the
7 person resides or, in the case of a corporation, the county
8 where its registered office is located. If the plaintiff in a
9 review proceeding is not a resident of Illinois, the venue
10 shall be in Sangamon County. The Administrative Review Law and
11 all amendments and modifications thereof, and the rules adopted
12 thereto, apply to and govern all proceedings for the judicial
13 review of final administrative decisions of the Department
14 hereunder.

15 (c) Until the order has been reviewed and at all times
16 during the appeal process, the owner shall comply with the
17 requirements set forth by the Administrator, the court, or the
18 Director.

19 (d) At any time after a final order has been entered, the
20 owner may petition the circuit court to reverse the designation
21 of dangerous dog.

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

23 (510 ILCS 5/15.4 new)

24 Sec. 15.4. Potentially dangerous dog. A dog found running
25 at large with 3 or more other dogs may be deemed a potentially

1 dangerous dog by the animal control warden or administrator.
2 Potentially dangerous dogs shall be spayed or neutered and
3 microchipped within 14 days of reclaim. The designation of
4 "potentially dangerous dog" shall expire 12 months after the
5 most recent violation of this Section. Failure to comply with
6 this Section will result in impoundment of the dog or a fine of
7 \$500."