



Ohio Legislative Service Commission

Tom Wert

Fiscal Note & Local Impact Statement

Bill: [H.B. 226 of the 130th G.A.](#)

Date: September 19, 2013

Status: As Introduced

Sponsor: Rep. Grossman

Local Impact Statement Procedure Required: No

Contents: Establishes licensing requirements and standards of care for certain pet dealers

State Fiscal Highlights

- The bill establishes two types of licenses and associated fees that would be issued to pet dealers by the Department of Agriculture (AGR). For dealers that sell 24 or fewer animals per year, the annual fee would be \$25. For dealers that sell more than 24 animals per year, the annual license fee would be \$100. License fees would be deposited into the Pet Dealer License Fund established by the bill.
- The bill requires AGR to conduct pre-licensing inspections of all pet dealers, and annual inspections of pet dealers that sell more than 24 animals per year. Costs to perform these inspections would be paid from the Pet Dealer License Fund.
- The Pet Dealer License Fund would also receive revenue from civil penalties for violations of the provisions of the bill, or rules created by AGR under the bill.

Local Fiscal Highlights

- The bill allows the Director of Agriculture, the Director's representative, or the Attorney General upon the Director's request, to apply to the appropriate court for a court order or search warrant to inspect or investigate a pet dealer's premises. As a result, county courts of common pleas could incur additional costs to process these requests. However, it is unlikely that these costs would be more than minimal.

Detailed Fiscal Analysis

Overview

The bill establishes licensing requirements for pet dealers, and requires inspections of pet dealer locations by the Department of Agriculture (AGR). Under the bill, a pet dealer is defined as a person who annually sells, or offers for sale to the public at retail, ten or more animals for profit. The bill also establishes standards of care that dealers must follow, and establishes a penalty mechanism for noncompliance. Overall, the bill will result in increased costs to AGR for licensing and inspecting pet dealers. These costs would be partially offset through license fee revenue and penalty revenue collected under the proposed pet dealer licensing program. The licensing requirements and related costs are discussed in more detail below.

Licensing of pet dealers

The bill requires all individuals operating as pet dealers to obtain a pet dealer license. The bill establishes two types of pet dealer licenses: (1) applicants that intend to sell 24 or fewer animals during a calendar year must pay a \$25 application fee, and (2) applicants that intend to sell more than 24 animals during a calendar year must pay a \$100 application fee. Any license revenue collected under the bill is deposited in the Pet Dealer License Fund, which is created by the bill.

The overall cost of the pet dealer licensing program hinges on the number of pet dealers to be licensed. LSC is not aware of any source that can provide the actual number of pet dealers statewide. However, AGR estimates that there are approximately 30,000 pet stores in Ohio. Assuming most or all of these retailers would pay the \$100 application fee, this would generate approximately \$3.0 million in license revenue under the bill. But it may be that the bill encompasses more than just pet stores under the definition of "pet dealer." Specifically, it appears as though private individuals intending to sell at least ten animals per year would be required to get the \$25 license under the bill's definition of "pet dealer." However, it is difficult to determine the number of individuals that would require the \$25 license.

Inspection of pet dealers

The bill requires AGR to undertake two types of inspections for all pet dealers that sell more than 24 animals in a year. The Department must first inspect the facilities of all applicants for a pet dealer's license before the license is approved, and then must annually inspect all licensed pet dealers to ensure the standards of care contained in the bill are being followed. Therefore, it could be assumed that under the bill, AGR would be required to conduct approximately 30,000 annual inspections of pet dealers. The bill additionally requires the Department to conduct investigations of pet dealers when complaints are issued.

Inspection and investigation costs

The Department would incur cost increases associated with the inspection and investigation requirements of the bill. The magnitude of these costs is uncertain. However, the likely effects can be partially illustrated by looking at the effect of S.B. 130 of the 129th General Assembly, which required AGR to license and inspect kennel owners and operators to ensure standards of care were being followed. It has been estimated that there are approximately 10,000 kennels operating in Ohio. In order to meet the kennel licensing requirements under S.B. 130, AGR hired nine new employees, including an additional veterinarian. As with pet dealers under this bill, S.B. 130 permitted the Department to contract with local veterinarians to conduct inspections and investigations as needed. Unlike this bill, S.B. 130 included a funding cap, specifically limiting spending from the High Volume Breeder Kennel Control License Fund (Fund 5MR0) at \$2.5 million per biennium, subject to Controlling Board approval. However, H.B. 59, the main operating budget act for the FY 2014-FY 2015 biennium, appropriated \$400,000 in FY 2014 and \$200,000 in FY 2015 in GRF funding for these same purposes.

Based on the Department's estimate that there are 30,000 pet retailers statewide, it can be assumed that the inspection, investigation, and licensing costs associated with this bill would exceed the costs associated with S.B. 130. To offset some of the additional cost, AGR would have to determine whether it would be possible to use current staffing and office space and supplies that are devoted to the kennel licensing and investigation program to undertake the requirements under the pet dealer licensure program. If the Department can use resources that are currently assigned to kennel oversight for the purposes outlined in this bill, it may be possible to save on at least some of the additional costs for hiring new inspectors and program staff under the pet dealer licensure program.

Recoupment of costs from violators

Additionally under the bill, pet dealers are prohibited from refusing to allow full access to inspectors or from hindering or thwarting an inspection or investigation. If they do, a court order or search warrant to inspect locations or investigate may be obtained. As a result, local courts might incur some additional but minimal cost to process court orders or issue search warrants. However, if a pet dealer hinders an investigation or refuses access to a location and is subsequently found in violation of the bill, the pet dealer is liable for the related expenses under a recoupment mechanism in the bill. These expenses include (1) the reasonable costs incurred for regular salaries and fringe benefit costs of personnel assigned to conduct the investigation from the time the court order or search warrant was issued until the court order or search warrant is executed, (2) the salary, fringe benefits, and travel expenses of the Director, authorized representative, or Attorney General incurred in obtaining the court order or search warrant, and (3) any expenses necessarily incurred for the assistance of local law enforcement officers in executing the court order or search warrant. All the money

collected under these provisions is required to be used to reimburse the applicable entity involved, and any remaining revenue is deposited into the Pet Dealer License Fund.

Penalties

The bill permits the Director of Agriculture to assess civil penalties for violations of the licensing requirements or any administrative rules created under the bill and sets out the conditions under which those penalties may be assessed, including offering the opportunity for an adjudication hearing. The bill requires the civil penalties to be enforced in one of two ways. First, if an individual violates any of the requirements for legally obtaining a pet dealer license, the person must pay a civil penalty equal to two times the applicable license fee. Second, if a person has violated any other provision of the bill or any administrative rules created under the bill, the person must pay a civil penalty set by rule. The Department may experience some costs for holding any administrative hearings associated with enforcing civil penalties, but that will depend on how many hearings would occur. All civil penalty revenue would be deposited into the Pet Dealer License Fund. Finally, the bill establishes a fifth degree misdemeanor that applies to an individual operating as a pet dealer without the license necessary under the bill, or failing to observe certain conditions for the care or sale of animals. This could lead to some additional expense for the courts that would hear these cases.