



MODEL ORDINANCE



Ordinance No. _____

AN ACT Relating to the Sale of Animals in Pet Shops

WHEREAS, The City (or County) of _____ is a home rule unit of government; and

WHEREAS, the City (or County) has the authority to adopt ordinances and to promulgate rules and regulations pertaining to its government and affairs in order to protect the health, safety and welfare of its citizens; and

WHEREAS, the City (or County) finds that more than half of U.S. households include at least one companion animal; and

WHEREAS, the City (or County) finds that relationships between people and companion animals can enhance the psychological and physiological well-being of those people; and

WHEREAS, the City (or County) finds that the improper care of animals sold as companions in retail venues can lead to animal suffering and can pose risks to animal health and human health and safety; and

WHEREAS, the City (or County) declares that healthy, well-socialized animals make better companions and tend to stay with their human families for longer periods of time, thereby benefiting families and animal welfare, and reducing the pressure on animal rescues and shelters; now, therefore

BE IT ORDAINED BY THE CITY (or county) COUNCIL OF THE CITY (or county) OF

_____:

Section 1. Definitions. As used in this act:

1. "Adequate exercise" or "exercise" means the opportunity for the animal to move sufficiently to maintain normal muscle tone and mass for the age, species, size, and condition of the animal.
2. "Adequate space" means sufficient height and sufficient floor space for caged animals to easily stand up, sit down, and turn about freely using normal body movements without the heads touching the top of the cage; lie in a natural position; and to experience necessary socialization with cage mates, if any. However, when freedom of movement would endanger the animals, temporarily and appropriately restricting movement of the animals according to professionally accepted standards for the species is considered provision of adequate space.
3. "Animal" means any non-human vertebrate species, including mammals, birds, reptiles, amphibians, and fish.
4. "Commissioner" means the Commissioner of the [designated state agency] of the State of [state name].

5. "Enrichment" means providing objects or activities which are compatible with the needs of the species that stimulate an animal and promote the animal's physical and/or psychological well-being.
6. "Euthanasia" or "euthanize" means the humane destruction of an animal accomplished by a method that involves rapid unconsciousness and immediate death with a minimum of pain and distress inflicted on the animal, or by a method that involves anesthesia, produced by an agent which causes painless loss of consciousness, and death during such loss of consciousness.
7. "Hand-feeding" means the process by which an animal is manually fed by a human through the use of hand, spoon, bottle, or oral gavage.
8. "Humane" means any action taken in consideration of and with the intent of providing for the animal's health and well-being.
9. "Intact" means an animal that retains its sexual organs and has not undergone surgical sterilization by a veterinarian.
10. "Person" means any individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or other legal entity.
11. "Pet shop" means an establishment or market place where animals are bought, sold, exchanged, or offered for sale to the general public with the intent of making a profit. This term includes the keeping for transfer or the transfer of animals at temporary facilities, such as flea markets, mobile facilities, department stores, merchandise outlets, discount outlets, animal shows conducting a sale, and other types of retail outlets where the animals are intended as companions or household animals. *[Caveat: Should be consistent with current law in the jurisdiction in which the legislation is introduced.]*
12. "Pet shop operator" or "operator of a pet shop" means any individual, firm, corporation, partnership, other business unit, society, association or other legal entity, or public or private institution which maintains, owns, or operates a retail pet shop. *[Caveat: Should be consistent with current law in the jurisdiction in which the legislation is introduced.]*
13. "Primary enclosure" means any structure used to immediately restrict an animal or animals to a limited amount of space and where the animal or animals reside until they are sold or transferred.
14. "Sanitize" means to make physically clean and to remove excreta, other waste material, dirt and trash, and to destroy to a practical minimum any agents that are injurious to health.
15. "Socialization" means physical contact with other animals of the same species or with human beings.
16. "Time of sale" means the calendar date the retail purchaser removes the animal from the premises of the pet shop following the retail sale of that animal.
17. "Unweaned" means any animal that is nursing, requires hand-feeding or is otherwise unaccustomed to eating enough food without human or animal assistance to sustain at least 90 percent of its own weight for at least two weeks.
18. "Veterinary treatment" means treatment by or on the order of a licensed veterinarian.
19. "Weaned" means any animal that has become accustomed to taking solid food and has done so without nursing, hand-feeding, or human or animal assistance for a period of at least two weeks and is capable of sustaining at least 90 percent (90%) of its own weight, notwithstanding any illness or injury.
20. "Well-placed perch" means that the bird can stand completely upright on the perch without having any head contact with the ceiling of the cage and at the same time, the bird's tail does not touch the floor or grate of the cage.

Section 2. License Required

1. Any person who keeps, operates, owns, or maintains a pet shop which houses animals, sells animals or offers animals for sale must have a valid license issued by the Commissioner.

2. Pet shop operators must conspicuously display the pet shop license on the premises where the animals are kept for sale so that the license may be readily seen by potential consumers.
3. Licenses issued under this act are not transferable.
4. Each location of a pet shop must be separately licensed. If a pet shop operates under more than one business name from a single location:
 - a. No additional pet shop license will be required for the different business names;
 - b. The pet shop operator must maintain separate records pursuant to the record-keeping requirements stated in this act for each business name; and
 - c. The Commissioner may not require that a separate fee be paid for each such business name.
5. Any person seeking a license must apply on a form furnished by the Commissioner. The applicant must provide all information requested on the form, including a valid mailing address through which the applicant can be contacted, and a valid premises address where animals and records are located. All premises, facilities, or sites where an applicant operates, keeps animals, proposes to operate, or proposes to keep animals must be shown on the application form. The application must be filed with the Commissioner and must be accompanied by the appropriate fee and successful completion of an inspection, as set forth below.
6. To obtain a license, each pet shop must maintain either:
 - a. A fire alarm system that is connected to a central reporting station that alerts the local fire department in case of fire; or
 - b. A fire suppression sprinkler system.
7. A licensee must promptly notify the commissioner in writing of any change in the name, address, substantial control or ownership in the operation of the licensed business, or of additional sites. Prompt notice occurs within fifteen (15) days of the changed circumstances.
8. A license may be issued to any applicant who has met the requirements of this act, paid the required annual license fee, and passed the application inspection or annual inspection. The commissioner must provide a copy of the license to the pet shop. The commissioner must also retain a copy of the license.
9. Pet shops may be granted six (6) months to come into compliance with the specific housing requirements contained in this act so long as each animal is treated humanely and the remaining provisions of this act are met.
10. A license issued under this act is valid unless:
 - a. The license has been revoked or suspended pursuant to this act;
 - b. The license is voluntarily surrendered by written request of the licensee to the Commissioner and such surrender is accepted by the Commissioner;
 - c. The license has expired or has otherwise terminated by operation of law as set forth in this act; or
 - d. The applicant or licensee failed to pay the license fee or the instrument of payment was refused by the bank upon which it was drawn.
11. There will be no refund of fees if a license is invalidated for any reason prior to its expiration. A license that is invalid must be returned to the Commissioner. If the license cannot be found, the licensee must so state to the Commissioner in writing.
12. Each application for a license must be accompanied by a nonrefundable fee in an amount to be determined by the Commissioner.
 - a. The fee amounts for license application, license renewal and other fees associated with the administration of this act will be reflected in a set fee schedule available to the public. The Commissioner is authorized to alter the amount of the licensing fees based on the actual cost of administering and enforcing this act and any regulations adopted under it.
 - b. The moneys received by the Commissioner pursuant to this section must be deposited in the state "pet shop licensing fund" to pay the costs of administering the

pet shop licensing program. Any proceeds from these funds remaining at the end of the calendar year may be carried over to the following calendar year and used to prevent animal cruelty or to enforce animal cruelty or animal neglect laws.

[Caveat: Should be consistent with current law in the jurisdiction in which the legislation is introduced.]

13. Inspection must precede issuance of a pet shop license or renewal of a pet shop license. The results of the inspection must establish compliance with the provisions of this act.
14. All licenses must be renewed annually.
15. The Commissioner may establish and implement a system that allows applicants and licensees to submit their applications and licensure renewal forms to the Commissioner via the Internet. The Commissioner may promulgate rules and regulations in furtherance of this subsection.

Section 3. Denial of License.

1. Any person whose pet shop license has been terminated will not conduct any activity for which a license is required under this act until all requirements for issuing the license have been met and a valid license has been issued. Any person who seeks reinstatement of a pet shop license that has been terminated must follow the procedures required of new applicants for a license. Any person whose pet shop license has been suspended or revoked must not conduct any activity for which a license is required under this act during the period in which the suspension or revocation is in effect. Any person whose pet shop license has been suspended may apply in writing to the Commissioner for reinstatement of that person's license.
2. The Commissioner may decline to grant, decline to renew, suspend or revoke a pet shop license on any of the following grounds:
 - a. A material misstatement in the license application or renewal form.
 - b. A material misstatement in or falsification of records required to be kept under this act.
 - c. A material misstatement in or falsification of records required to be kept under any regulation promulgated pursuant to this act.
 - d. Failure to allow the commissioner or his or her authorized agents access to records, premises, or animals in the custody of the pet shop.
 - e. Violation of any provision of this act or any regulation promulgated pursuant to this act whereupon the violation results in actual harm to one or more animals in the pet shop's custody.
 - f. The conviction or entry of a plea of nolo contendere to a violation of any provision pertaining to:
 - i. the humane treatment of animals;
 - ii. cruelty to animals;
 - iii. endangering the life or health of an animal;
 - iv. violation of any federal, state, or local law pertaining to the care, treatment, sale, possession, or handling of animals; or
 - v. violation of any regulation or rule promulgated pursuant to a federal, state or local law relating to the endangerment of the life or health of an animal.
3. Before a pet shop license can be suspended or revoked, the Commissioner, or any hearing officer he or she may designate, must hold a hearing. The hearing will be held after due notice to the licensee. The hearing will be held in accordance with any regulations promulgated by the Commissioner and in accordance with the requirements of the state administrative procedure act.
4. If a license is suspended or revoked under this act, the holder will have five (5) days from suspension or revocation to surrender all pet shop licenses issued hereunder to the Commissioner or his authorized representative. The pet shop may continue to sell pet

supplies and other merchandise after suspension or revocation but the store must not sell live animals.

5. A person to whom a license is denied, suspended, or revoked by the Commissioner may contest the action by filing a petition within ten (10) days after the denial, suspension, or revocation.
6. Any licensee whose license is revoked under the provisions of this Act is not eligible to apply for a new pet shop license until five (5) years have elapsed since revocation. Any person who has been an officer, agent, or employee of a licensee whose license has been revoked and who is responsible for or participated in the violation upon which the order of suspension or revocation was based, will not be licensed until at least five (5) years have elapsed since revocation.
7. The powers and duties vested in the Commissioner by this act may be delegated to qualified employees of the Commissioner. The Commissioner is authorized to enter into cooperative agreements with any agency or political subdivision of this state or with any agency of the United States government for the purpose of carrying out the provisions of this act and receiving grants-in-aid.
8. The Commissioner retains the authority to restrict the movement of any prohibited animal into the state and the conditions under which those movements, if any, are made. *[Caveat: Should be consistent with current law in the jurisdiction in which the legislation is introduced.]*

Section 4. Animal Care and Handling

A. Animal Care.

1. The pet shop operator or an agent of the operator must be present at least once daily for general care and maintenance of the animals in the custody of the pet shop.
2. Pet shop operators must ensure that:
 - a. Each animal is handled in a manner which will not cause discomfort, physical harm, or undue stress to that animal.
 - b. Adequate socialization and exercise are provided to dogs, cats, birds, rabbits, chinchillas, ferrets, rats and guinea pigs in the custody of the pet shop.
 - c. Pet shop operators and their agents wash their hands before and after handling each infectious or contagious animal.

B. Water and Food. Pet shop operators must ensure that:

1. Clean, potable water in sufficient quantity to satisfy the animal's needs is accessible to the animal at all times. Snow or ice is not an adequate water source. Exceptions:
 - a. If withholding water is otherwise required to provide adequate veterinary care to the animal on the advice of the attending veterinarian.
 - b. If the animal is in transit for less than four (4) hours.
2. Food must be provided to each animal at least once during each twenty-four (24) hour period. Any animal with a nutritional need or disease condition must be fed more frequently on the advice of the attending veterinarian. Young animals must be fed more than once daily. Reptiles, fish or amphibians must be fed and cared for in accordance with the eating patterns and environmental conditions compatible with each individual species.
3. Animal food must be wholesome, palatable, free from contamination, and of sufficient quantity and nutritive value to meet the normal daily requirements for the animal, based upon its species, age, condition and size.
4. Water and food receptacles must be in sufficient number, of adequate size and so located as to enable each animal in the enclosure to be supplied with an adequate amount of water and food. Bowls, dishes and other containers used for the feeding and watering of animals must be cleaned daily, or more often if necessary to maintain them free from contamination of excrement or urine. Water and food receptacles must be so located as to minimize their potential contamination from excreta.

C. Sanitation.

1. Animals must be removed from the primary enclosures when water or any chemical solution is used in cleaning. All empty cages must be kept clean at all times.
2. Excreta must be removed from each enclosure at least once daily. The enclosures must be cleaned and sanitized as often as necessary to:
 - a. prevent contamination of the animals contained therein;
 - b. prevent disease hazards; and
 - c. reduce odors.
3. For bird enclosures, perches also must be cleaned on a regular basis.
4. Cages, rooms and pens which contain any animal having an infectious or transmissible disease must be washed each day, and after each occupancy. Effective disinfectant must be applied as an incident of each washing.
5. Aquariums containing fish must be kept in a clean, healthful condition. Live algae is not considered an unhealthful condition. Any dead fish must be removed promptly from aquariums.

Section 5. Veterinary Care and Euthanasia. Pet shop operators must ensure that:

1. Veterinary treatment is provided to the animals in the custody of the pet shop without delay when needed:
 - a. to prevent suffering; or
 - b. to prevent disease transmission.
2. A documented program for disease prevention, parasite control, euthanasia and adequate veterinary care must be established and maintained with a veterinarian as follows:
 - a. Each animal must be observed daily by the animal caretaker in charge, or by someone under his or her direct supervision, for the purpose of monitoring health, nutrition and well being; and
 - b. Animals that become seriously ill or seriously injured must be diagnosed by a veterinarian in a timely manner and the prescribed therapy followed. Sick or injured animals must be:
 - i. provided with timely veterinary treatment as is needed for the health and well-being of the animal;
 - ii. euthanized humanely and promptly by the pet shop's attending veterinarian; or
 - iii. surrendered, with the express consent of the recipient, to a local public or private animal shelter.
 - c. Animals can not be euthanized in any way except through the most current, approved euthanasia methods established by the American Veterinary Medical Association panel on euthanasia. Euthanasia by placing a live animal in a freezer is prohibited.
3. Veterinary treatment records must be kept for all animals, except fish, that receive any medications and/or immunizations while in the care of the pet shop. These records must be made available to the enforcing officer.

Section 6. General Housing Requirements for Pet Shops. Pet shop operators must ensure that:

1. All enclosures in which one or more animals are housed or exercised must be:
 - a. structurally sound; and
 - b. constructed and maintained in good repair so as to prevent injury to the animal, to contain the animals and keep other animals out, and to promote the health and safety of the enclosed animals and the public.

2. Intact mammals that have reached sexual maturity must be housed in a manner to prevent reproduction unless the animals are intentionally bred by the pet shop to produce additional animals for sale.
3. The animals in the pet shop's custody are kept clean and dry unless species-specific requirements dictate an aquatic or semi-aquatic environment.
4. Mammals, ducks, chickens and pheasants housed on wire flooring are provided with a rest board, floor mat, or similar device that is large enough to provide adequate space for all the occupants of the primary enclosure at the same time. If the floor is constructed of mesh or slats, it must be strong enough to prevent sagging and with a mesh small enough that it will not allow the animals' feet to pass through any openings in the floor.
5. Adequate space is provided in the primary enclosure for the particular type of animal enclosed therein.

Section 7. Specific Housing Requirements for Animals. Pet shop operators must ensure that the following housing requirements are met.

1. Specific requirements of primary enclosures for dogs are:
 - a. Each confined dog must be provided a minimum square footage of floor space. The minimum square footage of floor space is equal to the mathematical square of the sum of the length of the dog in inches, as measured from the tip of its nose to the base of its tail, plus 6 inches as represented by the following formula. The calculation is: (length of dog in inches plus 6) multiplied by (length of dog in inches plus 6) equals the required floor space in square inches. Required floor space in inches divided by 144 equals required floor space in square feet.
 - b. The interior height of a primary enclosure must be at least six (6) inches higher than the head of the tallest dog in the enclosure when the dog is in a normal standing position.
 - c. Not more than 4 adult dogs may be housed in the same primary enclosure.
2. Specific requirements of primary enclosures for cats and rabbits are that each rabbit and each cat, including a weaned kitten, that is housed in any primary enclosure must be provided minimum vertical space and floor space as follows:
 - a. Each primary enclosure housing cats or rabbits must be at least twenty-four (24) inches high.
 - b. Each cat or rabbit must be provided with at least three (3) square feet.
 - c. The litter pan may be considered part of the floor space if properly cleaned and sanitized.
3. Specific requirements of primary enclosures for birds are:
 - a. A shelter or cage for a bird must be constructed of materials that are impervious to moisture and can be readily cleaned.
 - b. Sandpaper-covered perches or perches covered in an abrasive material are not permitted.
 - c. Enclosures must allow the birds within to fly, hop or otherwise move about.
 - d. Each enclosure must have at least one form of enrichment appropriate for the species per 4 animals.
 - e. Perches or other space must be provided to allow each bird to perch without physical harassment from other birds.
 - i. A single well-placed perch may be adequate for psittacines.
 - ii. Two perches (one at each end of the cage) must be provided for all bird species, including finches and canaries, that prefer flying or jumping to climbing.
 - iii. Perches must be strategically placed to prevent droppings from contaminating other birds and the birds' food and water supply and also to prevent the bird's tail from having contact with the food and water.

- f. Sufficient space must be provided for each bird to obtain exercise to maintain itself in good health. All birds must be housed in cages of sufficient size and dimensions to allow each bird an amount of perch space to enable it to fully extend its wings in every direction while all birds are simultaneously perched without having to touch another bird, obstacle or the side of the cage.
 - i. For medium-sized psittacines, including lorries, conures, Amazons, and African greys, each cage must measure at least twenty-four (24) inches wide, eighteen (18) inches deep, and twenty-four (24) inches high.
 - ii. For small-sized psittacines, including cockatiels and parakeets, each cage must measure at least eighteen (18) inches by eighteen (18) inches, and eighteen (18) inches high.
 - iii. For passerines, including canaries and finches, each cage must measure at least twelve (12) inches by seventeen (17) inches, and seven (7) inches high.
4. Specific requirements of primary enclosures for rodents are:
 - a. Each enclosure housing one or more rodents must include materials that allow necessary chewing to prevent detrimental overgrowth of the animals' teeth. Each enclosure also must include an enrichment, which can include climbing boxes, balls, and PVC tubing. Each enclosure must include shelters or nest box(es) that are of sufficient size to accommodate all animals in the enclosure simultaneously.
 - b. The materials used to construct the enclosures must be of sufficient strength to prevent escape and injury from gnawing or chewing and to protect the animals housed inside from predators.
 - c. An enclosure with a solid bottom must be constructed of materials that are impervious to moisture. An enclosure with a wire or mesh bottom must be constructed to allow excreta to pass through the spaces in the wire or mesh. However, the wire or mesh floor must be constructed to prevent injury to the feet and legs of the animals.
 - d. There must be sufficient height and floor space for caged animals to obtain proper exercise and maintain good health.
 - i. Enclosures which house up to four (4) small rodents must measure at least one square foot wide and nine (9) inches high. For each additional animal, increase the cage space by twenty-five (25) percent of original floor area. Each enclosure must have one gnawing item and an exercise wheel per 4 animals.
 - ii. Enclosures housing one or two medium-sized rodents, including rats and guinea pigs, must measure at least one square foot, twelve (12) inches high, per animal. For each additional animal, increase the cage size by twenty-five (25) percent of original floor area. Each enclosure must have one gnawing item and a nest box for every 4 animals. Each enclosure which houses one or more rats also must include a climbing apparatus.

Section 8. Ambient Conditions. Pet shop operators must ensure that:

1. Each confinement area which houses one or more animals is maintained at a temperature suitable for the animal housed within and which maintains the animals' health and comfort. For cold-blooded animals, a temperature that is compatible to the well-being of the species must be maintained.
2. Lighting of sufficient intensity and distribution must be available to permit:
 - a. routine inspection of the animals, including "feeder" mice and rats, in the pet shop's custody for signs of stress, illness and injury; and
 - b. proper cleaning of the enclosures and the premises.

3. Primary enclosures for birds must allow at least eight (8) hours of either natural or artificial light daily to allow the birds to intake food and water.
4. Primary enclosures must provide adequate ventilation to the confined animals. Additional ventilation must be provided when the ambient temperature rises to a level that may negatively impact the health of the animal.

Section 9. Sale or Transfer of Animals.

1. A pet shop must not sell or offer for sale any reptile or amphibian that is native to the state of [State Name].
2. A pet shop must not offer any live animal as a raffle, prize, advertising device or promotional consideration.
3. A pet shop must not sell, offer for sale, trade or barter an animal, except a reptile or amphibian, that is under the age of eight (8) weeks. An animal that is over the age of eight (8) weeks can be sold, offered for sale, traded or bartered only if the animal is weaned.
4. Unweaned birds.
 - a. For purposes of this section:
 - i. "Bird" means any bird of the order Psittaciformes.
 - ii. "Bird mart" means an event at which two or more persons offer birds for sale or exchange and/or where a fee is charged for the privilege of offering or displaying the birds.
 - iii. "Vendor" means any person or entity, including, but not limited to, a broker, agent, aviary, or breeder, who sells birds directly to the retail purchaser at a bird mart or at a swap meet.
 - b. A pet shop may not sell a bird unless the bird is weaned. A vendor may not sell a bird at a swap meet or bird mart, unless the bird is weaned. At the time of sale, a pet shop location or vendor shall document the weight of any hand-fed bird under one year of age, and note the weight on the sales receipt.
 - c. This chapter does not apply to publicly operated pounds and humane societies.
 - d. Any person violating any provision of this section is subject to a civil penalty of up to one thousand dollars (\$1,000.00) per violation. The action may be prosecuted in the name of the people of the State by the district attorney for the county where the violation occurred in the appropriate court or by the city attorney in the city where the violation occurred. *[CAVEAT: Should be consistent with current law in the jurisdiction in which the legislation is introduced.]*

Section 10. Inspections

1. The Commissioner or the Commissioner's representative must inspect the premises for which an application for an original pet shop license is made before issuing the license. The application for a license is conclusively deemed to be the consent of the applicant to entry and inspection of the premises sought to be licensed by the Commissioner or the Commissioner's representative at reasonable times with the owner or owner's representative present. Refusal of entry and inspection is grounds for denial of the license or permit. Notice need not be given to any person prior to inspection.
2. The Commissioner or the Commissioner's representative may inspect each premises for which a pet shop license has been issued. The premises may be inspected at least twice each year. The acceptance of a license is conclusively deemed to be the consent of the licensee to the entry and inspection of the licensed premises by the Commissioner or the Commissioner's representative at reasonable times with the owner or owner's representative present. Refusal of entry and inspection is grounds for suspension or revocation of the license. Notice need not be given to any person prior to inspection.

3. The Commissioner may assess a per-inspection fee, so long as the fee is reflected in a set fee schedule available to the public, to be paid by the pet shop being inspected. Any outstanding balances for inspection fees must be paid in full prior to licensure renewal.
4. Pet shop operators must ensure that:
 - a. At any reasonable time during regular business hours, the Commissioner and his or her representatives have free and unimpeded access, to carry out any provision of this act or any rule promulgated under this act:
 - i. To animals in the custody of the pet shop;
 - ii. To those portions of all buildings, yards, and other areas in which animals or supplies are kept, handled, or transported; and
 - iii. To all records required to be kept.
 - b. The Commissioner and his or her representatives are allowed to take the following actions to carry out any provision of this act or any rule promulgated under this act:
 - i. entering the pet shop;
 - ii. examining records required to be kept under this act;
 - iii. making copies of these records;
 - iv. inspecting and photographing the facilities, property, and animals to the extent the Commissioner or the Commissioner's representatives consider necessary to enforce the animal protection laws;
 - v. documenting any conditions or areas of noncompliance; and
 - vi. using a room, table, equipment, or other facility necessary for the proper examination of the records and inspection of the property or animals.
5. After the denial, suspension, or revocation of a license for a pet shop, the Commissioner and his or her representatives will have free and unimpeded access to the areas and records that are reasonably necessary to verify that operations involving the sale of animals or offering of animals for sale by the pet shop have ceased. This includes access to:
 - a. Any animals in the custody of the pet shop;
 - b. Those portions of all buildings, yards, and other areas in which animals are suspected of being kept, handled, or transported without the appropriate license; and
 - c. All records that are equivalent to those required to be kept. The Commissioner may make copies of the records to carry out any provision of this act or any rule promulgated under this act.
6. After the denial, suspension, or revocation of a license for a pet shop, the Commissioner and his or her representatives are allowed to take any of the following actions that are reasonably necessary to verify that operations involving the sale of animals or offering of animals for sale by the pet shop have ceased:
 - a. Entering the pet shop;
 - b. Examining records that are equivalent to those required to be kept under this act;
 - c. Making copies of these records;
 - d. Inspecting and photographing the facilities, property, and animals to the extent the Commissioner or the Commissioner's representatives consider necessary to enforce the animal protection laws;
 - e. Documenting any conditions or areas of noncompliance with the law; and
 - f. Using a room, table, equipment, or other facility necessary for the proper examination of the records and inspection of the property or animals.
7. The Commissioner or the Commissioner's representative must inspect the premises of a person licensed under this act or required to be licensed, if there are reasonable grounds to believe that:
 - a. the person is violating one or more provisions of this act;
 - b. the person is violating one or more regulations adopted under this act; or

- c. there are grounds for suspension or revocation of the person's license.
- 8. If the inspection reveals that the licensee's or applicant's facilities, animals, procedures, or records do not meet the requirements of this act, the licensee or applicant will be advised in writing of existing deficiencies and the corrective measures that must be completed in a timely manner to be in compliance.
- 9. A licensed veterinarian may assist in any inspection or investigation made by the Commissioner or the Commissioner's representative under this act.
- 10. Records of a deficiency or violation must be maintained for three (3) years after the deficiency or violation is remedied.
- 11. Licensees and applicants are prohibited from interfering with, threatening, abusing, verbally abusing, or harassing any inspector, state official, local official, or federal official while the inspectors or officials are carrying out their duties under this act.
- 12. Individuals who are employed by or have received compensation from the licensee or a person required to be licensed by this act are prohibited from acting as the Commissioner's representative for making inspections and conducting investigations under this act.
- 13. Any person acting as the Commissioner's representative for making inspections and conducting investigations under this section is prohibited from:
 - a. knowingly falsifying the results or findings of an inspection or investigation; or
 - b. intentionally failing or refusing to perform an inspection or conduct an investigation under this act.

Section 11. Recordkeeping. Pet shop operators must ensure that:

- 1. Records of veterinary visits to the pet shop premises are documented. Veterinary treatment records must be kept for all animals that receive any medications and/or immunizations while in the care of the pet shop. These records must include:
 - a. the identification of the animal receiving medical treatment;
 - b. the name of the medication and/or immunization used
 - c. the amount of medication used; and
 - d. the time and date on which the medication and/or immunization was administered.These records must be kept at the pet shop for one year after the sale of the animal.
- 2. Accurate records are kept and maintained for each animal purchased, acquired, held, transported, sold, or otherwise disposed of. The records must include all of the following:
 - a. The name, address and telephone number of the person from whom each animal was acquired and, if the person is a licensed dealer, his license number, or if the person is not a licensed dealer, his driver's license number or social security number or federal tax identification number.
 - b. The date each animal was acquired.
 - c. A description of each animal showing age, size, color, markings, sex, breed, and species. Records must also include any other significant identification for each animal, including any microchip, official tag number, official leg band number, or tattoo.
 - d. The name and address of the person to whom each animal is sold, given, or delivered. The record must show the method and date of disposition.
 - e. A written record on the health, status, disposition, age at time of acquisition and age at sale of each psittacene bird.
 - f. The records must indicate any psittacene bird which the pet shop operator knows to be or have been sick or diseased or to have died.
 - g. These records must be maintained by the licensee for a minimum of one year after the sale or transfer of the animal. [Caveat: Should be consistent with the current "lemon law" (if applicable) in the jurisdiction in which the legislation is introduced]

Section 12. Enforcement and Penalties.

1. The Commissioner, the state veterinarian, animal control officers exercising their jurisdiction under [section number], law enforcement officers, and certified humane investigators qualified pursuant to [section number] may conduct investigations and inspections necessary to ensure compliance with this act. *[Caveat: Should be consistent with current law in the jurisdiction in which the legislation is introduced.]*
2. On written complaint made to the Commissioner by any person alleging a violation of this act or any regulation promulgated under this act, the Commissioner must determine the validity of the complaint and, if warranted, cause an investigation to be made on the matters relayed in the complaint.
3. If it is determined, after inspection or investigation, that a licensee has violated any provision of this act or any regulations promulgated under this act, the violation is punishable as either an infraction or a misdemeanor, at the discretion of the prosecutor. In determining the penalty, the degree and extent of harm caused to the public and to the affected animals as a result of the violation must be considered. A second or subsequent conviction is punishable as a misdemeanor. Each animal constitutes a separate offense.
4. An infraction under this chapter is punishable upon conviction by a fine of up to [dollar amount] as to each animal with respect to which a violation occurs. A misdemeanor under this chapter is punishable upon conviction by a fine of up to [dollar amount] as to each animal with respect to which a violation occurs, and imprisonment in a county jail for not more than [number of months or years].
5. Notwithstanding any other penalty imposed, the enforcing officer may issue a correction notice requiring the violation to be remedied within fourteen (14) days. However, if the violation endangers the immediate health or safety of an animal in the custody of the licensee, the correction may be required within twenty-four (24) hours. Nothing in this subsection affects the authority of the enforcing officer to seize and impound an animal pursuant to [section number]. *[Caveat: Should be consistent with current law in the jurisdiction in which legislation is introduced. Penalties should increase with each subsequent offense]*
6. In addition to other remedies provided at law, the Commissioner may seek court-ordered injunctions, issue letters of admonition, cease and desist orders, refuse to issue, refuse to renew, suspend, restrict or revoke a license for any pet shop if, after an impartial investigation as provided in this act, he or she determines that the pet shop failed to comply with this act or any regulations issued under it.

Section 13. Anti-cruelty laws.

Nothing in this act limits or authorizes any act or omission that violates the state's anti-cruelty laws.

Section 14. Effective date.

This act takes effect [month, day and year].

This model legislation is the starting point for legislative efforts to regulate the sale of animals in retail stores. If you decide to use this model in your legislative efforts, it is vital to incorporate this language into the existing laws and tailor this language to create a measure that will address the unique needs of your particular state or locality. Because Born Free USA has extensively researched existing laws on this topic, we recommend you contact us prior to initiating your legislative efforts on this issue. We are happy to assist you in your efforts.