

By: Senator(s) Thames

To: Agriculture

## SENATE BILL NO. 2548

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.

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

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

28 75-40-107. Bird dealers' licenses shall be issued by the

29 board for a period of one (1) year and shall be annually  
30 renewable. The board may establish separate classes of licenses,  
31 including wholesale and retail licenses. The board shall fix fees  
32 for licenses so that the revenue derived therefrom shall  
33 approximate the total direct and indirect costs of administering  
34 this article; provided, however, that the annual cost of a  
35 wholesale license shall not exceed Twenty-five Dollars (\$25.00)  
36 and the annual cost of a retail license shall not exceed Ten  
37 Dollars (\$10.00).

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

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

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

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

50 (c) The name, address and telephone number of the  
51 person to whom each such bird is transferred and, if that person  
52 is a licensed bird dealer, his license number, or, if that person  
53 is not a licensed bird dealer, his driver's license number or  
54 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:

83 75-40-115. (1) Whenever it may appear to the State  
84 Veterinarian or to his agent, either upon investigation or  
85 otherwise, that any person has engaged in, or is engaging in, or  
86 is about to engage in any act, practice or transaction which is  
87 prohibited by any law or regulation governing activities for which  
88 a license from the Board of Animal Health is required by this  
89 article, whether or not the person has so registered or obtained  
90 such a license or permit, the State Veterinarian may issue an  
91 order, if he deems it to be in the public interest or necessary  
92 for the protection of the citizens of this state, prohibiting such  
93 person from continuing such act, practice or transaction or  
94 suspending or revoking any such registration, license or permit

95 held by such person.

96 (2) In situations where persons otherwise would be entitled  
97 to a hearing prior to an order entered pursuant to subsection (1)  
98 of this section, the State Veterinarian may issue such an order to  
99 be effective upon a later date without hearing unless a person  
100 subject to the order requests a hearing within ten (10) days after  
101 receipt of the order. Failure to make such request shall  
102 constitute a waiver of any provision of law for a hearing. The  
103 order shall contain or shall be accompanied by a notice of  
104 opportunity for hearing stating that a hearing must be requested  
105 within ten (10) days of receipt of the notice and order. The  
106 order and notice shall be served in person by the State  
107 Veterinarian, or his agent, or by certified mail, return receipt  
108 requested. In the case of an individual registered with or issued  
109 a license or permit by the Board of Animal Health receipt of the  
110 order and notice will be conclusively presumed five (5) days after  
111 the mailing of the order by certified mail, return receipt  
112 requested, to the address provided by such person in his most  
113 recent registration or license or permit application.

114 (3) In situations where persons otherwise would be entitled  
115 to a hearing prior to an order, the State Veterinarian may issue  
116 an order to be effective immediately if the State Veterinarian, or  
117 his agent, has reasonable cause to believe that an act, practice  
118 or transaction is occurring or is about to occur; that the  
119 situation constitutes a situation of imminent peril to the public  
120 safety or welfare; and that the situation therefore requires  
121 emergency action. The emergency order shall contain findings to  
122 this effect and reasons for the determination. The order shall  
123 contain or be accompanied by a notice of opportunity for hearing  
124 which may provide that a hearing will be held if and only if a  
125 person subject to the order requests a hearing within ten (10)  
126 days of the receipt of the order and notice. The order and notice  
127 shall be served by the State Veterinarian, or his agent, by

128 certified mail, return receipt requested. In the case of an  
129 individual registered with or issued a license or permit by the  
130 Board of Animal Health, receipt of the order and notice will be  
131 conclusively presumed five (5) days after the mailing of the order  
132 by certified mail, return receipt requested, to the address  
133 provided by such person in his most recent registration or license  
134 or permit application.

135 (4) Any request for hearing made pursuant to subsections (2)  
136 and (3) of this section shall specify: (a) in what respects such  
137 person is aggrieved, (b) any and all defenses such person intends  
138 to assert at the hearing, (c) affirmation or denial of all the  
139 facts and findings alleged in the order, and (d) an address to  
140 which any further correspondence or notices in the proceeding may  
141 be mailed. Upon such a request for hearing, the State  
142 Veterinarian shall schedule and hold the hearing, unless postponed  
143 by mutual consent, within thirty (30) days after receipt by the  
144 State Veterinarian of the request therefor. The State  
145 Veterinarian shall give the person requesting the hearing notice  
146 of the time and place of the hearing by certified mail to the  
147 address specified in the request for hearing at least fifteen (15)  
148 days prior to the time of the hearing.

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

151 75-40-117. (1) The State Veterinarian may institute suits  
152 or other legal proceedings in any court of proper venue as may be  
153 required for the enforcement of any law or regulation governing  
154 activities for which registration with or a license or permit from  
155 the board is required by this article.

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

159 (3) In cases in which the State Veterinarian institutes a  
160 suit or other legal proceeding to enforce his order, the court

161 may, among other appropriate relief, issue a temporary restraining  
162 order or a preliminary, interlocutory or permanent injunction  
163 restraining or enjoining persons, and those in active concert with  
164 them, from engaging in any acts, practices or transactions  
165 prohibited by orders of the State Veterinarian or any law or  
166 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.