

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 363*

Short Title: Animal Welfare Act/Revisions.

(Public)

Sponsors: Representatives McLaughlin; Stamey, Gist, Barnes, Privette, Brown, N. Crawford, and Buchanan.

Referred to: Basic Resources.

February 23, 1989

A BILL TO BE ENTITLED

AN ACT TO REVISE ANIMAL WELFARE AND CONTROL LAWS AND CREATE THE ANIMAL WELFARE ACT ENFORCEMENT FUND.

Whereas, the 1987 Session of the General Assembly authorized the Legislative Research Commission to study the effectiveness of the Animal Welfare Act; and

Whereas, the Animal Welfare Act Study Committee was specifically authorized to consider whether the act should apply to city and county animal shelters and whether central records containing information submitted to the Animal Welfare Section of the State Department of Agriculture should be maintained; and

Whereas, it was the consensus of the members of the Animal Welfare Act Study Committee that some city and county animal control facilities in the State are failing to meet the minimum standards established under the act for the humane care and treatment of confined animals; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 19A-23 reads as rewritten:

"§ 19A-23. Definitions.

For the purposes of this Article, the following terms, when used in the Article or the rules or orders made pursuant thereto, shall be construed respectively to mean:

- (1) 'Adequate feed' means the provision at suitable intervals, not to exceed 24 hours, of a quantity of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition in each

- 1 animal. Such foodstuff shall be served in a sanitized receptacle, dish,
2 or container.
- 3 (2) 'Adequate water' means a constant access to a supply of clean, fresh,
4 potable water provided in a sanitary manner or provided at suitable
5 intervals for the species and not to exceed 24 hours at any interval.
- 6 (3) 'Ambient temperature' means the temperature surrounding the animal.
- 7 (4) 'Animal' means any domestic dog (*Canis familiaris*), domestic cat
8 (*Felis domestica*).
- 9 (4a) 'Animal control officer' means a city or county employee designated
10 as animal control officer, dog warden, or other designation that may be
11 used, whose responsibility includes the seizing, impounding, or
12 keeping custody of animals.
- 13 (5) 'Animal shelter' means a facility which is used to house or
14 contain animals and which is under contract with, owned, operated,
15 or maintained by a county, city, town, or other municipality, or by a
16 duly incorporated humane society, animal welfare society, society
17 for the prevention of cruelty to animals, or other nonprofit
18 organization devoted to the welfare, protection and humane
19 treatment of animals.
- 20 (5a) 'Boarding kennel' means a facility or establishment which regularly
21 offers to the public the service of boarding dogs or cats or both for a
22 fee. Such a facility or establishment may, in addition to providing
23 shelter, food and water, offer grooming or other services for dogs
24 and/or cats.
- 25 (6) 'Commissioner' means the Commissioner of Agriculture of the State
26 of North Carolina.
- 27 (7) 'Dealer' means any person who in the regular course of business for
28 compensation or profit buys, sells, exchanges, or donates, or offers to
29 sell, exchange, or donate ~~donates~~ animals to the general public, another
30 dealer, pet shop, or research facility. ~~facility; provided, however, that an~~
31 ~~individual who breeds and raises on his own premises no more than the~~
32 ~~offspring of five canine or feline females per year, unless bred and raised~~
33 ~~specifically for research purposes shall not be considered to be a dealer for~~
34 ~~the purposes of this Article.~~
- 35 (8) 'Director' means the Director of the Animal Welfare Section of the
36 Animal Health Division of the Department of Agriculture.
- 37 (9) 'Euthanasia' means the humane destruction of an animal accomplished
38 by a method that involves rapid unconsciousness and immediate death
39 or by a method that involves anesthesia, produced by an agent which
40 causes painless loss of consciousness, and death during such loss of
41 consciousness.
- 42 (10) 'Housing facility' means any room, building, or area used to contain a
43 primary enclosure or enclosures.

- 1 (11) 'Person' means any individual, partnership, firm, joint- stock company,
2 corporation, association, trust, estate, or other legal entity.
- 3 (12) 'Pet shop' means a person or establishment that acquires for the
4 purposes of resale animals bred by others whether as owner, agent, or
5 on consignment, and that sells, trades or offers to sell or trade such
6 animals to the general public at retail or wholesale.
- 7 (13) 'Primary enclosure' means any structure used to immediately restrict
8 an animal or animals to a limited amount of space, such as a room,
9 pen, cage compartment or hutch.
- 10 (14) 'Public auction' means any place or location where dogs or cats are
11 sold at auction to the highest bidder regardless of whether such dogs
12 or cats are offered as individuals, as a group, or by weight.
- 13 (15) 'Research facility' means any place, laboratory, or institution at which
14 scientific tests, experiments, or investigations involving the use of
15 living animals are carried out, conducted, or attempted.
- 16 (16) 'Sanitize' means to make physically clean and to remove and destroy
17 to a practical minimum, agents injurious to health."

18 Sec. 2. G.S. 19A-24 reads as rewritten:

19 **"§ 19A-24. Powers of Board of Agriculture.**

20 The Board of Agriculture may:

- 21 (1) Establish standards for the care of animals at animal shelters, boarding
22 kennels, pet shops, and public auctions.
- 23 (2) Prescribe the manner in which animals may be transported to and from
24 registered or licensed premises.
- 25 (3) Require licensees and holders of certificates to keep records of the
26 identity, confinement, and disposition of purchase and sale of animals
27 and to identify animals at their establishments.
28 establishments on such
29 forms as the Board may establish in order to standardize such record
30 keeping.
- 31 (3a) Require licensees and holders of certificates to submit records
32 maintained pursuant to this Article to the Board on a periodic basis.
- 33 (4) Adopt rules to implement this Article, including federal regulations
34 promulgated under Title 7, Chapter 54, of the United States Code."

34 Sec. 3. G.S. 19A-36 reads as rewritten:

35 **"§ 19A-36. Penalty for violation of Article by animal control officer or dog warden.**

36 Violation of any provision of this Article which relates to the seizing, impoundment,
37 and custody of an animal by an animal control officer or a dog warden shall constitute a
38 misdemeanor and the person convicted thereof shall be subject to a fine of not less than
39 fifty dollars (\$50.00) and not more than one hundred dollars (\$100.00), and each animal
40 handled in violation shall constitute a separate offense."

41 Sec. 4. Article 3 of Chapter 19A of the General Statutes is amended by
42 adding a new section to read:

43 **"§ 19A-40. County Animal Control Facility; confinement and disposition of stray**
44 **animals.**

1 (a) The governing body of each county shall maintain, cause to be maintained, or
2 contract for the use of, an animal control facility that is operated in accordance with
3 guidelines applicable to animal shelters, and shall require animals running at large
4 without the tag required by G.S. 130A-190 or in violation of any local ordinance to be
5 confined therein. The governing body of each county need not own the facility required
6 by this section, but may contract for its establishment with a private group or in
7 conjunction with other local governing bodies, or may contract for the use of an existing
8 facility with the governing body of another county or city. The governing body shall
9 make the facility accessible to the public at reasonable hours during the week.

10 (b) All animals confined pursuant to this section shall be kept available for claim
11 by their owner for a period of not less than 72 hours, excluding any day that the facility
12 is not open to the public.

13 (c) If the owner of an animal confined in the facility may be readily identified,
14 the operator of the facility shall make a reasonable effort to notify the owner within 48
15 hours after the animal is confined.

16 (d) This Article does not prohibit the destruction of a critically injured or
17 critically ill animal for humane purposes.”

18 Sec. 5. Article 3 of Chapter 19A of the General Statutes is amended by
19 adding the following new sections to read:

20 **“§ 19A-41. Animal Welfare Act Enforcement Fund.**

21 (a) The Animal Welfare Act Enforcement Fund is established in the Animal
22 Welfare Section of the Department of Agriculture. The Department of Agriculture shall
23 be responsible for receipt and disbursement of all funds in the Animal Welfare Act
24 Enforcement Fund as provided in this section.

25 (b) Moneys in the Animal Welfare Act Enforcement Fund shall be used annually
26 for personnel and administrative costs incurred by the Animal Welfare Section of the
27 Department of Agriculture in enforcing the provisions of the Animal Welfare Act.

28 (c) Moneys in the Fund in excess of personnel and administrative costs shall be
29 available to units of local government as assistance funding for compliance with the act
30 on the terms and conditions set forth in G.S. 19A-41.1.

31 **§ 19A-41.1. Animal Control Facility grants; eligible purpose; terms and conditions.**

32 (a) The Department of Agriculture shall make grants from the Animal Welfare
33 Act Enforcement Fund to units of local government for new construction of animal
34 control facilities, or for capital improvements of existing facilities to ensure compliance
35 with the standards of the act.

36 (b) The Commissioner or his designee shall set a priority on and approve
37 applications for funds based on a review of the local government's existing facility
38 needs, and the need for State funding to ensure the facility's compliance with the
39 standards of the act.

40 (c) The Commissioner of Agriculture or his designee, based on criteria to be
41 established by the Board of Agriculture, shall distribute five thousand dollars (\$5,000)
42 in matching grant funds for each five thousand dollars (\$5,000) allocated by the local
43 unit of government either for new construction of an animal control facility or for

1 capital improvements of an existing facility. No unit of local government may receive
2 more than ten thousand dollars (\$10,000) in matching funds per year.

3 (d) One or more units of local government may apply separately for funds under
4 this section for a jointly utilized facility.

5 (e) Funds may not be granted under this section for normal operating expenses of
6 an animal control facility.”

7 Sec. 6. Chapter 130A of the General Statutes is amended by adding a new
8 section to read:

9 **“§ 130A-185.1. Rabies vaccination fee.**

10 (a) There is levied on every person who administers rabies vaccines a fee of fifty
11 cents (50¢) per rabies vaccine administered to a dog or a cat in this State.

12 (b) Every person who administers rabies vaccine to a dog or cat shall collect the
13 fee levied by this section and shall state and charge the fee separately from the sales
14 price of the vaccination and show the fee separately on the vaccinator's sales records.
15 The fee levied by this section shall be reflected on the rabies vaccination certificate
16 required by G.S. 130A-189. The fee shall be paid by the purchaser of the vaccination to
17 the vaccinator as trustee for and on account of the State. It is the intent of this section
18 that the fee shall be added to the cost of the rabies vaccination when administered and
19 be borne by and passed on to the customer, instead of being borne by the vaccinator.

20 (c) The Department shall collect and administer the fee levied by this section and
21 shall design, print, and furnish to all vaccinators in the State the necessary forms for
22 filing returns and instructions to ensure the full collection of the fee.

23 (d) The fee levied under this section is due and payable to the Department in
24 quarterly installments on or before the 15th day of the month following the end of the
25 quarter in which the fee accrues. Every vaccinator liable for the fee shall, on or before
26 the date the fee is due, prepare and render a return on the form prescribed by the
27 Department. The return shall state the total number of rabies vaccines administered by
28 the vaccinator in the preceding quarter.

29 (e) The Department shall retain ten percent (10%) of the proceeds collected
30 under this section for the administrative costs of collection and shall deposit, on a
31 quarterly basis, the balance of the proceeds in the Animal Welfare Act Enforcement
32 Fund in the Department of Agriculture.

33 (f) The Department may adopt such rules as are necessary to implement the
34 provisions of this section.

35 (g) Penalties.

36 (1) A person who fails or refuses to file the return required by this section
37 shall pay a penalty of ten dollars (\$10.00) for each day's omission. In
38 case of failure or refusal to file the return or pay the fee for a period of
39 30 days after the time required for filing the return or for paying the
40 fee, there shall be an additional fee, as a penalty, of five percent (5%)
41 of the fee due in addition to any other penalty, with an additional fee of
42 five percent (5%) for each additional month or fraction thereof until
43 the fee is paid. The Department may, for good cause shown,
44 compromise or forgive the penalties imposed by this subdivision.

1 (2) Any person who willfully attempts in any manner to evade a fee
2 imposed under this section or who willfully fails to pay the fee or
3 make and file a return shall, in addition to all other penalties provided
4 by law, be guilty of a misdemeanor and shall be punishable by a fine
5 not to exceed one thousand dollars (\$1,000), imprisonment not to
6 exceed six months, or both."

7 Sec. 7. Sections 5 and 6 of this act shall become effective January 1, 1990,
8 and Section 6 applies to vaccinations administered on or after that date. The remainder
9 of this act is effective on October 1, 1991.