

4-10-1. Short title.

This chapter may be cited as the "Bird Dealers Licensing Act."

4-10-2. Legislative findings.

The General Assembly finds that the sale of exotic and pet birds presents a serious potential hazard to the health of livestock and humans due to the potential of transmission of disease by birds. The General Assembly further finds that regulation of bird dealers is a necessary means of minimizing this hazard.

4-10-3. Definitions.

As used in this chapter, the term:

- (1) "Bird dealer" means any person engaged in the business of dealing in, purchasing, breeding, or offering for sale, whether at wholesale or retail, any exotic birds, pet birds, or birds customarily kept as pets.
- (2) "Person" means any individual, firm, partnership, corporation, estate, trust, fiduciary, or other group or combination acting as a unit.

4-10-4. License - Requirement.

It shall be unlawful for any person to act as a bird dealer unless such person has a valid bird dealer's license.

4-10-5. License - Issuance; duration; renewal; fees.

- (a) The department shall license bird dealers under the applicable provisions of Chapter 5 of Title 2, the "Department of Agriculture Registration, License, and Permit Act."
- (b) Bird dealers' licenses shall be issued for a period of one year and shall be annually renewable. The department may establish separate classes of licenses, including wholesale and retail licenses. The department shall fix fees for licenses so that the revenue derived from licenses shall approximate the total direct and indirect costs of administering this chapter; but the annual fee for any such license shall be at least \$25.00 but shall not exceed \$200.00.

4-10-6. Dealer's duty to maintain records; contents; periodic reports; failure to keep records as grounds for revocation of license; term of preservation.

- (a) Every bird dealer shall keep records sufficient to identify:
 - (1) Each exotic or pet bird in his possession or sold by him, by species and physical description;
 - (2) The name, address, and telephone number of the person from whom each such bird was acquired and, if that person is a licensed bird dealer, then his license number or, if that person is not a licensed dealer, then his driver's license number, social security number, federal tax identification number, or such other identification as may be available;
 - (3) The name, address, and telephone number of the person to whom each such bird is transferred and, if that person is a licensed bird dealer, then his license number or, if that person is not a licensed bird dealer, then his driver's license number, social security number, or such other identification as may be available; and
 - (4) Any such bird which the dealer knows to be or have been sick or diseased or to have died.
- (b) The department may require periodic reports of any or all of the records required by subsection (a) of this Code section. The department may require the keeping of additional records; and all required records shall be made available for inspection by the department.
- (c) Failure to keep or make available any required records shall be grounds for revocation of a license.
- (d) Every bird dealer shall keep all of such records for at least one year.

4-10-7. Seizure, quarantine, and destruction of birds.

The department may quarantine, seize, and destroy any birds which present a hazard of carrying exotic or untreatable disease, as determined by rules and regulations promulgated by the Commissioner. The department shall pay an indemnity to the owner of any seized or destroyed birds from any federal funds made available for that purpose or any state funds appropriated for that purpose.

4-10-7.1. Importing birds detrimental to agriculture; list of birds; restrictions; permits; quarantine; violations.

- (a) The Commissioner of Agriculture shall by rule determine and establish a listing of all types of birds not native to this state which if introduced into this state would be capable of breeding in the wild and would, if established in the wild, present a threat of being detrimental to the agricultural industry of this state.
- (b) Except as provided in subsection (c) of this Code section, it shall be unlawful to bring into this state any bird identified in the listing of birds established pursuant to subsection (a) of this Code section.
- (c) The department may issue a permit to bring into this state a bird identified in the listing of birds established pursuant to subsection (a) of this Code section if the person applying for such a permit establishes to the satisfaction of the department that adequate precautions will be taken to ensure that neither the bird for which the permit is issued nor any offspring of such bird will be allowed to escape captivity.
- (d) The department may quarantine, seize, and destroy any bird brought into this state in violation of this Code section.
- (e) Any person convicted of violating the provisions of subsection (b) of this Code section shall be guilty of a misdemeanor.

4-10-7.2. Importing psittacine or exotic birds deemed potential carriers of disease; list of birds; restrictions; quarantine; violations.

- (a) As used in this Code section, the term "psittacine birds" includes birds commonly known as parrots, Amazons, African grays, cockatoos, macaws, parrotlets, beebees, parakeets, lovebirds, lorries, lorikeets, and all other birds of the order Psittaciformes.
- (b) It shall be unlawful to bring into this state any psittacine bird or other exotic bird designated by rule by the Commissioner of Agriculture as a potential carrier of disease coming directly or indirectly from outside the United States unless the bird was brought into the United States in conformity with the quarantine regulations of the United States Department of Agriculture.
- (c) The department may quarantine, seize, and destroy any bird brought into this state in violation of this Code section and any bird exposed to a bird brought into the state in violation of this Code section.
- (d) Any person convicted of violating the provisions of subsection (b) of this Code section shall be guilty of a misdemeanor.

4-10-8. Rules and regulations.

The Commissioner may make any rules and regulations, not inconsistent with this chapter, governing dealing in or transportation of exotic or pet birds.

4-10-9. Enforcement procedure.

- (a) Notwithstanding any other provision of law, whenever it may appear to the Commissioner or his agent, either upon investigation or otherwise, that any person has engaged in, or is engaging in, or is about to engage in any act, practice, or transaction which is prohibited by any law or regulation governing activities for which a license is required by this chapter, whether or not the person has so registered or obtained such a license or permit, the Commissioner may issue an order, if he deems it to be in the public interest or necessary for the protection of the citizens of this state, prohibiting such person from continuing such act, practice, or transaction or suspending or revoking any such registration, license, or permit held by such person.
- (b) In situations where persons would otherwise be entitled to a hearing prior to an order entered pursuant to subsection (a) of this Code section, the Commissioner may issue such an order to be effective upon a later date without a hearing unless a person subject to the order requests a hearing within ten days after receipt of the order. Failure to make the request shall constitute a waiver of any provision of law for a hearing. The order shall contain or shall be accompanied by a notice of opportunity for hearing, stating that a hearing must be requested within ten days of receipt of the notice and order. The order and notice shall be served in person by the Commissioner or his agent or by certified mail, return receipt requested. In the case of an individual registered with or issued a license or permit by the department, receipt of the order and notice will be conclusively presumed five days after the mailing of the order by certified mail, return receipt requested, to the address provided by such person in his most recent registration or license or permit application.
- (c) In situations where persons would otherwise be entitled to a hearing prior to an order, the Commissioner may issue an order to be effective immediately if the Commissioner or his agent has reasonable cause to believe that an act, practice, or transaction is occurring or is about to occur, that the situation constitutes a situation of imminent peril to the public safety or welfare, and that the situation therefore requires emergency action. The emergency order shall contain findings to this effect and reasons for the determination. The order shall contain or be accompanied by a notice of opportunity for hearing, which notice may provide that a hearing will be held if and only if a person subject to the order requests a hearing within ten days of the receipt of the order and notice. The order and notice shall be served by the Commissioner or his agent or by certified mail, return receipt requested. In the case of an individual registered with or issued a license or permit by the department, receipt of the order and notice will be conclusively presumed five days after the mailing of the order by certified mail, return receipt requested, to the address provided by such person in his most recent registration or license or permit application.
- (d) Any request for hearing made pursuant to subsections (b) and (c) of this Code section shall specify (1) in what respects such person is aggrieved, (2) any and all defenses such person intends to assert at the hearing, (3) affirmation or denial of all the facts and findings alleged in the order, and (4) an address to which any further correspondence or notices in the proceeding may be mailed. Upon such a request for hearing, the Commissioner shall schedule and hold the hearing, unless postponed by mutual consent, within 30 days after receipt by the Commissioner of the request therefor. The Commissioner shall give the person requesting the hearing notice of the time and place of the hearing by certified mail to the address specified in the request for hearing at least 15 days prior to the time of the hearing.
- (e) Except where in conflict with the express provisions of this Code section and the reasonable implication of such provisions, the provisions of Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," relating to contested cases shall be applicable to the actions of the Commissioner taken pursuant to this Code section and to the conduct and judicial review of any hearings held as a result thereof.

- (f) The Commissioner may institute actions or other legal proceedings in any superior court of proper venue as may be required for the enforcement of any law or regulation governing activities for which registration with or a license or permit from the department is required.
- (g) The Commissioner may prosecute an action in any superior court of proper venue to enforce any order made by him pursuant to this Code section.
- (h) In cases in which the Commissioner institutes an action or other legal proceeding or prosecutes an action to enforce his order, the superior court may, among other appropriate relief, issue a temporary restraining order or a preliminary, interlocutory, or permanent injunction restraining or enjoining persons from engaging in, or acting in concert with anyone engaging in, any acts, practices, or transactions prohibited by orders of the Commissioner or any law or regulation governing activities for which registration with or a license or permit from the department is required.

4-10-10. Joint regulation by the Department of Agriculture and the Department of Human Resources.

If the Department of Human Resources elects to regulate the sale or transportation of exotic or pet birds under the authority of Code Section 31-12-9, then the Department of Human Resources shall cooperate with the Department of Agriculture in developing and implementing such regulation.

4-10-11. Construction of chapter.

Nothing in this chapter shall be construed to repeal or preempt any laws or parts of laws administered by the Department of Natural Resources. However, insofar as any authority created by this chapter duplicates any other current or future authorities of the Department of Natural Resources with respect to Class Aves, the Department of Agriculture and the Department of Natural Resources shall cooperate in the administration of those duplicated authorities.

4-10-12. Penalty.

Any person who acts as a bird dealer without a license in violation of this chapter shall be guilty of a misdemeanor.