

Legislation – What's Hot

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Legislative Sessions Gather Steam with State Breeder Licensing to Pet Shop Bans, and Traveling Circus Bills: CA, TN, CO, UT, and OR

Legislative sessions continue to ramp up in most states, which means lawmakers are still introducing bills. Utah and Virginia have already ended their sessions. Only Louisiana's legislature has yet to convene; its 2021 legislative session will begin on April 12, 2021. The other states are providing plenty of material to review. This month we cover two breeder licensing bills, two pet shop bans, and Oregon's bill about animal traveling acts. There has been misinformation circulating about the Oregon bill that is clarified here. Both California and Tennessee are considering breeder bills but with different approaches. California's bill would be a mandate on local governments to require breeding permits of all breeders, while Tennessee's bill would be state-level licensing of dog breeders. The Colorado and Utah pet store legislation also took a couple of different approaches.

California

Assembly Bill 702, after a lull of many years, is a new attempt at statewide permits for dog and cat breeders. As introduced, the bill would require anyone who might breed a dog or cat to first apply for and obtain a breeder permit from the local jurisdiction where the animal(s) is kept. The local jurisdiction must issue breeder permits as required by the bill and otherwise provide administration and enforcement. The application would include but not be limited to an extensive list of items requiring unusual express statements or evidence. Examples include a "statement by the applicant or applicants stating that at least one of the litter is intended to be offered for sale" and "evidence that the cats or dogs to be bred do not have the same sire or dam." The local jurisdiction must determine whether an applicant's responses are sufficient proof of the required information, documents, and statements. The applicant must also agree to comply with a list of permit holder requirements. Failure to adhere to these could result in revocation of the permit after notice and hearing. If the local jurisdiction determines that all the specified conditions have been met, it shall issue the breeder permit. For this permit, the fee "shall not exceed the reasonable costs of administering these provisions," nor "be duplicative of any other local fee in that jurisdiction. Nothing would prohibit local governments "from adopting or enforcing more restrictive spay and neuter, unaltered, or breeding provisions" which many already have. Historically, state administered licensing and regulation of pet breeding and related businesses have not qualified for California Department of Consumer Affairs administration. Past legislative efforts focused on similar local mandates for either breeding or sales permits but all failed from 1997 through 2010. Elsewhere, a few states have this type of local mandates, but all have

numerical thresholds for regulation. Alternatively, state laws can simply restrict breeding with no administrative regulatory mechanism other than civil or criminal enforcement. A.B. 702 has been referred to the Assembly Committee on Business and Professions.

Tennessee

Tennessee lawmakers are again considering a breeder registration bill, H.B. 547. This bill applies only to dogs. However, it is notable because the state repealed a breeder licensing law applicable to both cats and dogs. Cat fanciers are familiar with how easy it is to slip "and cats" into some animal bills. This bill would require commercial dog breeders to register with the state every two years. Every dog breeder who "possesses or maintains ten (10) or more intact female adult dogs [six months or older] for the primary purpose of selling their offspring as household pets" during a twelve-month period must register. Applicants must provide their USDA license number or a letter of determination from the USDA that licensing is unnecessary, but it is unlikely such a letter would be forthcoming. Such a letter would require individual investigation by the USDA. Rather than investigate a particular fact situation to meet a *state law mandate* on an individual, the *federal agency* would direct the applicant to their written, general purpose materials. Inspections are required before registrations are approved and at least biennially after that. The Commissioner of Commerce and Insurance is responsible for promulgating a fee schedule and other rules necessary to effectuate the bill's purposes. Senate Bill 511, assigned to the Subcommittee on Agriculture & Natural Resources, is similar to H.B. 547.

Colorado

House Bill 21-1102, called the Pet Store Consumer Protection Act, is a pet store ban with a twist. The bill would prohibit Colorado pet stores not licensed before the bill's effective date from selling or offering for sale cats and dogs if enacted. Pet stores licensed before the effective date could continue to sell cats and dogs with additional disclosure requirements. A sale does not include an adoption transaction between a shelter or rescue and the adopter. The bill is pending in the Senate Agricultural and Natural Resources Committee.

Utah

Utah's H.B. 420, entitled Pet Stores and Companion Animals, would prohibit pet stores from selling domestic cats and dogs. The bill follows the recent trend of allowing pet stores to showcase adoptable animals, provided the store has no ownership interest in and receives no fee for showcasing the animal. Utah adjourned sine die on March 5, 2021, with this bill falling into the House file for bills not passed.

Oregon

House Bill 3008 would regulate traveling animal acts in Oregon. The bill would prohibit animals described in subsection (3) of the bill from being used in traveling animal acts with specified exceptions. The prohibition includes Canidae and Felidae in the

prohibition except the species *Felis catus* (domestic cat) and the species *Canis familiaris* (domestic dogs). The bill is currently in the House Agriculture and Natural Resources Committee.

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