

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Judiciary Committee

BILL: CS/SB 444

INTRODUCER: Judiciary Committee and Senator Bullard

SUBJECT: Sale of Dogs and Cats

DATE: April 9, 2008

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Robinson</u>	<u>Poole</u>	<u>AG</u>	Favorable
2.	<u>Cary</u>	<u>Maclure</u>	<u>JU</u>	Fav/CS
3.	_____	_____	<u>GA</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

- A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes
 B. AMENDMENTS..... Technical amendments were recommended
 Amendments were recommended
 Significant amendments were recommended

I. Summary:

This bill amends the definition of a “pet dealer” under s. 828.29, F.S., which governs the transportation into and the sale of dogs and cats in this state; authorizes the Department of Agriculture and Consumer Services (department) to request that the state attorney in any circuit or county institute a suit in order to implement this chapter and enforce the rules of the department and this section; authorizes the department to adopt rules to administer this section; sets a maximum administrative fine of \$10,000 for violation of this section or any rule of the department established under this section; and authorizes the department to create one full-time position and provides \$82,669 in funding for the purpose of carrying out this act.

This bill substantially amends section 828.29, Florida Statutes.

II. Present Situation:

The United States Department of Agriculture (USDA) has a licensing program for wholesale pet dealers. However, retail shops that sell pets directly to the public generally remain outside the jurisdiction of the USDA’s licensing authority.

In Florida, s. 828.29, F.S., governs the transportation into the state, and the offering for sale, of dogs and cats. Among other requirements, that statute prescribes vaccines and anthelmintics that each dog and cat transported into the state must receive.¹ Further, each dog and cat to which the section applies must be accompanied by a current official certificate of veterinary inspection at all times when being offered for sale within this state.² Subsections (5) through (12) of this statute also impose requirements and duties upon “pet dealers” and prescribe the rights of consumers with respect to a pet dealer. A pet dealer is defined as any person, firm, partnership, corporation, or other association which, in the ordinary course of business, engages in the sale of more than two litters, or 20 dogs or cats, per year, whichever is greater, to the public, including breeders who sell animals directly to the public.³

A state attorney may bring an action to enjoin any violator of s. 828.29, F.S., from being a pet dealer. In addition, a person who violates the statute commits a misdemeanor of the first degree.⁴

Any agent of the Department of Agriculture and Consumer Services (department), any agent of the USDA, any law enforcement officer, any county agent, or any agent of a society or association for the prevention of cruelty to children or animals has authority to inspect all dogs and cats transported into or offered for sale in the state, along with copies of the certificate of inspection held by the sellers and veterinarians of the respective dogs and cats.⁵ The department reports that it does not currently have explicit statutory authority to enforce the provisions of s. 828.29, F.S., nor can it require the state attorney in any circuit or county to initiate suits to enforce or implement the provisions of chapter 828, F.S., and the rules of the department under this section, in an effort to prevent violations.

Chapter 570, F.S., governs the duties and powers of the Department of Agriculture and Consumer Services. Under s. 570.07, F.S., the department is responsible for performing all regulatory and inspection services relating to agriculture, with some specified exceptions. The department also is empowered to “make investigations, conduct hearings, and make recommendations concerning all matters relating to the powers, duties, and functions of the department as provided by law.”⁶

III. Effect of Proposed Changes:

This bill authorizes the Department of Agriculture and Consumer Services (department) to enforce the health requirements and consumer guarantees related to all dogs and cats transported or offered for sale in the state pursuant to s. 828.29, F.S. A “pet dealer” is redefined as any person, firm, partnership, corporation, or other association that, in the ordinary course of business, engages in the sale of 20 or more dogs or cats per year to the public. The department is authorized to enforce this section, as provided in chapter 570, F.S., and to request that the state attorney in any circuit or county institute a suit in order to enforce this chapter and the rules of the department under this chapter. The department is authorized to adopt rules to administer this

¹ Section 828.29(1) and (2), F.S.

² Section 828.29(3), F.S.

³ Section 828.29(13), F.S.

⁴ Sections 828.29(14) and 828.29(17), F.S.

⁵ Section 828.29(3)(d), F.S.

⁶ Section 570.07(3), F.S.

section. In addition, the department is authorized to impose an administrative fine of up to \$10,000 for violations of s. 828.29, F.S., or any rule adopted pursuant to the same.

Additionally, the bill authorizes the department to add one full-time equivalent position, and appropriates \$82,669 from the General Revenue Fund to the department for fiscal year 2008-2009.

The bill provides an effective date of July 1, 2008.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Violators of s. 828.29, F.S., will be fined up to \$10,000, and may be prosecuted for a first-degree misdemeanor, which would include a prison sentence up to one year and a fine of \$1,000.

C. Government Sector Impact:

This bill authorizes a new position within the Department of Agriculture and Consumer Services for fiscal year 2008-2009. The fiscal impact to the government for the creation of the position is reflected in the following table.

	(FY 08-09) Amount/FTE
Recurring Revenue	\$62,317
Non-Recurring Revenue	\$20,352
Total	\$82,669

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Judiciary on April 8, 2008:

The committee substitute removes a provision that would have allowed the Department of Agriculture and Consumer Services (department) to require state attorneys to institute suits and replaces it with a provision that would allow the department to request that state attorneys institute a suit.

- B. **Amendments:**

None.