

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 Agriculture Committee

BILL: SB 288

INTRODUCER: Senator Bullard

SUBJECT: Sale of Dogs and Cats

DATE: April 6, 2009

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Leal	Poole	AG	Favorable
2.			JU	
3.			GA	
4.				
5.				
6.				

I. Summary:

This bill requires that pet dealers provide written notice to consumers recommending a scientific screening test for their dog or cat to help identify a number of genetic disorders and amends the definition of a “pet dealer” under section 828.29, Florida Statutes. Additionally, this bill requires the Department of Agriculture and Consumer Services (department) to enforce statutory provisions related to the sale of dogs and cats.

This bill authorizes the department to request that the state attorney in any circuit or county institute a suit in order to enforce the rules of the department or section 828.29, Florida Statutes; it also requires the department to adopt rules to administer this section; sets a maximum administrative fine of \$10,000 for violation of this section or any rule of the department adopted under this section; repeals the criminal offense provision in this section; and authorizes the department to create one full-time position and provides \$82,669 in funding for the purpose of carrying out this act.

This bill substantially amends section 828.29, Florida Statutes.

II. Present Situation:

The United States Department of Agriculture (USDA) has a licensing program for wholesale pet dealers. However, retail shops that sell pets directly to the public generally remain outside the jurisdiction of the USDA’s licensing authority. In Florida, retail shops that sell pets directly to the public are regulated under chapter 828, Florida Statutes.

Section 828.29, Florida Statutes:

Section 828.29, Florida Statutes, governs the transportation into the state and the offering for sale of dogs and cats. Among other requirements, that statute prescribes vaccines and anthelmintics that each dog and cat transported into the state must receive. Further, each dog and cat to which the section applies must be accompanied by a current official certificate of veterinary inspection at all times when being offered for sale within this state. Subsections (5) through (12) of this statute also impose requirements and duties upon “pet dealers” and prescribe the rights of consumers with respect to a pet dealer.

Pet dealers who sell an animal to a consumer are required to provide the customer with written notice of the consumer’s rights pursuant to section 828.29, Florida Statutes. A pet dealer is defined as any person, firm, partnership, corporation, or other association which, in the ordinary course of business, engages in the sale of more than two litters, or 20 dogs or cats, per year, whichever is greater, to the public, including breeders who sell animals directly to the public.

Enforcement of Section 828.29, Florida Statutes:

A state attorney may bring an action to enjoin any violator of section 828.29, Florida Statutes, from being a pet dealer. In addition, a person who violates the statute commits a misdemeanor of the first degree. Under general provisions of chapter 828, Florida Statutes, local law enforcement and animal control officers prosecute violations at the local level.

Any agent of the department or the USDA, any law enforcement officer, or any agent appointed under section 828.03, Florida Statutes, has authority to inspect all dogs and cats transported into or offered for sale in the state, along with copies of the certificate of inspection held by the sellers and veterinarians of the respective dogs and cats. The department reports that it does not currently have explicit statutory authority to enforce the provisions of section 828.29, Florida Statutes. Nor can the department require the state attorney in any circuit or county to initiate suits to enforce or implement the provisions of chapter 828, Florida Statutes, or the rules adopted by the department under this chapter.

Chapter 570, Florida Statutes, governs the duties and powers of the department. Under section 570.07, Florida Statutes, the department is responsible for performing all regulatory and inspection services relating to agriculture, with some specified exceptions. The department also is empowered to “make investigations, conduct hearings, and make recommendations concerning all matters relating to the powers, duties, and functions of the department as provided by law.”

III. Effect of Proposed Changes:

This bill requires that any pet dealer who sells a pet to a consumer must provide, at the time of the sale, written notice that contains the following provision:

- “Dogs and cats are susceptible to more than 300 genetic disorders. Certain breeds may be predisposed to certain health requirements. Therefore, it is recommended you get a scientific screening test for your dog or cat to help identify a number of genetic diseases.”

Also, this bill redefines “pet dealer” as any person, firm, partnership, corporation, or other association that, in the ordinary course of business, engages in the sale of 20 or more dogs or cats per year to the public.

This bill mandates the department to enforce the provisions of section 828.29, Florida Statutes, as provided in chapter 570, Florida Statutes. In addition, this bill authorizes the department to request that the state attorney in any circuit or county institute a suit in order to enforce section 828.29, Florida Statutes or any rules adopted by the department pursuant to this section. Moreover, the department is required to adopt rules to administer this section.

Under this bill, violators of section 828.29, Florida Statutes, would no longer be subject to criminal action but would instead be subject to administrative action by the department. Any person who violates section 828.29, Florida Statutes, or any rules of the department would be subject to an administrative fine of up to \$10,000 for each offense. In addition, the department could seek enforcement pursuant to section 120.69, Florida Statutes, for a second or subsequent violation. This bill repeals the criminal offense provision in section 828.29, Florida Statutes which declares that a person who violates a provision of this section commits a misdemeanor of the first degree.

Additionally, the bill authorizes the department to add one full-time equivalent position, and appropriates \$82,669 from the General Revenue Fund to the department for fiscal year 2009-2010.

This bill provides an effective date of July 1, 2009.

Other Potential Implications:

None.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The impact on the private sector would be increased penalties for violations of section 828.29, Florida Statutes, with fines of up to \$10,000. Upon a repeated violation, the department may seek enforcement pursuant to section 120.69, Florida Statutes.

C. Government Sector Impact:

This bill creates a new position within the department and \$82,669 is appropriated from the General Revenue Fund for 2009-2010 fiscal year, for the purposes of carrying out this act. The fiscal impact to the government for the creation of the position is reflected in the following table.

	(FY 09-10) Amount	(FY 10-11) Amount
Recurring Expenditures	\$57,932	\$57,932
Non-Recurring Expenditures	\$24,737	\$0.00
Total	\$82,669	\$57,932

This bill de-criminalizes offenses under section 828.29, Florida Statutes, and makes the department responsible for enforcement. The department reports that in order for it to be responsible for enforcement, it would require additional administrative staff, legal staff and field investigative staff that would exceed the appropriations mentioned. For the department to carry out its role under this bill, it is estimated that an additional 13 FTE positions would be needed at an estimated cost of \$800,000.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial 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.
