



Virginia Department of Planning and Budget **Economic Impact Analysis**

2 VAC 5-105 Regulations for the Inspection of Pet Shops Selling Dogs or Cats
Department of Agriculture and Consumer Services
Town Hall Action/Stage: 5677 / 9390
January 5, 2022

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order 14 (as amended, July 16, 2018). The analysis presented below represents DPB's best estimate of these economic impacts.¹

Summary of the Proposed Amendments to Regulation

Pursuant to Chapter 1284 of the 2020 Acts of Assembly, the Board of Agriculture and Consumer Services (Board) proposes a new regulation governing pet shops selling dogs and cats.

Background

Chapter 1284 of the 2020 Acts of Assembly² requires the Board to adopt a regulation “governing the keeping of dogs and cats by any pet shop.” VDACS relates that the references to the “keeping” of dogs and cats refers only to retail pet shops that sell dogs and cats, given the bill's definition of “pet shop” as a “retail establishment where companion animals are bought, sold, exchanged, or offered for sale or exchange to the general public.” The legislation also identifies specific components that must be addressed by the regulation, such as: a requirement that these pet shops register with the Department of Agriculture and Consumer Services (VDACS) in order to operate; the payment of a \$250 annual registration fee by “any private, for-

¹ Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

² <https://lis.virginia.gov/cgi-bin/legp604.exe?201+ful+CHAP1284>

profit entity required to register”; the inclusion of standards for the keeping of animals; a requirement that a state animal welfare inspector annually conduct at least one unannounced drop-in inspection of each pet shop; and remedies for each finding in a given inspection.

Consequently, the Board proposes to establish a new regulation that includes a \$250 annual registration fee for pet shops selling dogs and cats; standards of adequate care, exercise, feed, shelter, space, treatment, water, proper cleaning, and lighting; an annual unannounced inspection by a state animal welfare inspector; and remedies for each finding in a given inspection including the cancellation of the registration, the institution of a conditional probationary period, the renewal of registration for a limited period, or other actions.

Estimated Benefits and Costs

VDACS estimates that there are approximately 20 pet shops in Virginia that sell dogs and cats. This number does not include pet shops that keep dogs and cats to facilitate adoptions on behalf of shelters, because they would not be subject to this regulation. For example, most national pet store chains work with a local shelter to keep/display some of the dogs or cats that the shelter has available for adoption, but the store does not sell the animals. Similarly, VDACS has an existing animal shelter inspection program that oversees shelters and other entities involved in facilitating adoptions or other animal welfare issues. VDACS reports that the responsibility for inspecting pet shops that keep dogs and cats for adoption rests with local animal control officers. Thus this regulation would exclusively apply to private for-profit pet shops selling dogs and cats.

VDACS anticipates collecting approximately \$5,000 in annual registration fee revenue from an estimated 20 affected pet shops. VDACS states that the new requirements would be handled by existing staff of the animal shelter inspection program by reprioritizing work assignments. The fees collected would be used to cover program costs related to annual unannounced inspections, the administrative costs involved in assessing and collecting the fee, and the administrative costs of corrective actions.

The primary intent of the legislation and the regulation appears to be enhancing the welfare of dogs and cats kept at pet shops while waiting to be sold. Thus, the main benefit of the proposal would be any incremental improvements in the welfare of affected animals. It is worth noting, however, that for-profit pet shops already have incentives to make the dogs and cats

offered for sale look their best to prospective owners. Therefore, most shops may already provide adequate care in terms of exercise, feed, shelter, space, treatment, water, proper cleaning, and lighting. Furthermore, the Comprehensive Animal Care Law (Code of Virginia §3.2-6500 *et seq*) addresses the keeping of animals by pet shops and authorizes animal control officers appointed by local governments to enforce these requirements. Although VDACS notes that the regulation is likely to improve the welfare of dogs and cats sold by these pet shops, VDACS does not have any data indicating any problems with care of dogs and cats at these shops in part because these shops are not currently under their purview. Thus, it is not clear whether the incremental effect of this action on any improvements to the welfare of affected animals is commensurate with the \$250 annual registration fee and other costs imposed on pet shops.

Businesses and Other Entities Affected

VDACS estimates that the proposed regulation would apply to approximately 20 pet shops selling dogs and cats.

The Code of Virginia requires the DPB to assess whether an adverse impact may result from the proposed regulation.³ An adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined. As noted above, the proposed action would impose a \$250 annual registration fee on pet shops selling dogs and cats. Thus, an adverse impact is indicated.

Small Businesses⁴ Affected:⁵

As noted above, the proposed action appears to adversely affect small businesses.

³ Pursuant to Code § 2.2-4007.04(D): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance. Statute does not define “adverse impact,” state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

⁴ Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.”

⁵ If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a

Types and Estimated Number of Small Businesses Affected

VDACS estimates that most of the 20 affected pet shops are small businesses, but does not have any specific data.

Costs and Other Effects

The proposed action would establish a \$250 registration fee on affected pet shops, many of which appear to fit the criteria for a small business. An adverse economic impact⁶ on small pet shops selling dogs and cats is indicated.

Alternative Method that Minimizes Adverse Impact

The proposed \$250 annual registration fee is mandated by the legislation. Thus, there is no alternative method that minimizes the adverse impact.

Localities⁷ Affected⁸

The proposed action applies to all localities uniformly and does not introduce costs for local governments.

Projected Impact on Employment

As discussed above, existing staff of the VDACS animal shelter inspection program would administer this regulation by reprioritizing work assignments. Additionally, most pet shops are likely already providing adequate care for dogs and cats waiting to be sold. Thus, the proposed amendments do not appear to affect total employment.

Effects on the Use and Value of Private Property

The proposed \$250 annual registration fee would add to the costs of operating a pet shop that sells dogs and cats. Consequently, the asset value of these pet shops may be moderately reduced. The proposed action does not affect real estate development costs.

proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

⁶ Adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined.

⁷ "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

⁸ § 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.