

By: Representative Holland

To: Agriculture

HOUSE BILL NO. 807

1 AN ACT TO AMEND SECTIONS 75-40-103, 75-40-107, 75-40-109,
2 75-40-111, 75-40-113, 75-40-115 AND 75-40-117, MISSISSIPPI CODE OF
3 1972, TO CHANGE THE ADMINISTRATION OF THE MISSISSIPPI BIRD DEALERS
4 LICENSING ACT FROM THE COMMISSIONER OF AGRICULTURE TO THE BOARD OF
5 ANIMAL HEALTH AND THE STATE VETERINARIAN; AND FOR RELATED
6 PURPOSES.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

8 SECTION 1. Section 75-40-103, Mississippi Code of 1972, is
9 amended as follows:

10 75-40-103. For the purposes of this article, the following
11 words shall have the meanings ascribed herein unless the context
12 clearly requires otherwise:

13 (a) "Bird dealer" means any person engaged in the
14 business of dealing in, purchasing, breeding or offering for sale,
15 whether at wholesale or retail, any exotic or pet birds or birds
16 customarily kept as pets. For purposes of this article, ratites,
17 including the ostrich, the rhea and the emu, are classified as
18 commercial birds or livestock and not as exotic or pet birds.

19 (b) "Board" means the Mississippi Board of Animal
20 Health.

21 (c) "Person" means any individual, firm, partnership,
22 corporation, estate, trust, fiduciary or other group or
23 combination acting as a unit.

(d) "State Veterinarian" means the officer appointed by the Board of Animal Health as provided in Section 69-15-7.

SECTION 2. Section 75-40-107, Mississippi Code of 1972, is amended as follows:

75-40-107. Bird dealers' licenses shall be issued by the board for a period of one (1) year and shall be annually renewable. The board may establish separate classes of licenses, including wholesale and retail licenses. The board shall fix fees for licenses so that the revenue derived therefrom shall approximate the total direct and indirect costs of administering this article; provided, however, that the annual cost of a wholesale license shall not exceed Twenty-five Dollars (\$25.00) and the annual cost of a retail license shall not exceed Ten Dollars (\$10.00).

SECTION 3. Section 75-40-109, Mississippi Code of 1972, is amended as follows:

75-40-109. (1) Every bird dealer shall keep records sufficient to identify:

(a) Each exotic or pet bird in his possession or sold by him by species and description;

(b) The name, address and telephone number of the person from whom each such bird was acquired and, if such person is a licensed bird dealer, his license number, or if such person is not a licensed dealer, his driver's license number or social security number or federal tax identification number, if any, or other such identification as may be available;

(c) 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, his license number, or, if that person is not a licensed bird dealer, his driver's license number or social security number, if any, or other such identification as

55 may be available; and

56 (d) Any bird which the dealer knows to be or have been
57 sick or diseased or to have died.

58 (2) The board may require periodic reports of any or all of
59 the records required by subsection (1) of this section and may
60 require the keeping of additional records. All required records
61 shall be made available for inspection by the board. Failure to
62 keep or make available any required records shall be grounds for
63 revocation of a license.

64 (3) Every bird dealer shall keep all of such records for at
65 least one (1) year.

66 SECTION 4. Section 75-40-111, Mississippi Code of 1972, is
67 amended as follows:

68 75-40-111. The * * * State Veterinarian may quarantine,
69 seize and destroy any birds which present a hazard of carrying
70 exotic or untreatable disease as determined by rules and
71 regulations promulgated by the board. The board shall pay an
72 indemnity to the owner of any seized or destroyed birds from any
73 federal funds made available for that purpose or any state funds
74 hereafter appropriated for that purpose.

75 SECTION 5. Section 75-40-113, Mississippi Code of 1972, is
76 amended as follows:

77 75-40-113. The State Veterinarian may make any rules and
78 regulations not inconsistent with this article governing the
79 business of dealing in or the transportation of exotic or pet
80 birds.

81 SECTION 6. Section 75-40-115, Mississippi Code of 1972, is
82 amended as follows:

75-40-115. (1) Whenever it may appear to the State Veterinarian or to 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 from the Board of Animal Health is required by this article, whether or not the person has so registered or obtained such a license or permit, the State Veterinarian 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.

(2) In situations where persons otherwise would be entitled to a hearing prior to an order entered pursuant to subsection (1) of this section, the State Veterinarian may issue such an order to be effective upon a later date without hearing unless a person subject to the order requests a hearing within ten (10) days after receipt of the order. Failure to make such 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 (10) days of receipt of the notice and order. The order and notice shall be served in person by the State Veterinarian 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 Board of Animal Health receipt of the order and notice will be conclusively presumed five (5) 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.

(3) In situations where persons otherwise would be entitled to a hearing prior to an order, the State Veterinarian may issue an order to be effective immediately if the State Veterinarian 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 may provide that a hearing will be held if and only if a person subject to the order requests a hearing within ten (10) days of the receipt of the order and notice. The order and notice shall be served by the State Veterinarian, or his agent, by certified mail, return receipt requested. In the case of an individual registered with or issued a license or permit by the Board of Animal Health, receipt of the order and notice will be conclusively presumed five (5) 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.

(4) Any request for hearing made pursuant to subsections (2) and (3) of this section shall specify: (a) in what respects such person is aggrieved, (b) any and all defenses such person intends to assert at the hearing, (c) affirmation or denial of all the

facts and findings alleged in the order, and (d) an address to which any further correspondence or notices in the proceeding may be mailed. Upon such a request for hearing, the State Veterinarian shall schedule and hold the hearing, unless postponed by mutual consent, within thirty (30) days after receipt by the State Veterinarian of the request therefor. The State Veterinarian 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 fifteen (15) days prior to the time of the hearing.

SECTION 7. Section 75-40-117, Mississippi Code of 1972, is amended as follows:

75-40-117. (1) The State Veterinarian may institute suits or other legal proceedings in any 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 board is required by this article.

(2) The State Veterinarian may institute an action in any court of proper venue to enforce any order made by him pursuant to the provisions of Section 75-40-115.

(3) In cases in which the State Veterinarian institutes a suit or other legal proceeding to enforce his order, the court may, among other appropriate relief, issue a temporary restraining order or a preliminary, interlocutory or permanent injunction restraining or enjoining persons, and those in active concert with them, from engaging in any acts, practices or transactions prohibited by orders of the State Veterinarian or any law or regulation governing activities for which registration with or a

167 license or permit from the Board of Animal Health is required.

168 SECTION 8. This act shall take effect and be in force from
169 and after July 1, 1999.