

# Legislation – What's Hot . . . . .

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## Texas Sunset Commission Finds the Licensed Breeder Program Fails to Meaningfully Protect the Public

The Texas Sunset Commission recommends eliminating the Licensed Breeder Program for failing to meaningfully protect the public in its June 2020 [Sunset Staff Report](#). The sunset review process is a legislative oversight tool used to periodically evaluate an agency to determine its current relevancy, effectiveness, and efficiency. If an agency remains relevant, the Commission reviews its programs. The Sunset Commission can recommend that the Legislature abolish, continue or combine the functionality of agencies, suggest statutory changes, and it can issue management directives to agencies to address operational concerns ([Sunset in Texas](#), pp.1-9). The Texas Department of Licensing and Regulation (TDLR), responsible for overseeing occupational license programs, was one of the agencies evaluated during this review cycle. It is responsible for administering the Licensed Breeder Program.

The program was created after Texas enacted the 2011 Dog and Cat Breeders Act. Under the statute, a dog or cat breeder required to be licensed means “a person who possesses 11 or more adult intact female animals and is engaged in the business of breeding those animals for direct or indirect sale or for exchange in return for consideration and who sells or exchanges, or offers to sell or exchange, not fewer than 20 animals in a calendar year.” Proponents of the legislation claimed licensure was necessary to eliminate “puppy or kitten mills.” After eight years the program has proven to be an abject failure. From 2012 to 2019, only 3 of the 22 SPCA documented Texas seizures involved TDLR licensees, with only one resulting from a TDLR inspection. Texas still primarily relies on the protections pre-dating the program to deal with seizures from bad actors, namely: federal animal welfare regulations, state cruelty laws with local enforcement, and non-profit organizations (Staff Report, p. 25).

The multitude of issues revealed by the sunset evaluation of the Licensed Breeder Program is located on pp 23-25 of the Staff Report. Overall, the Commission noted that the significant growth in the programs and licensees TDLR oversees since 2002 is already compromising the agency's ability to service licensees and the public. Some issues specific to the Licensed Breeder Program include:

- with the states animal cruelty law, law enforcement is the appropriate vehicle for enforcing the law - not a regulatory agency,
- administrative costs far exceed revenue (proponents of the Dog and Cat Breeder law claimed the program would be self-funding),
- too few licensed breeders (the original estimate was 1,000, it was then lowered to 600. The peak number of licensees was 177 in 2016),
- unenforceable requirements,
- lack of staff to conduct follow up compliance inspections,
- too high a threshold for licensure with significant licensing exemptions,
- proving a breeder must be licensed is difficult and time-consuming,
- includes only dogs and cats, and
- unlicensed activity makes up roughly half of all complaints (Note, unlicensed does not equal required to be licensed).

Two stages remain in the four-stage process during which fanciers can provide public input as can those opposing the elimination of the program. During the evaluation process, the Sunset Commission has the “burden on proving” there is a need for the regulation (Staff Report, p. 17). With the Staff Report published, the Sunset Commission will deliberate and vote on which recommendations to forward to the Legislature in the summary report due February 2021. Fanciers can learn how to participate and provide comments [here](#) . Once in the Legislature, fanciers will be able to comment on the legislation generated from the summary report as they can other bills. For sunset bills, the Legislature must authorize the agency to continue with approved changes, or the agency will automatically be terminated. The legislative results will be published in the Sunset Review with Final Results.

Although the Texas Legislature has accepted 80% of the Commission’s recommendations since 2001, fanciers should not rely on this statistic given the organized efforts behind the enactment of the 2011 Dog and Cat Breeder Act. Nor should they rely on elimination, if that does happen, being the end of the story in Texas. It was the 2014 sunset process that eliminated the 2009 Commercial Breeder Act in Tennessee; however, supporters of the law keep coming back to get new legislation enacted despite the sunset history of the previous law.