

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 Regulated Industries

BILL: CS/SB 994

INTRODUCER: Regulated Industries Committee and Senator Diaz and others

SUBJECT: Pet Protection

DATE: January 12, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kraemer</u>	<u>Imhof</u>	<u>RI</u>	<u>Fav/CS</u>
2.	_____	_____	<u>CA</u>	_____
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 994 creates the “Florida Pet Protection Act”) (act) to require the licensing of retail 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 retail pet store license issued by the Department of Business and Professional Regulation (DBPR) is required to operate a retail pet store that sells certain household pets (retail pet store). A retail pet store must be annually inspected by the DBPR.

The bill requires that, as to certain household pets, a retail 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;
 - Without a valid veterinary certification as specified in the bill;
 - To a person younger than 18 years old;
 - That is acquired from a qualified breeder or pet broker, unless the retail 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 retail 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 bodily waste accumulation;
- An isolation enclosure for animals under veterinarian-directed isolation;
- Climate control to maintain enclosure temperatures between 67 and 78 degrees at all times;
- Veterinary visits to the pet store at least twice weekly;
- A daily enrichment program for puppies of exercise and socialization; and
- A photograph or digital image and video footage depicting each breeding facility 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 retail 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 the breeding, purchase, or sale of hunting dogs, field trial dogs, sporting dogs, conformation dogs, cattle dogs, police dogs, or service dogs as defined under the Americans with Disabilities Act.

Under the bill, a county or municipality may adopt an ordinance or a regulation on or after July 1, 2022, which regulates, but does not prohibit, the operation of retail pet stores or the breeding, purchase, or sale of household pets, provided the ordinances or regulations are consistent and not in conflict with the requirements imposed by the act.

The following are not expressly preempted under the bill:

- Any county or municipal ordinance or regulation in effect on or before June 1, 2021, which prohibits the operation of retail pet stores within its jurisdiction.
- Any county or municipal ordinance or regulation adopted before July 1, 2022, which imposes a moratorium on the establishment of new retail pet stores, or that otherwise regulates such stores within its jurisdiction.
- The authority of a local government to levy a local business tax.

The bill requires certain public data about animals in shelters or in the possession of other entities currently required to be reported to the Department of Agriculture and Consumer Services (DACS) to be made available by DACS on a monthly basis, in a searchable format, on its website.

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

The bill is effective July 1, 2022.

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

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

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) addressed perceived abuses at pet stores in that jurisdiction by enacting retail sale regulations for pet shops,⁴ including requiring an adoption-based business model for the operation of new pet shops,⁵ and adopted Ordinance 20-4 at its regular meeting on March 4, 2020.⁶ The commission's staff notes the following circumstances occurring in that county:⁷

On May 26, 2017, the Board of County Commissioners (BOCC) enacted the Pet Retail Sales Ordinance. Hillsborough County is one of over 200

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.

⁴ See the Hillsborough County Code of Ordinances, Part A, Ch. 6, Art. II, s. 6-20, for the definition of pet shop, detailing the requirements for an "existing" pet shop entitled to grandfather privileges, at [ARTICLE II. - ANIMAL CONTROL | Code of Ordinances, Part A | Hillsborough County, FL | Municode Library](#), and s. 6-61, for the elimination of such grandfather privilege in certain circumstances, at [Sec. 6-61. - Elimination of grandfather privilege for existing pet shops and providing for certain regulations. | Code of Ordinances, Part A | Hillsborough County, FL | Municode Library](#) (last visited Jan. 7, 2022).

⁵ *Id.*, 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, at [Sec. 6-63. - Adoption-based business model for retail sale of dogs and cats and other requirements for new pet shops. | Code of Ordinances, Part A | Hillsborough County, FL | Municode Library](#) (last visited Jan. 7, 2022).

⁶ 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. 7, 2022).

⁷ A copy of Ordinance 20-4 is on file with the Senate Committee on Regulated Industries. See also 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>

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

According to the Humane Society of the United States, in 2021 there were a total of 83 municipalities and counties in Florida with ordinances banning the retail sales of dogs and cats,⁸ and 409 such ordinances nationwide.⁹

Action by Office of the Florida Attorney General

Florida Attorney General Ashley Moody filed a complaint for restitution, civil penalties and other relief under the Florida Deceptive and Unfair Trade Practices Act, ch. 501, part II, F.S.,

[ckup&o=B-4.pdf](#) (last visited Jan. 7, 2022). See also 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. 7, 2022).

⁸ *FL Localities Banning Retail Pet Store Puppy Sales*, Humane Society of the United States, at https://docs.google.com/spreadsheets/d/1ST_hm2bc5_CRCcOgNxjHuPs7dHoBRbPBIiSfc3y4pw/edit#gid=1855228915 (last visited Jan. 7, 2022).

⁹ *[US] Localities Banning Retail Pet Store Puppy Sales*, Humane Society of the United States, at https://docs.google.com/spreadsheets/d/1ST_hm2bc5_CRCcOgNxjHuPs7dHoBRbPBIiSfc3y4pw/edit#gid=0 (last visited Jan. 7, 2022).

against a retail pet store and its owners in Orlando.¹⁰ The complaint alleges that the store and its owners misrepresented information on the store website and used in-store sales people to represent that the puppies the store sold were high quality, healthy, bred by licensed breeders, registered with the American Kennel Club, and warranted against illness, health disorders, and death after purchase. Instead of bringing healthy puppies home, the customers of the store discovered that the puppies were seriously ill, had health disorders, and some died within a year of purchase. The Attorney General requested the court to rescind the contracts, refund purchase payments and assess civil penalties in the amount of \$10,000 and up to \$15,000 per transaction. Discovery in the case is ongoing.¹¹

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 (USDA) licenses breeders under the federal Animal Welfare Act.¹² Licensed USDA facilities are subject to precensure and other inspections undertaken pursuant to the USDA's Animal Welfare Inspection Guide.¹³

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 468.9921, F.S., with the title "Retail 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" means a domestic dog or a domestic cat (regardless of age, thus puppies and kittens are deemed household pets also). See **Section 3** for other 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.

- "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

¹⁰ *Office of the Attorney General, State of Florida, Dep't of Legal Affairs v. Hoof's Pets, Inc. et al.* Case No. 2020-CA-005262-0, Filing No. 107627968 (Fla. 9th Cir. Ct. May 18, 2020).

¹¹ See the court docket for the case at <https://myeclerk.myorangeclerk.com/Cases/search> (last visited Jan. 7, 2022).

¹² See 7 U.S.C. ss. 2131 *et seq.*

¹³ See the latest Guide revised November 2021, at https://www.aphis.usda.gov/animal_welfare/downloads/Animal-Care-Inspection-Guide.pdf (last visited Jan. 7, 2022).

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).
- “Household pet” means a domestic dog or a domestic cat.
- “Pet broker” means a person who buys, sells, or offers for sale household pets for resale to other persons, or who sells or gives one or more such pets to a retail pet store, and who holds a valid Class B animal dealer license issued by the USDA.¹⁴
- “Professional breeder” means a person required to be licensed as a Class A animal dealer by the USDA.¹⁵
- “Retail pet store” means a retail store that sells or offers for sale household pets to the public. The term does not include an animal rescue, an animal shelter, or a breeder who sells or transfers to the public household pets bred and raised on the breeder’s premises.
- “Veterinarian” means a health care practitioner licensed to engage in the practice of veterinary medicine under ch. 474, F.S., or licensed in another state by the applicable entity to engage in the practice of veterinary medicine in that state.

Licensure of Retail Pet Stores; Prohibitions

Section 4 of the bill creates s. 468.905, F.S., to prohibit a person who does not have a valid retail pet store license issued by the DBPR in accordance with the act, from operating a retail 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 requires the DBPR to adopt standards and procedures consistent with the act for the licensure of retail pet stores, and an applicant for a retail pet store license must apply to the DBPR in the form 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 form required by the DBPR.

Requirements for Retail 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 by retail pet stores, and for operations, procedures, features, and services of such retail pet stores.

¹⁴ A Class B license is issued to dealers (other than Class A dealers described *infra* at n. 13) whose business includes the purchase and/or resale of warm-blooded animals, such as commercial dog-breeding facilities, animal brokers, and operators of auction sales. See https://www.aphis.usda.gov/aphis/ourfocus/animalwelfare/SA_Regulated_Businesses (last visited Jan. 7, 2021). Licensing of dealers and exhibitors is addressed in 7 U.S.C. s. 2133.

¹⁵ A Class A license is issued by the USDA to dealers who sell animals that are bred and raised at the dealer’s facility in a closed or stable colony. See https://www.aphis.usda.gov/aphis/ourfocus/animalwelfare/SA_Regulated_Businesses (last visited Jan. 7, 2021).

Sales and Transfers of Household Pets by Retail Pet Stores

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

- A qualified breeder (qualification requirements are set forth below);
- Certain persons exempted from licensure by the United States Department of Agriculture (USDA);¹⁶
- An animal rescue;
- An animal shelter; or
- A pet broker, and if the pet broker acquires 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 retail pet stores, the term “qualified breeder” means a professional breeder located within or outside Florida who meets all of the following requirements:

- Holds a valid Class A animal license issued by the USDA,¹⁷ and, if required by the state in which the breeder is located, by a state agency.
- Has not been issued a report of a finally adjudicated direct¹⁸ noncompliance violation by the USDA 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. However, a professional breeder is not considered a qualified breeder until any pending report of a noncompliance violation is finally adjudicated.
- Has not had three or more finally adjudicated 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. However, a professional breeder is not considered a qualified breeder until any pending report of a noncompliance violation is finally adjudicated.

The bill provides that a retail 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 International Organization for Standardization (ISO) identification microchip;¹⁹

¹⁶ See 9 C.F.R. s. 2.1(a)(3)(ii)-(vii), for the various classes of persons exempted from federal licensing requirements, from whom a Florida retail pet store may acquire household pets as provided in the bill, at [9 CFR § 2.1 - Requirements and application. | CFR | US Law | LII / Legal Information Institute \(cornell.edu\)](#) (last visited Jan. 7, 2021).

¹⁷ See *infra* n. 13.

¹⁸ 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 (Revised November 2021) Appendix C 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. 7, 2021).

¹⁹ ISO is an independent, non-governmental international organization with a membership of 165 national standards bodies. Through its members, it brings together experts to share knowledge and develop voluntary, consensus-based, market relevant International Standards that support innovation and provide solutions to global challenges. Because 'International Organization for Standardization' would have different acronyms in different languages (IOS in English, OIN in French for

- Does not have a valid veterinary certification, including the United States Interstate and International Certificate of Health Examination for Small Animals prescribed by the USDA or the official certificate of veterinary inspection prescribed by the Florida Department of Agriculture and Consumer Services pursuant to s. 828.29, F.S., relating to health requirements for dogs and cats transported or offered for sale;
- 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
- Is acquired from a qualified breeder or pet broker, unless the retail pet store provides to the buyer of the pet, before completing the transaction, a written certification of the following (pre-sale certification documents):
 - The name, address, and if applicable, the USDA license number, of the breeder who bred the pet;
 - An electronic or paper copy of the breeder's most recent USDA inspection report, if applicable;
 - The pet's date of birth, if known;
 - The date the retail pet store took possession of the pet;
 - The breed, gender, color, and any identifying marks of the pet;
 - A signed statement by the retail pet store's Florida-license veterinarian, in a format prescribed by the department, 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
 - A document signed by the owner or a manager or an employee of the retail pet store certifying that all information required to be provided to the person acquiring the household pet is accurate.

A retail pet store must keep an electronic or paper copy of the certification for at least three years after the date of the buyer acquiring the pet, and the owner or a manager or employee of a retail pet store may not fraudulently alter or provide false information on a certification,

The bill requires a licensed retail 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, pet brokers, or other persons who kept, housed, or maintained the pet before the retail pet store took possession of the animal, or proof that the pet was acquired through an animal rescue or animal shelter; and
- A photograph or digital image and the name and registration number of both of the pet's parents (sire and dam).

A retail 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 Retail Pet Store Features and Services

The bill requires a retail 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 caught in the flooring;
- Cleaning of all primary enclosures daily, or as often as necessary to prevent bodily waste accumulation, and maintenance of a daily sanitation log;
- An isolation enclosure with separate ventilation which allows an animal to be kept separately from others while under veterinarian-directed isolation;
- Climate control that ensures that the ambient air temperature of the retail pet store's premises is kept between 67 degrees and 78 degrees at all times;
- Maintenance of daily logs of the temperature, and if the temperature falls outside the required range for any reason, maintenance of a corrective action record detailing the steps taken to adjust the temperature;
- Visits by a veterinarian licensed in Florida at least twice weekly to observe the condition of the pets' health and overall well-being;
- 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
- A photograph or digital image and video footage depicting each breeding facility from which the retail 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 retail pet store subject to licensure to ensure compliance with the act and any administrative rules adopted pursuant to the act. The inspection must include, but is 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, but such veterinarians must be independent and not affiliated with a retail pet store or an animal rights advocacy organization.

Administrative, Civil, and Criminal Penalties and Remedies; Rulemaking

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 retail 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],²⁰ or a misdemeanor or felony under ch. 741, F.S., involving an act of domestic violence.

The bill provides, if the DBPR finds that a retail pet store, or a person employed or contracted by a retail pet store about whom the owner knows or reasonably should have known, has violated or is operating in violation of the act or any rule or order issued under the act, the DBPR may, by administrative order:

- Issue a notice of noncompliance under s. 120.695, F.S.;²¹
- 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. The DBPR is authorized to adopt rules to administer part XVII of ch. 468, F.S., created in the bill.

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 \$500,²² if he or she violates either of the following:

²⁰ 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.

²¹ 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.

²² See ss. 775.082 and 775.083, F.S.

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

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

Construction; Preemption of Local Government Regulation of Retail Pet Stores

Section 11 of the bill creates s. 468.919, F.S. to prohibit the construction of the act to prohibit or regulate the breeding, purchase, or sale of hunting dogs, field trial dogs, sporting dogs, conformation dogs, cattle dogs, police dogs, or service dogs as defined under the Americans with Disabilities Act.

Section 12 of the bill creates s. 468.921, F.S., to provide that counties and municipalities may not prohibit or regulate the breeding, purchase, or sale of hunting dogs, field trial dogs, sporting dogs, conformation dogs, cattle dogs, police dogs, or service dogs as defined under the Americans with Disabilities Act. Under the bill, a county or municipality may adopt an ordinance or a regulation on or after July 1, 2022, which regulates, but does not prohibit, the operation of retail pet stores or the breeding, purchase, or sale of household pets, provided the ordinances or regulations are consistent and not in conflict with the requirements imposed under s. 468.907, F.S., created in the bill.

The following are not preempted under the bill:

- Any county or municipal ordinance or regulation in effect on or before June 1, 2021, which prohibits the operation of retail pet stores within its jurisdiction.²³
- Any county or municipal ordinance or regulation adopted before July 1, 2022, which imposes a moratorium on the establishment of new retail pet stores, or that otherwise regulates such stores within its jurisdiction.
- The authority of a local government to levy a local business tax pursuant to ch. 205, F.S., for the privilege of engaging in or managing any business, profession, or occupation within its jurisdiction.²⁴

Public and Private Animal Agencies; Reporting and Other Requirements; Exemption

Section 13 of the bill amends s. 823.15, F.S., relating to public or private animal agencies and sterilization requirements, to add animal rescue organizations as regulated entities that must report certain information to the Florida Department of Agriculture and Consumer Services (DACS). The bill specifies that certificates of veterinary inspections for all dogs and cats

²³ According to data compiled by the Humane Society of the United States (HSUS), at least three counties and three cities adopted ordinances in 2021 banning retail pet store puppy sales, so this provision may affect those locales. See the link to the HSUS data *supra* at n. 9.

²⁴ 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.].

imported into Florida must be reported, and the required data received by DACS must be made available to the public on a monthly basis and in a searchable format on DACS's website.

Under the bill, any public or private animal shelter, animal rescue, humane organization, or animal control agency operated by a humane society or any county, municipality, or other incorporated political subdivision (animal agencies) must disclose any bite history that exists for a dog before releasing the animal for adoption. Further such animal agencies may not intentionally breed dogs or cats for sale to the public or, in exchange for payment or any other compensation, obtain a dog or cat from a person who breeds dogs or cats, resells dogs or cats from a breeder, or sells dogs or cats at auction.

The bill does not apply to or affect the ability of a person who offers for sale, directly to the public, dogs or cats that the person has bred or trained on his or her own property.

The bill also removes obsolete provisions and includes technical and other revisions to conform to bill drafting requirements.

Exemption from Veterinary Medical Practice

Section 14 of the bill amends s. 474.203, F.S., related to persons and entities exempt from the requirements of Florida's veterinary medical practice law (ch. 474, F.S.), to also exempt animal rescue organizations, as defined in s. 468.903, F.S., created in the bill.

Effective Date

The bill is effective July 1, 2022.

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:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

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

C. Government Sector Impact:

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

The Department of Business and Professional Regulation (DBPR) notes:

Pursuant to the Whitepages.com, Florida has 3,055 retail pet stores, of which the vast majority most likely sells only supplies and not dogs and cats as referenced in the bill. A projection of 500 licensed pet stores is used for the fiscal projections in this analysis, utilizing the veterinarian licensing program to extrapolate projected expenses.²⁵

The DBPR further states that s. 455.219, F.S., provides that it is the intent of the legislature that no regulated profession²⁶ operate with a negative cash balance, and based upon its anticipated expenditures to implement the bill, there will be insufficient revenues to cover the expenditures for the additional licensing, inspection, and regulatory structure for retail pet stores created in the bill²⁷. The DBPR estimates, based on 500 projected licensees, the new program will generate \$12,500 each fiscal year over the next three years.²⁸ The DBPR notes some revenue will also be generated from administrative fines and civil penalties imposed for violations, but the amount is indeterminate.²⁹

The DBPR estimates one environmental health specialist position is necessary to accomplish the inspections of retail pet stores required by the bill, with an associated FTE expense of \$86,721 (\$59,862 recurring) and nonrecurring costs for technology hardware

²⁵ See Department of Business and Professional Regulation, *2022 Agency Legislative Bill Analysis for SB 994* at 7 (Nov. 18, 2021) (on file with the Senate Committee on Regulated Industries).

²⁶ Under s. 455.01(6), F.S., the term “profession” means “any activity, occupation, profession, or vocation regulated by the [DBPR] in the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation.”

²⁷ See Department of Business and Professional Regulation, *2022 Agency Legislative Bill Analysis for SB 994* at 8 (Nov. 18, 2021) (on file with the Senate Committee on Regulated Industries).

²⁸ *Id.* at p. 6.

²⁹ *Id.* at p. 6.

and software licenses and service of approximately \$2,900.³⁰ If there is not adequate office space in existing DBPR offices, the DBPR indicates there will be additional undetermined infrastructure costs incurred based on the number, location and suitability of adequate space to support the full workforce.³¹

The DBPR's Division of Professions and Office of General Counsel further address their concerns about the terms used in the bill and the basis for agency decisions and rules.³²

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 823.15 and 474.203.

This bill creates the following sections of the Florida Statutes: 468.901, 468.903, 468.905, 468.907, 468.909, 468.911, 468.913, 468.915, 468.917, 468.919, and 468.921.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Regulated Industries Committee on January 11 2022:

The CS provides that a person may not be prohibited or regulated under the bill or under local regulation from offering certain dogs for sale to the public that the person has bred or trained. The categories of dogs now include (in addition to hunting dogs, field trial dogs, sporting dogs, and cattle dogs in the bill as filed):

- Conformation (show) dogs;
- Police dogs; or
- Service dogs as defined under the Americans with Disabilities Act.

The CS also includes a technical revision to require that local regulations be consistent with all the requirements imposed under s. 468.907, F.S., created by the bill for the sale or transfer of household pets by retail pet stores (rather than consistency with the “rules” imposed by that section).

B. Amendments:

None.

³⁰ *Id.* at pp. 7-9.

³¹ *Id.* at p. 7.

³² *Id.* at pp. 7-9.

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