

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Innovation, Industry, and Technology

BILL: SB 1698

INTRODUCER: Senator Diaz

SUBJECT: Regulation of Pet Stores

DATE: February 14, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kraemer</u>	<u>Imhof</u>	<u>IT</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>AEG</u>	_____
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 1698 creates the “Florida Pet Protection Act) (act) to require the licensing of pet stores in Florida that display, sell, offer to sell, deliver, auction, broker, give away, or transfer certain household pets (i.e., domestic dogs or domestic cats). Under the bill, a valid pet store license issued by the Department of Business and Professional Regulation (DBPR) is required to operate a pet store that sells household pets (licensed pet store). A licensed pet store must be annually inspected by the DBPR.

The bill requires that, as to household pets, a licensed pet store must:

- Acquire the pets only from certain sources, as defined in the bill; and
- Not sell a pet:
 - Younger than eight weeks old;
 - Without an identification microchip and the pet’s professional breeder history unless there is proof the pet was acquired through an animal rescue or animal shelter;
 - To a person younger than 18 years old
 - That is acquired from a qualified breeder or pet broker, unless the pet store provides to the buyer of the pet, before completing the transaction, a written certification of information specified in the bill, including identifying information for the pet and the breeder who bred the pet.

The bill requires a pet store to provide all of the following for household pets at the store:

- Specified flooring in animal enclosures;
- Daily cleaning of animal enclosures, as necessary to prevent body waste accumulation;
- An isolation enclosure for animals under veterinarian-directed observation;
- Climate control to maintain enclosure temperatures between 67 and 78 degrees at all times;
- Veterinary visits to the pet store at least three times weekly;
- Dog trainer visits to the pet store at least once per week;

- A daily enrichment program for puppies of exercise and socialization; and
- Photographs, digital images, or video footage depicting all breeding facilities from which the pet store acquires household pets.

Administrative, civil, and criminal penalties are set forth in the bill. If a person is convicted of engaging in unlawful practices in the sale of household pets or the operation of a pet store, the person may be punished by up to 60 days in jail or a fine up to \$500.

The bill provides that the act preempts county and municipal ordinances and regulations that prohibit or regulate pet stores, but does not preempt the authority of a local government's authority to levy a local business tax.

The bill is estimated to have an impact on state government. See Section V, Fiscal Impact Statement.

The bill is effective July 1, 2020.

II. Present Situation:

The regulation in Florida law of retail pet stores and the sale of dogs and cats is limited, and no state license is required under current law to engage in such activities.

Section s. 823.15, F.S., provides requirements for the handling of dogs and cats taken in by a public or private animal shelter, humane organization, or animal control agency operated by a humane organization or by a county, municipality, or other incorporated political subdivision (shelter). A shelter must maintain certain records about the animals it takes in and make the records available for public inspection and dissemination.¹

All dogs and cats sold or released for adoption from a shelter must be sterilized, by either:

- Providing sterilization by a licensed veterinarian before relinquishing custody of the animal; or
- Entering into a written agreement with the adopter or purchaser guaranteeing that sterilization will be performed within 30 days or prior to sexual maturity.²

As to pet shops, current state law mandates the procedure for the euthanasia of warm-blooded animals, except those held as food for another animal, offered for sale, or obtained for sale by a pet shop.³

Local Ordinance Regulation

A number of local governments in Florida have adopted ordinances to regulate the operations of pet stores in their jurisdictions. The Hillsborough County Commission (commission) continues

¹ See s. 823.15(2)(a), F.S.; data for species other than domestic cats and domestic dogs is to be separately recorded.

² See s. 828.15(3), F.S.; the shelter must require a sufficient deposit from the adopter or purchaser, refundable upon presentation to the shelter of written evidence of sterilization by the veterinarian performing procedure.

³ Section 828.065, F.S.

to address perceived abuses at pet stores in that jurisdiction. The county commission has enacted retail sale regulations for grandfathered and existing pet shops⁴ and for new pet shops.⁵

The commission is considering modifying its retail sales ordinance and implementing new breeder regulations,⁶ and the commission's staff notes the following circumstances occurring in that county:

On May 26, 2017, the Board of County Commissioners (BOCC) enacted the Pet Retail Sales Ordinance. Hillsborough County is one of over 200 jurisdictions that have enacted similar ordinances in the U.S. and Canada, with nearly 70 ordinances existing in Florida. The Ordinance regulates the sale of dogs and cats by pet retail businesses that existed in Hillsborough County at the time the Ordinance became effective. The Ordinance also requires new pet retail businesses to sell only dogs or cats obtained from an animal shelter or rescue organization and prohibits retail sale of these animals in public places, like flea markets, and yard sales.

On September 23, 2019, Hillsborough County Pet Resources was awarded custody of more than 300 dogs living in deplorable conditions at an animal breeding and retail business in Tampa. In view of this event, on October 2, 2019, the BOCC directed the County Attorney's Office, with the assistance of County Administration, to bring back recommendations to strengthen the Pet Retail Sales Ordinance, including addressing commercial dog breeding facilities at the November 6, 2019 BOCC meeting. After meeting with individual Commissioners, Pet Resources, County Administration, and other interested persons, including Pet Retail business owners and representatives from various breeding associations, the matter was postponed to December 4, 2019 to further explore new ideas that developed.

Staff's recommendations include addressing pet retail sales and proposed breeder regulations separately; eliminating grandfather privilege for existing pet retail shops in the County within an approximate two year period; including additional interim restrictions and penalties for existing pet shops; redefining the term breeder and defining the term hobby breeder; banning all unregulated breeding activities; establishing permitting/licensing and zoning requirements for hobby breeders and

⁴ See the Hillsborough County Code of Ordinances, Part A, s. 6-6, Grandfathering in existing pet shops, registration requirements, and certain regulations, and the Hillsborough County Code of Ordinances, Part A, s. 6-62, Additional retail sale regulations for existing pet shops, at https://library.municode.com/fl/hillsborough_county/codes/code_of_ordinances_part_a?nodeId=HICOCOORLA_CH6AN (last visited Jan. 29, 2020).

⁵ *Id.*, and see the Hillsborough County Code of Ordinances, Part A, s. 6-63, Adoption-based business model for retail sale of dogs and cats and other requirements for new pet shops.

⁶ See the county's Agenda Item Cover Sheet and Staff Report Outlining Recommendations, at <https://eagenda.hillsboroughcounty.org/portal/PTL29560/search?D=01/23/2020&T=Regular%20BOCC%20Meeting&Y=Ba ckup&o=B-4.pdf> (last visited Jan. 29, 2020).

eliminating the County's current permitting process; and setting forth breeder care/treatment regulations, enforcement, and penalties.

The commission is holding a public hearing to consider modifications to its ordinances at its next meeting on February 5, 2020.⁷

According to the Humane Society of the United States, there are a total of 70 municipalities and counties in Florida that have passed ordinances banning the retail sales of dogs and cats.⁸ There are 340 such ordinances nationwide.⁹

United States Department of Agriculture Breeder Inspections

The Animal Care program under the Animal and Plant Health Inspection Service within the United States Department of Agriculture licenses breeders under the federal Animal Welfare Act.¹⁰ Information from the animal care program regarding compliance with the federal Animal Welfare Act provides the program will not cite in an inspection report a noncompliance other than a critical noncompliance, if the facility:

- Timely discovers a noncompliance using its own monitoring program; and
- Immediately takes appropriate corrective action and swiftly establishes measures to prevent reoccurrence.

Further, the program will not cite on an inspection report a critical noncompliance occurring outside a routine or focused inspection if it does not constitute a repeat noncompliance and the facility:

- Has no repeat or critical noncompliance on any inspection report for the relevant approved site during the preceding 12 months;
- Timely discovers the critical noncompliance using its own compliance monitoring program;
- Has not voluntarily reported a noncompliance that falls within the same section or subsection of the animal welfare act regulations and standards during the preceding 24 months for relevant approved site;
- Immediately takes appropriate corrective action and establishes measures to prevent recurrence; and
- Promptly reports the incident generally within five days of discovering a noncompliance orally or in writing to its animal care inspector or any animal care office and cooperates with the inspector as he or she reviews the incident.¹¹

⁷ See Anastasia Dawson, *Commissioners look to snuff out animal breeders, sales within Hillsborough County*, at <https://www.tampabay.com/news/hillsborough/2020/01/23/commissioners-look-to-snuff-out-animal-breeders-sales-within-hillsborough-county/> (last visited Jan. 29, 2020).

⁸ *FL Localities Banning Retail Pet Store Puppy Sales*, Humane Society of the United States (on file with the Senate Committee on Innovation, Industry, and Technology).

⁹ *[US] Localities Banning Retail Pet Store Puppy Sales*, Humane Society of the United States (on file with the Senate Committee on Innovation, Industry, and Technology).

¹⁰ See 7 U.S.C. ss. 2131 *et seq.*

¹¹ See *Tech Note*, Animal Care Program, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, May 2018 at https://www.aphis.usda.gov/animal_welfare/downloads/awa/ac-tech-note-incentives-animal-welfare-act-compliance.pdf (last visited January 29, 2020).

III. Effect of Proposed Changes:

Statutory Framework and Definitions

Section 1 of the bill provides direction to the Division of Law Revision to create part XVII of ch. 468, F.S., consisting of ss. 468.901 through 468.919, F.S., with the title “Household Pet Stores.”

Section 2 of the bill creates s. 468.901, F.S., which provides part VII of ch. 468, F.S., may be cited as the “Florida Pet Protection Act” (act). Under the bill, the term “household pet” includes a domestic dog or a domestic cat (regardless of age, thus puppies and kittens are deemed household pets also). See **Section 3** for the definitions applicable to the act.

Section 3 of the bill creates s. 468.903, F.S., to define the following terms used in the act.

- “Accredited veterinarian” means a veterinarian accredited by the United States Department of Agriculture.¹²
- “Adult cat” means a domestic cat that is one year of age or older.
- “Adult dog” means a domestic dog that is one year of age or older.
- “Animal rescue” means:
 - A nonprofit organization exempt from federal income taxation under s. 501(c)(3) of the Internal Revenue Code which:
 1. Keeps, houses, and maintains household pets (defined as domestic dogs or domestic cats); and
 2. Is dedicated to the welfare, health, safety, and protection of such pets; or
 - An organization that offers for adoption spayed or neutered household pets in exchange for payment of reasonable adoption fees to cover the organization’s costs, including, but not limited to, costs related to spaying or neutering.
- “Animal shelter” means a public facility, or a private facility operated by a nonprofit organization that is exempt from federal income taxation under s. 501(c)(3) of the Internal Revenue Code, which keeps, houses, and maintains household pets, such as a county or municipal animal control agency or pound, humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection, and humane treatment of such pets.
- “Department” means the Department of Business and Professional Regulation (DBPR).
- “Hobby breeder” means an establishment that:
 - Sells no more than four puppies or adult dogs and no more than four kittens or adult cats in any calendar year; or

¹² The Animal and Plant Health Inspection Service under the U. S. Department of Agriculture provides a voluntary program for accreditation of veterinarians. Accredited veterinarians under the program are the “first line of defense in ensuring the health of this Nation’s livestock and poultry. APHIS is dependent on accredited veterinarians for carrying out many of the programs and services designed to protect public health and safeguard animal health.” See <https://www.aphis.usda.gov/aphis/ourfocus/animalhealth/nvap/NVAP-Reference-Guide/Introduction> (last visited Jan. 29, 2020). The responsibilities under the program include: animal identification, disease prevention, control, and eradication, regulatory immunization, regulations for intrastate, interstate, and international shipment of animals and animal byproducts, and instructions on the proper selection, completion, and submission of regulatory forms. *Id.*

- Keeps, houses, and maintains in any location no more than three intact (unspayed) adult female dogs, one intact (unneutered) male adult dog, three intact (unspayed) adult female cats, and one intact (unneutered) male adult cat.
- “Household pet” means a domestic dog or a domestic cat.
- “Intact” means that an animal’s reproductive organs have not been removed through spaying or neutering.
- “Kitten” means a domestic cat younger than one year old.
- “Pet broker” means a person who buys, sells, or offers for sale household pets, at wholesale for resale to another, or who sells or gives one or more such pets to a pet store.
- “Pet store” means:
 - A retail store that sells or offers for sale household pets, to the public and, with respect to such sales, the store’s salesperson, the pet’s buyer, and the pet being sold are each physically present during the sale so that the buyer may personally observe the pet and help ensure its health before taking custody; and
 - An animal rescue or animal shelter that purchases household pets for resale from a pet broker or professional breeder.
- “Professional breeder” means an establishment other than an animal rescue, an animal shelter, or a hobby breeder, that sells in any calendar year for money or other consideration, five or more puppies or adult dogs, or five or more kittens or adult cats.
- “Puppy” means a domestic dog that is younger than one year old.
- “Veterinarian” means a health care practitioner licensed to engage in the practice of veterinary medicine under ch. 474, F.S., or licensed by the appropriate authority in another state to engage in the practice of veterinary medicine in that state.

Licensure of Pet Stores; Prohibitions

Section 4 of the bill creates s. 468.905, F.S., to prohibit a person who does not have a valid pet store license issued by the DBPR in accordance with the act, from operating a pet store in Florida that displays, offers for sale, delivers, barter, auctions, brokers, gives away, transfers, or sells any household pet from the store. The bill provides that an animal rescue or an animal shelter must be licensed as a pet store if it purchases household pets for resale from a pet broker or professional breeder as those terms are defined in the act.

The bill requires the DBPR to adopt procedures for the licensure of pet stores, and an applicant for a pet store license must apply to the DBPR in the format required by the DBPR. Under the bill, the DBPR must assign each licensee a unique license number for each licensed location.

The bill authorizes the DBPR to establish annual licenses. Under the bill, an application for license renewal must be submitted to the DBPR in a format required by the DBPR.

Requirements for Pet Stores; Unlawful Practices

Section 5 of the bill creates s. 468.907, F.S., to set forth the requirements for sales of household pets, pet store operations and procedures, pet store features and services.

Sales and Transfers of Household Pets by Pet Stores

The bill prohibits displaying, offering for sale, delivery, bartering, auctioning, brokering, giving away, transferring, or selling of any household pet from a pet store, unless such pet is acquired from one of the following sources:

- A qualified breeder (qualification requirements are set forth below);
- A hobby breeder;
- An animal rescue;
- An animal shelter;
- Another pet store; and
- A pet broker, and if the pet broker acquire a pet from a professional breeder, that breeder must be a qualified breeder.

Under the bill, for the purposes of sale or transfer of household pets by pet stores, the term “qualified breeder” means a professional breeder located inside or outside Florida that meets all of the following requirements:

- Is licensed by the United States Department of Agriculture (USDA) under the federal Animal Welfare Act¹³ and, if required, by a state agency.
- Has not been issued a report of a direct¹⁴ noncompliance violation by the USDA¹⁵ under the federal Animal Welfare Act, in the two years immediately before offering for sale, delivering, bartering, auctioning, brokering, giving away, transferring, or selling a household pet.
- Has not had three or more noncompliance violations documented in any report issued by the USDA under the federal Animal Welfare Act for the year immediately before the offering for sale, delivering, bartering, auctioning, brokering, giving away, transferring, or selling of a household pet.

The bill provides that a pet store may not sell, deliver, barter, auction, broker, give away, or transfer (sell) a household pet that:

- Is younger than eight weeks old;
- Is not implanted with an identification microchip;
- Does not have a health certificate signed by an accredited veterinarian;
- Is to be sold to a person younger than 18 years old (verified by a valid driver license, state identification card, or other government-issued identification card with the person’s photograph); or

¹³ See 7 U.S.C. ss. 2131 *et seq.* Licensing of dealers and exhibitors is addressed in 7. U.S.C. s. 2133.

¹⁴ According to the USDA Animal and Plant Health Inspection Service (APHIS), a “direct” noncompliance is a critical noncompliance that is currently (at the time of the inspection) having a serious or severe adverse effect on the health and well-being of the animal. See the APHIS Animal Care Inspection Guide (8/19/19) Appendix B for examples that include heavy tick/flea infestation and embedded overgrown toenails causing gait problems, at https://www.aphis.usda.gov/animal_welfare/downloads/Animal-Care-Inspection-Guide.pdf (last visited Jan. 29, 2020).

¹⁵ For information on noncompliance issues and the noncompliance process, see *Tech Note*, Animal Care Program, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, May 2018 at https://www.aphis.usda.gov/publications/animal_welfare/2017/ac-tech-note-incentives-animal-welfare-act-compliance.pdf (last visited Jan. 29, 2020).

- Is acquired from a qualified breeder or pet broker, unless the pet store provides to the buyer of the pet, before completing the transaction, a written certification of the following (pre-sale certification documents):
 - 1. The name, address, and USDA license number, if applicable, of the breeder who bred the pet;
 - 2. A copy of the breeder's most recent USDA inspection report, if applicable;
 - 3. The pet's date of birth, if known;
 - 4. The date the pet store took possession of the pet;
 - 5. The breed, gender, color, and any identifying marks of the pet;
 - 6. A signed statement by an accredited veterinarian which describes any known disease, illness, or congenital or hereditary condition that adversely affects the health of the pet at the time of examination; and
 - 7. A document signed by the owner or a manager or employee of the pet store certifying that all information required to be provided to the person acquiring the household pet is accurate.

The owner or a manager or employee of a pet store may not fraudulently alter or provide false information on a certification, and a pet store must keep a copy of the certification for at least three years after the date of acquisition of the pet.

The bill requires a licensed pet store to provide to the buyer of a household pet the following information (identity and history data):

- The pet's microchip identification number;
- The complete name, address, and telephone number of all professional breeders or other persons who kept, housed, or maintained the pet before its coming into possession of the pet store, or proof that the pet was acquired through an animal rescue or animal shelter; and
- A photograph or digital image of both of the pet's parents (sire and dam).

A pet store must keep a copy of the pre-sale certification documents and the required identity and history data for at least three years after the date it acquired the household pet.

Required Pet Store Features and Services

The bill requires a pet store to provide all of the following for household pets at the store:

- Flooring in the primary housing enclosures constructed of a solid surface; if grid-style or wire flooring is used, the surface must be covered with a rubberized or coated material that prevents an animal's toe or foot from passing through or being entrapped by the flooring;
- Cleaning of all primary enclosures daily, or as often as necessary to prevent body waste accumulation, and maintenance of a sanitation log of such cleanings;
- An isolation enclosure with separate ventilation which allows an animal to be kept separately from others while under veterinarian-directed observation;
- Climate control that ensures temperatures in animal enclosures are kept between 67 degrees and 78 degrees at all times;
- Maintenance of daily logs of temperatures in animal enclosures, and if such temperatures fall outside the required range for any reason, maintenance of a corrective action record detailing the steps taken to adjust temperatures;

- Visits by a veterinarian licensed in Florida who visits the pet store at least three times weekly to observe the condition of the pets' health and overall well-being;
- Visits by a dog trainer who visits the pet store at least once every week to assist with any behavioral or training issues;
- An enrichment program for puppies which consists of exercise and socialization for at least two 30-minute periods each day;
- Maintenance of a log for each puppy of the daily activities that the puppy participates in as part of an enrichment program; and
- Photographs, digital images, or video footage depicting all breeding facilities from which the pet store acquires household pets.

Inspections of Pet Stores

Section 6 of the bill creates s. 468.909, F.S., to require the DBPR to annually inspect each pet store subject to licensure to ensure compliance with the act and any administrative rules adopted pursuant to the act, including, but not limited to, an audit of the pre-sale certification documents and required identity and history data that the licensee must maintain as required in s. 468.907, F.S., as discussed above.

The bill authorizes, but does not require, the DBPR to conduct an inspection upon receipt of a complaint or other information alleging a violation of the act or administrative rules adopted pursuant to the act. In addition, the bill requires the DBPR to establish procedures for conducting inspections and for creating inspection records. Under the bill, inspections must be conducted during regular business hours in accordance with the DBPR's procedures, may be conducted without prior notice, and a record of each inspection must be maintained by the DBPR in accordance with its procedures. The bill authorizes the DBPR to enter into a contract or agreement with one or more veterinarians to conduct pet store inspections.

Administrative, Civil, and Criminal Penalties and Remedies

Section 7 of the bill creates s. 468.911, F.S., to set forth administrative requirements, remedies and penalties for violations, and authorizes the DBPR to adopt rules to administer the act.

Under the bill, the DBPR must deny an application for issuance or renewal of a pet store license if:

- The licensee or applicant violates the act or any rule or order issued under the act, if the violation materially threatens the health or welfare of a household pet; or
- The licensee or applicant, in the past 20 years, has been convicted of or pled guilty or nolo contendere to, regardless of adjudication, a misdemeanor or felony under ch. 828, F.S., [Animals: Cruelty, Sales; Animal Enterprise Protection],¹⁶ or a misdemeanor or felony under ch. 741, F.S., involving an act of domestic violence.

¹⁶ Sections 828.40 to 828.43, F.S., constitute the Florida Animal Enterprise Protection Act." An "animal enterprise" is defined in s. 828.41(1), F.S., as a commercial or academic enterprise that uses animals for food or fiber production, agriculture, research, or testing; a zoo, aquarium, circus, rodeo, or lawful competitive animal event; or any fair or similar event intended to advance agricultural arts and sciences.

The bill provides, if the DBPR finds that a pet store, or a person employed or contracted by a pet store, has violated or is operating in violation of the act or any rule or order issued under the act, the DBPR may:

- Issue a notice of noncompliance under s. 120.695, F.S.;¹⁷
- Impose an administrative fine for each act or omission (with each day a violation continues constituting a separation violation), not to exceed the following amounts:
 - 1. For a first violation, \$250;
 - 2. For a second violation, \$500;
 - 3. For a third or subsequent violation, \$1,000;
- Direct that the person cease and desist from specified activities;
- Refuse to issue or renew a license or revoking or suspending a license; or
- Place the licensee on probation, subject to conditions specified by the DBPR.

Under the bill, the administrative proceedings that could result in the entry of an order imposing any of the above penalties are governed by ch. 120, F.S., the Florida Administrative Procedure Act, which provides uniform procedures for the exercise of specified authority.

Section 8 of the bill creates s. 468.913, F.S., to authorize legal action to recover civil penalties and for injunctive relief. Under the bill, the DBPR may bring a civil action in a court of competent jurisdiction to recover any penalties or damages authorized by the act and for injunctive relief to enforce compliance with the act.

Section 9 of the bill creates s. 468.915, F.S., to set forth criminal penalties for violations of certain requirements in the act. A person commits a misdemeanor of the second degree, punishable by a term of imprisonment not to exceed 60 days or a fine not to exceed \$500,¹⁸ if he or she violates:

- Section 468.907(2) or (3), F.S., created by the bill, relating to unlawful practices in the sale of household pets by pet stores; or
- Section 468.905(1) or (4), F.S., created by the bill, relating to operation of a pet store without a license.

Section 10 of the bill creates s. 468.917, F.S., to require the deposit of license fees and civil penalties collected by the DBPR under the act into the Professional Regulation Trust Fund for the DBPR's use in administering the act.

Preemption of Local Government Regulation of Pet Stores

Section 11 of the bill creates s. 468.919, F.S., to provide that part VII of ch. 468, F.S., created in the bill, preempts county and municipal ordinances and regulations that prohibit or regulate pet stores. A local government's authority to levy a local business tax under ch. 205, F.S., for the

¹⁷ Section 120.695(2), F.S., provides each state agency must issue a notice of noncompliance as a first response to a minor violation of an administrative rule. Section 120.695(1), F.S., sets forth the state's policy that the purpose of regulation is to protect the public through compliance with policies established by the Legislature; while fines and other penalties may be imposed in order to assure compliance, they are secondary to the primary goal of attaining compliance with agency rules.

¹⁸ See ss. 775.082 and 775.083, F.S.

privilege of engaging in or managing any business, profession, or occupation within its jurisdiction,¹⁹ is not preempted under the bill.

The bill is effective July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Under Article VII, Section 19 of the Florida Constitution, a “state tax or fee imposed, authorized, or raised under this section must be contained in a separate bill that contains no other subject.” A “fee” is defined by the Florida Constitution to mean “any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service.”²⁰

Section 10 of the bill provides in part that “monies collected by the [Department of Professional Regulation (DBPR) under the act] from license fees . . . must be deposited into the [DBPR’s] Professional Regulation Trust Fund for use by the [DBPR] for administration of [the act]. Authorization for the DBPR to impose license fees for its administration of the act may be required to be addressed in a separate bill as required by Article VII, Section 19 of the Florida Constitution.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

¹⁹ See s. 205.022(5), F.S., for the definition of “local business tax.” The term does not mean fees or licenses paid to any board, commission, or officer for permits, registration, examination, or inspection, which, unless otherwise provided by law, are deemed to be regulatory and in addition to, but not in lieu of, any local business tax imposed under the provisions of [ch. 205, F.S.]. *Id.*

²⁰ FLA. CONST. art. VII, s. 19(d)(1).

B. Private Sector Impact:

The bill requires pet stores in Florida, if the stores sell or offer to sell domestic dogs or domestic cats, to have the features, offer the services, perform the activities, and maintain the records required under the bill, and the cost of meeting these requirements will be borne by the affected pet stores.

C. Government Sector Impact:

The creation of an additional licensing, inspection, and regulatory structure for pet stores will result in a fiscal impact to the state.

The Department of Business and Professional Regulation (DBPR) estimates, based on its calculation that as many as 500 pet stores in the state sell household pets and will be required to be licensed and inspected, the new regulatory program will increase expenditures by approximately \$105,573 in Fiscal Year 2020-2021, \$99,517 in Fiscal Year 2021-2022 and \$99,517 in Fiscal Year 2022-2023.²¹ The DBPR estimates one environmental health specialist position is necessary to accomplish the inspections of pet stores required by the bill, with an associated FTE expense of \$60,886 (\$54,830 recurring) and nonrecurring costs for technology hardware and software licenses and service of approximately \$2,700.²²

The DBPR's Office of General Counsel addresses concerns about the terms used in the bill and the basis for agency decisions and rules, and notes that programs within the DBPR must fund themselves through adequate associated license fees as other programs may not offset the costs of another program.²³

VI. Technical Deficiencies:

None.

VII. Related Issues:

The language on retention of required certifications in lines 198 to 200 appears to be applicable to all of the information required in s. 468.907(3)(e), F.S., not just paragraph 7 thereof. If this is not intentional, an amendment to move that language to the left margin so it applies to s. 468.907(3)(e), F.S., in its entirety should be considered.

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 468.901, 468.919, 468.903, 468.905, 468.907, 468.909, 468.911, 468.913, 468.915, and 468.917.

²¹ See 2020 Agency Legislative Bill Analysis (Department of Business and Professional Regulation) for SB 1698, Jan. 30, 2020 (on file with Senate Committee on Innovation, Industries, and Technology) at page 4.

²² *Id.* at pp. 5-7.

²³ *Id.* at p. 6.

IX. Additional Information:

- A. **Committee Substitute – Statement of Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
