

State of Arizona
Senate
Fifty-second Legislature
Second Regular Session
2016

SENATE BILL 1248

AN ACT

AMENDING SECTIONS 9-499.04, 11-1005 AND 44-1799.08, ARIZONA REVISED STATUTES; AMENDING TITLE 44, CHAPTER 11, ARTICLE 17, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 44-1799.10 AND 44-1799.11; RELATING TO ANIMAL AND PET STORE REGULATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 9-499.04, Arizona Revised Statutes, is amended to
3 read:

4 9-499.04. Animal control officers; appointment; authority;
5 regulation of dogs; powers and duties

6 A. Any city and town may by ordinance provide for the appointment of
7 animal control officers who may commence an action or proceeding before a
8 court for any violation of a state statute or local ordinance relating to
9 rabies and animal control ~~which~~ THAT occurs within the jurisdiction of the
10 city or town.

11 B. An animal control officer appointed pursuant to subsection A OF
12 THIS SECTION shall:

13 1. Be unarmed during the course of duties except that a small caliber
14 firearm may be available to be used in controlling vicious animals or in
15 dispatching of a wounded animal. ~~It~~ FOR THE PURPOSES OF this paragraph,
16 "small caliber firearm" means a rifle or pistol utilizing a rimfire cartridge
17 with a caliber not to exceed twenty-two hundredths of an inch and with a
18 non-riocheting bullet or a shotgun whose bore size ~~shall~~ DOES not exceed
19 forty-one hundredths of an inch.

20 2. Be an employee of the appointing city or town.

21 C. A CITY OR TOWN MAY REGULATE THE CONTROL OF DOGS IF THE REGULATION
22 IS NOT SPECIFIC TO ANY BREED.

23 ~~C.~~ D. SUBSECTION B OF this section ~~shall not be construed to~~ DOES NOT
24 grant other powers or benefits to animal control officers to which peace
25 officers of this state are entitled.

26 Sec. 2. Section 11-1005, Arizona Revised Statutes, is amended to read:

27 11-1005. Powers and duties of board of supervisors

28 A. Each county board of supervisors may:

29 1. Designate or employ a county enforcement agent. If such
30 designation or employment is not made, the county sheriff shall be the county
31 enforcement agent, but nothing in this article shall be deemed to prevent the
32 county board of supervisors from designating or employing a county
33 enforcement agent at any time it is deemed necessary or advisable.

34 2. Provide the county enforcement agent with such personnel and
35 equipment as are necessary to enforce ~~the provisions of~~ this article and the
36 rules adopted under this article.

37 3. Contract with any city or town to enforce the provisions of any
38 ordinance enacted by such city or town for the control of dogs IF THE
39 PROVISIONS ARE NOT SPECIFIC TO ANY BREED.

40 4. For the unincorporated areas of the county, by ordinance, regulate,
41 restrain and prohibit the running at large of dogs, except dogs used for
42 control of livestock or while being used or trained for hunting.

43 5. For the unincorporated areas of the county, by ordinance, regulate,
44 restrain and prohibit the excessive and unrestrained barking of dogs.

1 6. Establish either:

2 (a) Criminal penalties not to exceed the penalties for a class 2
3 misdemeanor for violation of an ordinance adopted pursuant to paragraph 4 or
4 5 OF THIS SUBSECTION.

5 (b) Civil penalties for violations of an ordinance adopted pursuant to
6 paragraph 4 or 5 OF THIS SUBSECTION, not to exceed five hundred dollars for
7 each violation.

8 B. Fines received for violation of an ordinance adopted with a
9 criminal penalty pursuant to subsection A, paragraph 6, subdivision (a) OF
10 THIS SECTION shall be deposited in a special, permanent, nonlapsing and
11 nonreverting county fund to be used solely for the operation of the county
12 enforcement agency.

13 C. Each county board of supervisors may establish pound fees for
14 impounding and maintaining animals at the county pound or any pound used by
15 the county.

16 D. The county board of supervisors shall be responsible for declaring
17 a rabies quarantine area within its jurisdiction on a recommendation of the
18 county board of health or the local health department. If a rabies
19 quarantine area is declared, the county board of supervisors shall meet with
20 the county board of health and the county enforcement agent and institute an
21 emergency program for the control of rabies within that area provided that
22 any regulations restricting or involving the movement of livestock within
23 that area shall be developed by the state veterinarian.

24 Sec. 3. Section 44-1799.08, Arizona Revised Statutes, is amended to
25 read:

26 44-1799.08. Civil penalties: enforcement actions

27 A. EXCEPT AS PROVIDED IN SUBSECTION B OR C OF THIS SECTION, a pet
28 dealer who violates this article is subject to a civil penalty of not more
29 than one thousand dollars per violation.

30 B. IN AN ACTION BROUGHT BY A CITY, TOWN OR COUNTY TO ENFORCE AN
31 ORDINANCE AGAINST A PET STORE OR PET DEALER WHO KNOWINGLY OBTAINS A DOG OR
32 CAT FOR SALE OR RESALE IN VIOLATION OF SECTION 44-1799.10, SUBSECTION A OR B
33 OR WHO SHOULD HAVE KNOWN THE DOG OR CAT WAS OBTAINED FOR SALE OR RESALE IN
34 VIOLATION OF SECTION 44-1799.10, SUBSECTION A OR B, THE PET STORE OR PET
35 DEALER IS SUBJECT TO THE FOLLOWING PENALTIES:

36 1. FOR A FIRST VIOLATION, A CIVIL PENALTY OF NOT MORE THAN ONE
37 THOUSAND DOLLARS PER VIOLATION.

38 2. FOR A SECOND VIOLATION WITHIN A FIVE-YEAR PERIOD, A CIVIL PENALTY
39 OF NOT MORE THAN TWO THOUSAND FIVE HUNDRED DOLLARS PER VIOLATION.

40 3. FOR A THIRD OR SUBSEQUENT VIOLATION WITHIN A FIVE-YEAR PERIOD:

41 (a) A CIVIL PENALTY OF NOT MORE THAN FIVE THOUSAND DOLLARS PER
42 VIOLATION.

43 (b) AN ORDER ENTERED BY THE COURT ENJOINING THE PET STORE OR PET
44 DEALER FROM SELLING OR OFFERING FOR SALE, FOR UP TO THREE YEARS, A DOG OR CAT

1 OBTAINED FROM ANY PERSON OTHER THAN A PUBLICLY OPERATED POUND OR A PRIVATE,
2 CHARITABLE NONPROFIT HUMANE SOCIETY OR FROM ANY ANIMAL ADOPTION ACTIVITY
3 CONDUCTED BY A POUND OR HUMANE SOCIETY.

4 C. IN AN ACTION BROUGHT TO ENFORCE SECTION 44-1799.10, SUBSECTION A
5 OR B:

6 1. A VIOLATION IS A SUBSEQUENT VIOLATION IF IT OCCURS WITHIN A
7 FIVE-YEAR PERIOD AFTER A FINAL JUDGMENT OR ORDER THAT THE PET STORE OR PET
8 DEALER KNOWINGLY VIOLATED SECTION 44-1799.10, SUBSECTION A OR B OR SHOULD
9 HAVE KNOWN OF THE VIOLATION.

10 2. IN ADDITION TO ANY OTHER DEFENSE THAT MAY BE RAISED, A PET STORE OR
11 PET DEALER IS PRESUMED TO HAVE ACTED IN GOOD FAITH AND TO HAVE SATISFIED ITS
12 OBLIGATION TO ASCERTAIN WHETHER A PERSON MEETS THE CRITERIA DESCRIBED IN
13 SECTION 44-1799.10, SUBSECTION A IF, WHEN PLACING AN ORDER TO OBTAIN A DOG OR
14 CAT FOR SALE OR RESALE, THE PET STORE OR PET DEALER CONDUCTS A SEARCH FOR
15 INSPECTION REPORTS OF THE BREEDER ON THE ANIMAL CARE INFORMATION SYSTEM
16 SEARCH TOOL MAINTAINED BY THE UNITED STATES DEPARTMENT OF AGRICULTURE.

17 3. EACH ORDER PLACED BY A PET STORE OR PET DEALER TO OBTAIN A DOG OR
18 CAT FOR SALE OR RESALE SHALL BE CONSIDERED A SINGLE ACT, REGARDLESS OF THE
19 NUMBER OF DOGS OR CATS OBTAINED IN THE ORDER.

20 ~~B-~~ D. This section does not prohibit prosecution for criminal
21 violations.

22 Sec. 4. Title 44, chapter 11, article 17, Arizona Revised Statutes, is
23 amended by adding sections 44-1799.10 and 44-1799.11, to read:

24 44-1799.10. Pet stores; pet dealers; prohibitions on dog and
25 cat purchases; recordkeeping

26 A. A PET STORE OR PET DEALER MAY NOT OBTAIN A DOG OR CAT FOR RESALE OR
27 SELL OR OFFER FOR SALE ANY DOG OR CAT OBTAINED FROM A PERSON WHO IS REQUIRED
28 TO BE LICENSED BY THE PET DEALER REGULATIONS OF THE UNITED STATES DEPARTMENT
29 OF AGRICULTURE UNDER THE ANIMAL WELFARE ACT (7 UNITED STATES CODE SECTIONS
30 2131 THROUGH 2159) IF ANY OF THE FOLLOWING APPLIES:

31 1. THE PERSON IS NOT CURRENTLY LICENSED BY THE UNITED STATES
32 DEPARTMENT OF AGRICULTURE UNDER THE ANIMAL WELFARE ACT (7 UNITED STATES CODE
33 SECTIONS 2131 THROUGH 2159).

34 2. WITHIN TWO YEARS BEFORE OBTAINING THE DOG OR CAT THE PERSON COMMITS
35 A DIRECT VIOLATION OF ANY OF THE PET DEALER REGULATIONS OF THE UNITED STATES
36 DEPARTMENT OF AGRICULTURE UNDER THE ANIMAL WELFARE ACT (7 UNITED STATES CODE
37 SECTIONS 2131 THROUGH 2159).

38 3. THE PERSON RECEIVES AN INDIRECT NO ACCESS VIOLATION ON EACH OF THE
39 TWO MOST RECENT INSPECTION REPORTS ISSUED BY THE UNITED STATES DEPARTMENT OF
40 AGRICULTURE UNDER THE ANIMAL WELFARE ACT (7 UNITED STATES CODE SECTIONS 2131
41 THROUGH 2159).

1 4. THE PERSON COMMITS THREE OR MORE INDIRECT VIOLATIONS OF THE PET
2 DEALER REGULATIONS OF THE UNITED STATES DEPARTMENT OF AGRICULTURE DURING THE
3 TWO-YEAR PERIOD BEFORE OBTAINING THE DOG OR CAT FOR VIOLATIONS RELATING TO
4 THE HEALTH OR WELFARE OF THE ANIMAL AND THE VIOLATIONS WERE NOT
5 ADMINISTRATIVE IN NATURE. THE INDIRECT VIOLATIONS DESCRIBED IN THIS
6 PARAGRAPH DO NOT INCLUDE A VIOLATION DESCRIBED IN PARAGRAPH 3 OF THIS
7 SUBSECTION.

8 B. A PET STORE OR PET DEALER MAY NOT OBTAIN A DOG OR CAT FOR RESALE OR
9 SELL OR OFFER FOR SALE ANY DOG OR CAT OBTAINED FROM A PERSON WHO DIRECTLY OR
10 INDIRECTLY OBTAINED A DOG OR CAT FROM A PERSON DESCRIBED IN SUBSECTION A OF
11 THIS SECTION. A PET STORE OR PET DEALER IS PRESUMED TO HAVE ACTED IN GOOD
12 FAITH AND TO HAVE SATISFIED ITS OBLIGATION TO ASCERTAIN WHETHER A PERSON
13 MEETS THE CRITERIA DESCRIBED IN SUBSECTION A OF THIS SECTION IF, WHEN PLACING
14 AN ORDER TO OBTAIN A DOG OR CAT FOR SALE OR RESALE, THE PET STORE OR PET
15 DEALER CONDUCTS A SEARCH FOR INSPECTION REPORTS OF THE BREEDER ON THE ANIMAL
16 CARE INFORMATION SYSTEM SEARCH TOOL MAINTAINED BY THE UNITED STATES
17 DEPARTMENT OF AGRICULTURE.

18 C. NOTWITHSTANDING SUBSECTIONS A AND B OF THIS SECTION, A PET STORE OR
19 PET DEALER MAY OBTAIN A DOG OR CAT FOR RESALE OR SELL OR OFFER FOR SALE ANY
20 DOG OR CAT OBTAINED FROM A PUBLICLY OPERATED POUND OR A PRIVATE, CHARITABLE
21 NONPROFIT HUMANE SOCIETY OR FROM ANY ANIMAL ADOPTION ACTIVITY CONDUCTED BY A
22 POUND OR HUMANE SOCIETY.

23 D. A PET DEALER SHALL MAINTAIN RECORDS VERIFYING ITS COMPLIANCE WITH
24 THIS SECTION FOR AT LEAST TWO YEARS AFTER OBTAINING THE DOG OR CAT TO BE SOLD
25 OR OFFERED FOR SALE. RECORDS MAINTAINED PURSUANT TO THIS SUBSECTION SHALL BE
26 OPEN TO INSPECTION ON REQUEST BY A MUNICIPAL OR COUNTY PEACE OFFICER OR
27 ENFORCEMENT OFFICIAL.

28 E. A PET DEALER SHALL DISPLAY THE SOURCE OF ANY DOG OR CAT OFFERED FOR
29 SALE BY PROVIDING THE NAME OF THE BREEDER OF THE ANIMAL, THE UNITED STATES
30 DEPARTMENT OF AGRICULTURE LICENSE NUMBER OF THE BREEDER IF THE ANIMAL IS FROM
31 A BREEDER THAT IS LICENSED BY THE UNITED STATES DEPARTMENT OF AGRICULTURE AND
32 THE UNITED STATES DEPARTMENT OF AGRICULTURE WEBSITE WHERE INFORMATION ABOUT
33 THE BREEDER MAY BE OBTAINED. THE PET DEALER SHALL DISPLAY THE INFORMATION
34 DESCRIBED IN THIS SUBSECTION ON BOTH OF THE FOLLOWING:

- 35 1. THE CAGE OR ENCLOSURE FOR EACH ANIMAL.
- 36 2. ALL PRINTED OR ELECTRONIC MARKETING MATERIALS ABOUT A SPECIFIC DOG
37 OR CAT THAT HAS BEEN OBTAINED BY THE PET DEALER AND THAT IS BEING OFFERED FOR
38 SALE.

39 44-1799.11. Pet dealer regulation; state preemption

40 THE REGULATION OF PET DEALERS IS A MATTER OF STATEWIDE CONCERN. A
41 CITY, TOWN OR COUNTY MAY ENACT OR ENFORCE AN ORDINANCE TO ENFORCE SECTION
42 44-1799.10 AGAINST A PET STORE OR PET DEALER. ANY LOCAL LAW, RULE,
43 REGULATION OR ORDINANCE THAT IMPOSES REQUIREMENTS ON PET DEALERS THAT EXCEED
44 THE REQUIREMENTS OF SECTION 44-1799.10 OR PENALTIES PRESCRIBED BY SECTION

1 44-1799.08 IS PREEMPTED. ANY LOCAL LAW, RULE, REGULATION OR ORDINANCE MAY
2 NOT DIRECTLY OR INDIRECTLY PROHIBIT OR BE APPLIED TO PROHIBIT THE SALE OF
3 DOGS OR CATS BY A PET STORE OR PET DEALER, EXPRESSLY OR IN EFFECT, BASED ON
4 THE SOURCE FROM WHICH THE ANIMAL IS OBTAINED IF OBTAINED IN COMPLIANCE WITH
5 SECTION 44-1799.10.

6 Sec. 5. Dog and cat breeder study committee; delayed repeal

7 A. The dog and cat breeder study committee is established consisting
8 of the following members:

9 1. Two members of the house of representatives who are appointed by
10 the speaker of the house of representatives and who are members of different
11 political parties. The speaker of the house of representatives shall
12 designate one of these members to serve as cochairperson of the committee.

13 2. Two members of the senate who are appointed by the president of the
14 senate and who are members of different political parties. The president of
15 the senate shall designate one of these members to serve as cochairperson of
16 the committee.

17 3. One member who has experience as a breeder licensed by the United
18 States department of agriculture and who is appointed by the speaker of the
19 house of representatives.

20 4. One member who is a pet dealer, as defined in section 44-1799,
21 Arizona Revised Statutes, who has experience with the purchase of dogs or
22 cats from breeders and who is appointed by the president of the senate.

23 5. One member who has experience with animal sheltering or rescue and
24 who is appointed by the speaker of the house of representatives.

25 6. One member who has experience with dog or cat breeding and who is
26 exempt from the breeder licensing requirements of the United States
27 department of agriculture and who is appointed by the president of the
28 senate.

29 7. A faculty or staff member from a university under the jurisdiction
30 of the Arizona board of regents who is familiar with the animal care
31 standards of the United States department of agriculture under the animal
32 welfare act (7 United States Code sections 2131 through 2159) and who is
33 appointed by the president of the Arizona board of regents.

34 B. The committee shall meet at the call of the cochairpersons.

35 C. The committee shall:

36 1. Study the breeding of pets by licensed and unlicensed breeders in
37 this state and other states.

38 2. Review data regarding the protection of pets, consumers, pet
39 dealers and pet breeders from existing regulatory models in this state and
40 other states.

41 3. Study options to encourage spay or neuter clinics, adoption of dogs
42 or cats and healthy breeding of dogs and cats.

43 D. The committee may:

- 1 1. Request information, data and reports from any county or state
2 agency or political subdivision of this state. If possible, information
3 shall be provided electronically.
- 4 2. Hold hearings, conduct fact-finding tours and take testimony from
5 witnesses who may assist the committee in fulfilling its responsibilities.
- 6 E. On request of the committee, an agency of this state must provide
7 to the committee its services, equipment, documents, personnel and facilities
8 to the extent possible without cost to the committee.
- 9 F. The legislature shall provide staff and support services to the
10 committee.
- 11 G. The committee shall meet at the state capitol or at other locations
12 as the cochairpersons deem necessary or convenient and all meetings shall be
13 open to the public.
- 14 H. The members of the committee are not eligible to receive
15 compensation but are eligible for reimbursement of expenses pursuant to title
16 38, chapter 4, article 2, Arizona Revised Statutes.
- 17 I. On or before December 31, 2016, the committee shall submit a report
18 regarding its findings and recommendations to the governor, the president of
19 the senate and the speaker of the house of representatives and provide a copy
20 of this report to the secretary of state.
- 21 J. This section is repealed from and after September 30, 2017.