

Article 3.

Animal Welfare Act.

§ 19A-20. Title of Article.

This Article may be cited as the Animal Welfare Act. (1977, 2nd Sess., c. 1217, s. 1.)

§ 19A-21. Purposes.

The purposes of this Article are (i) to protect the owners of dogs and cats from the theft of such pets; (ii) to prevent the sale or use of stolen pets; (iii) to insure that animals, as items of commerce, are provided humane care and treatment by regulating the transportation, sale, purchase, housing, care, handling and treatment of such animals by persons or organizations engaged in transporting, buying, or selling them for such use; (iv) to insure that animals confined in pet shops, kennels, animal shelters and auction markets are provided humane care and treatment; (v) to prohibit the sale, trade or adoption of those animals which show physical signs of infection, communicable disease, or congenital abnormalities, unless veterinary care is assured subsequent to sale, trade or adoption. (1977, 2nd Sess., c. 1217, s. 2.)

§ 19A-22. Animal Welfare Section in Animal Health Division of Department of Agriculture and Consumer Services created; Director.

There is hereby created within the Animal Health Division of the North Carolina Department of Agriculture and Consumer Services, a new section thereof, to be known as the Animal Welfare Section of said division.

The Commissioner of Agriculture is hereby authorized to appoint a Director of said section whose duties and authority shall be determined by the Commissioner subject to the approval of the Board of Agriculture and subject to the provisions of this Article. (1977, 2nd Sess., c. 1217, s. 3; 1997-261, s. 1.)

§ 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 animal. Such foodstuff shall be served in a sanitized receptacle, dish, or container.
- (2) "Adequate water" means a constant access to a supply of clean, fresh, potable water provided in a sanitary manner or provided at suitable intervals for the species and not to exceed 24 hours at any interval.
- (3) "Ambient temperature" means the temperature surrounding the animal.
- (4) "Animal" means any domestic dog (*Canis familiaris*), or domestic cat (*Felis domestica*).
- (5) "Animal shelter" means a facility which is used to house or contain seized, stray, homeless, quarantined, abandoned or unwanted animals and which is under contract with, owned, operated, or maintained by a county, city, town, or other municipality, or by a duly incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection, rehabilitation, or humane treatment of animals.

(5a) "Approved foster care provider" means an individual, nonprofit corporation, or association that cares for stray animals that has been favorably assessed by the operator of the animal shelter through the application of written standards.

(5b) "Approved rescue organization" means a nonprofit corporation or association that cares for stray animals that has been favorably assessed by the operator of the animal shelter through the application of written standards.

(5c) "Boarding kennel" means a facility or establishment which regularly offers to the public the service of boarding dogs or cats or both for a fee. Such a facility or establishment may, in addition to providing shelter, food and water, offer grooming or other services for dogs and/or cats.

(6) "Commissioner" means the Commissioner of Agriculture of the State of North Carolina.

(7) "Dealer" means any person who sells, exchanges, or donates, or offers to sell, exchange, or donate animals to another dealer, pet shop, or research facility; provided, however, that an individual who breeds and raises on his own premises no more than the offspring of five canine or feline females per year, unless bred and raised specifically for research purposes shall not be considered to be a dealer for the purposes of this Article.

(8) "Director" means the Director of the Animal Welfare Section of the Animal Health Division of the Department of Agriculture and Consumer Services.

(9) "Euthanasia" means the humane destruction of an animal accomplished by a method that involves rapid unconsciousness and immediate death or by a method that involves anesthesia, produced by an agent which causes painless loss of consciousness, and death during such loss of consciousness.

(10) "Housing facility" means any room, building, or area used to contain a primary enclosure or enclosures.

(11) "Person" means any individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or other legal entity.

(12) "Pet shop" means a person or establishment that acquires for the purposes of resale animals bred by others whether as owner, agent, or on consignment, and that sells, trades or offers to sell or trade such animals to the general public at retail or wholesale.

(13) "Primary enclosure" means any structure used to immediately restrict an animal or animals to a limited amount of space, such as a room, pen, cage compartment or hutch.

(14) "Public auction" means any place or location where dogs or cats are sold at auction to the highest bidder regardless of whether such dogs or cats are offered as individuals, as a group, or by weight.

(15) "Research facility" means any place, laboratory, or institution at which scientific tests, experiments, or investigations involving the use of living animals are carried out, conducted, or attempted.

(16) "Sanitize" means to make physically clean and to remove and destroy to a practical minimum, agents injurious to health. (1977, 2nd Sess., c. 1217, s. 4; 1979, c. 734, s. 1; 1987, c. 827, s. 61; 1997-261, s. 2; 2005-276, s. 11.5(a); 2013-377, s. 1.)

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

(a) The Board of Agriculture shall:

(1) Establish standards for the care of animals at animal shelters, boarding kennels, pet shops, and public auctions. A boarding kennel that offers dog day care services and has a ratio of dogs to employees or supervisors, or both employees and supervisors, of not more than 10 to one, shall not as to such services be subject to any regulations that restrict the number of dogs that are permitted within any primary enclosure.

(2) Prescribe the manner in which animals may be transported to and from registered or licensed premises.

(3) Require licensees and holders of certificates to keep records of the purchase and sale of animals and to identify animals at their establishments.

(4) Adopt rules to implement this Article, including federal regulations promulgated under Title 7, Chapter 54, of the United States Code.

(5) Adopt rules on the euthanasia of animals in the possession or custody of any person required to obtain a certificate of registration under this Article. An animal shall only be put to death by a method and delivery of method approved by the American Veterinary Medical Association, the Humane Society of the United States, or the American Humane Association. The Department shall establish rules for the euthanasia process using any one or combination of methods and standards prescribed by the three aforementioned organizations. The rules shall address the equipment, the process, and the separation of animals, in addition to the animals' age and condition. If the gas method of euthanasia is approved, rules shall require (i) that only commercially compressed carbon monoxide gas is approved for use, and (ii) that the gas must be delivered in a commercially manufactured chamber that allows for the individual separation of animals. Rules shall also mandate training for any person who participates in the euthanasia process

(b) In addition to rules on the euthanasia of animals adopted pursuant to subdivision (5) of subsection (a) of this section, the Board of Agriculture shall adopt rules for the certification of euthanasia technicians. The rules may provide for:

(1) Written and practical examinations for persons who perform euthanasia.

(2) Issuance of certification to persons who have successfully completed both training and examinations to become a euthanasia technician.

(3) Recertification of euthanasia technicians on a periodic basis.

(4) Standards and procedures for the approval of persons who conduct training of euthanasia technicians.

(5) Approval of materials for use in euthanasia technician training.

(6) Minimum certification criteria for persons seeking to become euthanasia technicians including, but not limited to: age; previous related experience; criminal record; and other qualifications that are related to an applicant's fitness to perform euthanasia.

(7) Denial, suspension, or revocation of certification of euthanasia technicians who:

a. Violate any provision of this Article or rules adopted pursuant to this Article;

b. Have been convicted of or entered a plea of guilty or nolo contendere to:

1. Any felony;

2. Any misdemeanor or infraction involving animal abuse or neglect; or

3. Any other offense related to animal euthanasia, the duties or responsibilities of a euthanasia technician, or a euthanasia technician's fitness for certification;

c. Make any false statement, give false information, or omit material information in connection with an application for certification or for renewal or reinstatement of certification as a euthanasia technician; or

d. Otherwise are or become ineligible for certification.

8) Provision of the names of persons who perform euthanasia at animal shelters and for the animal shelter to notify the Department when those persons are no longer affiliated, employed, or serving as a volunteer with the shelter.

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(9) Certified euthanasia technicians to notify the Department when they are no longer employed by or are serving as a volunteer at an animal shelter.

(10) The duties, responsibilities, and standards of conduct for certified euthanasia technicians.

(c) Regardless of the extent to which the Board exercises its authority under subsection (b) of this section, the Department may deny, revoke, or suspend the certification of a euthanasia technician who has been convicted of or entered a plea of guilty or nolo contendere to a felony involving the illegal use, possession, sale, manufacture, distribution, or transportation of a controlled substance, drug, or narcotic.

(d) Persons seeking certification as euthanasia technicians, or a renewal of such certification, shall provide the Department a fingerprint card in a format acceptable to the Department, a form signed by the person consenting to a criminal record check and the use of the person's fingerprints, and such other identifying information as may be required by the State or national data banks. The Department may deny certification to persons who refuse to provide the fingerprint card or consent to the criminal background check. Fees required by the Department of Public Safety for conducting the criminal background check shall be collected by the Department and remitted to the Department of Public Safety along with the fingerprint card and consent form. (1977, 2nd Sess., c. 1217, s. 5; 1987, c. 827, s. 62; 2004-199, s. 12; 2005-276, s. 11.5(b); 2005-345, s. 22; 2008-198, s. 2(a); 2010-127, ss. 2, 3; 2014-100, s. 17.1(o).)

§ 19A-25. Employees; investigations; right of entry.

For the enforcement of the provisions of this Article, the Director is authorized, subject to the approval of the Commissioner to appoint employees as are necessary in order to carry out and enforce the provisions of this Article, and to assign them interchangeably with other employees of the Animal Health Division. The Director shall cause the investigation of all reports of violations of the provisions of this Article, and the rules adopted pursuant to the provisions hereof; provided further, that if any person shall deny the Director or his representative admittance to his property, either person shall be entitled to secure from any superior court judge a court order granting such admittance. (1977, 2nd Sess., c. 1217, s. 6; 1987, c. 827, s. 63.)

§ 19A-26. Certificate of registration required for animal shelter.

No person shall operate an animal shelter unless a certificate of registration for such animal shelter shall have been granted by the Director. Application for such certificate shall be made in the manner provided by the Director. No fee shall be required for such application or certificate. Certificates of registration shall be valid for a period of one year or until suspended or revoked and may be renewed for like periods upon application in the manner provided. (1977, 2nd Sess., c. 1217, s. 7; 1987, c. 827, s. 64.)

§ 19A-27. License required for operation of pet shop.

No person shall operate a pet shop unless a license to operate such establishment shall have been granted by the Director. Application for such license shall be made in the manner provided by the Director. The license shall be for the fiscal year and the license fee shall be seventy-five dollars (\$75.00) for each license period or part thereof beginning with the first day of the fiscal year. (1977, 2nd Sess., c. 1217, s. 8; 1987, c. 827, s. 65; 1989, c. 544, s. 17; 2011-145, s. 31.5(a).)

§ 19A-28. License required for public auction or boarding kennel.

No person shall operate a public auction or a boarding kennel unless a license to operate such establishment shall have been granted by the Director. Application for such license shall be made in the manner provided by the Director. The license period shall be the fiscal year and the license fee shall be seventy-five dollars (\$75.00) for each license period or part thereof beginning with the first day of the fiscal year. (1977, 2nd Sess., c. 1217, s. 9; 1987, c. 827, s. 65; 1989, c. 544, s. 18; 2011-145, s. 31.5(b).)

§ 19A-29. License required for dealer.

No person shall be a dealer unless a license to deal shall have been granted by the Director to such person. Application for such license shall be in the manner provided by the Director. The license period shall be the fiscal year and the license fee shall be seventy-five dollars (\$75.00) for each license period or part thereof, beginning with the first day of the fiscal year. (1977, 2nd Sess., c. 1217, s. 10; 1987, c. 827, s. 66; 1989, c. 544, s. 19; 2011-145, s. 31.5(c).)

§ 19A-30. Refusal, suspension or revocation of certificate or license.

The Director may refuse to issue or renew or may suspend or revoke a certificate of registration for any animal shelter or a license for any public auction, kennel, pet shop, or dealer, if after an impartial investigation as provided in this Article he determines that any one or more of the following grounds apply:

- (1) Material misstatement in the application for the original certificate of registration or license or in the application for any renewal under this Article;
- (2) Willful disregard or violation of this Article or any rules issued pursuant thereto;
- (3) Failure to provide adequate housing facilities and/or primary enclosures for the purposes of this Article, or if the feeding, watering, sanitizing and housing practices at the animal shelter, public auction, pet shop, or kennel are not consistent with the intent of this Article or the rules adopted under this Article;
- (4) Allowing one's license under this Article to be used by an unlicensed person;
- (5) Conviction of any crime an essential element of which is misstatement, fraud, or dishonesty, or conviction of any felony;

(6) Making substantial misrepresentations or false promises of a character likely to influence, persuade, or induce in connection with the business of a public auction, commercial kennel, pet shop, or dealer;

(7) Pursuing a continued course of misrepresentation of or making false promises through advertising, salesmen, agents, or otherwise in connection with the business to be licensed;

(8) Failure to possess the necessary qualifications or to meet the requirements of this Article for the issuance or holding of a certificate of registration or license.

The Director shall, before refusing to issue or renew and before suspension or revocation of a certificate of registration or a license, give to the applicant or holder thereof a written notice containing a statement indicating in what respects the applicant or holder has failed to satisfy the requirements for the holding of a certificate of registration or a license. If a certificate of registration or a license is suspended or revoked under the provisions hereof, the holder shall have five days from such suspension or revocation to surrender all certificates of registration or licenses issued thereunder to the Director or his authorized representative.

A person to whom a certificate of registration or a license is denied, suspended, or revoked by the Director may contest the action by filing a petition under G.S. 150B-23 within five days after the denial, suspension, or revocation.

Any licensee whose license is revoked under the provisions of this Article shall not be eligible to apply for a new license hereunder until one year has elapsed from the date of the order revoking said license or if an appeal is taken from said order of revocation, one year from the date of the order or final judgment sustaining said revocation. Any person who has been an officer, agent, or employee of a licensee whose license has been revoked or suspended and who is responsible for or participated in the violation upon which the order of suspension or revocation was based, shall not be licensed within the period during which the order of suspension or revocation is in effect. (1977, 2nd Sess., c. 1217, s. 11; 1987, c. 827, s. 67.)

§ 19A-31. License not transferable; change in management, etc., of business or operation.

A license is not transferable. When there is a transfer of ownership, management, or operation of a business of a licensee hereunder, the new owner, manager, or operator, as the case may be, whether it be an individual, firm, partnership, corporation, or other entity shall have 10 days from such sale or transfer to secure a new license from the Director to operate said business. A licensee shall promptly notify the Director of any change in the name, address, management, or substantial control of his business or operation. (1977, 2nd Sess., c. 1217, s. 12.)

§ 19A-32. Procedure for review of Director's decisions.

A denial, suspension, or revocation of a certificate or license under this Article shall be made in accordance with Chapter 150B of the General Statutes. (1977, 2nd Sess., c. 1217, s. 13; 1987, c. 827, s. 68.)

§ 19A-32.1. Minimum holding period for animals in animal shelters; public viewing of animals in animal shelters; disposition of animals.

(a) Except as otherwise provided in this section, all animals received by an animal shelter or by an agent of an animal shelter shall be held for a minimum holding period of 72 hours, or for any longer minimum period established by a board of county commissioners, prior to being euthanized or otherwise disposed of.

(b) Before an animal may be euthanized or otherwise disposed of, it shall be made available for adoption under procedures that enable members of the public to inspect the animal, except in the following cases:

(1) The animal has been found by the operator of the shelter to be unadoptable due to injury or defects of health or temperament.

(2) The animal is seriously ill or injured, in which case the animal may be euthanized before the expiration of the minimum holding period if the manager of the animal shelter determines, in writing, that it is appropriate to do so. The writing shall include the reason for the determination.

(3) The animal is being held as evidence in a pending criminal case.

(c) Except as otherwise provided in this subsection, a person who comes to an animal shelter attempting to locate a lost pet is entitled to view every animal held at the shelter, subject to rules providing for such viewing during at least four hours a day, three days a week. If the shelter is housing animals that must be kept apart from the general public for health reasons, public safety concerns, or in order to preserve evidence for criminal proceedings, the shelter shall make reasonable arrangements that allow pet owners to determine whether their lost pets are among those animals.

(d) During the minimum holding period, an animal shelter may place an animal it is holding into foster care by transferring possession of the animal to an approved foster care provider, an approved rescue organization, or the person who found the animal. If an animal shelter transfers possession of an animal under this subsection, at least one photograph depicting the head and face of the animal shall be displayed at the shelter in a conspicuous location that is available to the general public during hours of operation, and that photograph shall remain posted until the animal is disposed of as provided in subsection (f) of this section.

(e) If a shelter places an animal in foster care, the shelter may, in writing, appoint the person or organization possessing the animal to be an agent of the shelter. After the expiration of the minimum holding period, the shelter may (i) direct the agent possessing the animal to return it to the shelter, (ii) allow the agent to adopt the animal consistent with the shelter's adoption policies, or (iii) extend the period of time that the agent holds the animal on behalf of the shelter. A shelter may terminate an agency created under this subsection at any time by directing the agent to deliver the animal to the shelter. The local government or organization operating the shelter, as principal in the agency relationship, shall not be liable to reimburse the agent for the costs of care of the animal and shall not be liable to the owner of the animal for harm to the animal caused by the agent, absent a written contract providing otherwise.

(f) An animal that is surrendered to an animal shelter by the animal's owner and not reclaimed by that owner during the minimum holding period may be disposed of in one of the following manners:

- (1) Returned to the owner.
- (2) Adopted as a pet by a new owner.
- (3) Euthanized by a procedure approved by rules adopted by the Department of Agriculture and Consumer Services or, in the absence of such rules, by a procedure approved by the American Veterinary Medical Association, the Humane Society of the United States, or the American Humane Association.
- (g) An animal that is surrendered to an animal shelter by the animal's owner may be disposed of before the expiration of the minimum holding period in a manner authorized under subsection (f) of this section if the owner provides to the shelter (i) some proof of ownership of the animal and (ii) a signed written consent to the disposition of the animal before the expiration of the minimum holding period.
- (h) If the owner of a dog surrenders the dog to an animal shelter, the owner shall state in writing whether the dog has bitten any individual within the 10 days preceding the date of surrender.
- (i) An animal shelter shall require every person to whom an animal is released to present one of the following valid forms of government-issued photographic identification: (i) a drivers license, (ii) a special identification card issued under G.S. 20-37.7, (iii) a military identification card, or (iv) a passport. Upon presentation of the required photographic identification, the shelter shall document the name of the person, the type of photographic identification presented by the person, and the photographic identification number.
- (j) Animal shelters shall maintain a record of all animals impounded at the shelter, shall retain those records for a period of at least three years from the date of impoundment, and shall make those records available for inspection during regular inspections pursuant to this Article or upon the request of a representative of the Animal Welfare Section. These records shall contain, at a minimum:
 - (1) The date of impoundment.
 - (2) The length of impoundment.
 - (3) The disposition of each animal, including the name and address of any person to whom the animal is released, any institution that person represents, and the identifying information required under subsection (i) of this section.
 - (4) Other information required by rules adopted by the Board of Agriculture. (2013-377, s. 2.)

§ 19A-33. Penalty for operation of pet shop, kennel or auction without license.

Operation of a pet shop, kennel, or public auction without a currently valid license shall constitute a Class 3 misdemeanor subject only to a penalty of not less than five dollars (\$5.00) nor more than twenty-five dollars (\$25.00), and each day of operation shall constitute a separate offense. (1977, 2nd Sess., c. 1217, s. 14; 1993, c. 539, s. 315; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 19A-34. Penalty for acting as dealer without license; disposition of animals in custody of unlicensed dealer.

Acting as a dealer in animals as defined in this Article without a currently valid dealer's license shall constitute a Class 2 misdemeanor. Continued illegal operation after conviction shall constitute a separate offense. Animals found in possession or custody of an unlicensed dealer shall be subject to immediate seizure and impoundment and upon conviction of such unlicensed dealer shall become subject to sale or euthanasia in the discretion of the Director. (1977, 2nd Sess., c. 1217, s. 15; 1993, c. 539, s. 316; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 19A-35. Penalty for failure to adequately care for animals; disposition of animals.

Failure of any person licensed or registered under this Article to adequately house, feed, and water animals in his possession or custody shall constitute a Class 3 misdemeanor, and such person shall be subject to a fine of not less than five dollars (\$5.00) per animal or more than a total of one thousand dollars (\$1,000). Such animals shall be subject to seizure and impoundment and upon conviction may be sold or euthanized at the discretion of the Director and such failure shall also constitute grounds for revocation of license after public hearing. (1977, 2nd Sess., c. 1217, s. 16; 1999-408, s. 4.)

§ 19A-36. Penalty for violation of Article by dog warden.

Violation of any provision of this Article which relates to the seizing, impoundment, and custody of an animal by a dog warden shall constitute a Class 3 misdemeanor and the person convicted thereof shall be subject to a fine of not less than fifty dollars (\$50.00) and not more than one hundred dollars (\$100.00), and each animal handled in violation shall constitute a separate offense. (1977, 2nd Sess., c. 1217, s. 17; 1993, c. 539, s. 317; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 19A-37. Application of Article.

This Article shall not apply to a place or establishment which is operated under the immediate supervision of a duly licensed veterinarian as a hospital where animals are harbored, boarded, and cared for incidental to the treatment, prevention, or alleviation of disease processes during the routine practice of the profession of veterinary medicine. This Article shall not apply to any dealer, pet shop, public auction, commercial kennel or research facility during the period such dealer or research facility is in the possession of a valid license or registration granted by the Secretary of Agriculture pursuant to Title 7, Chapter 54, of the United States Code. This Article shall not apply to any individual who occasionally boards an animal on a noncommercial basis, although such individual may receive nominal sums to cover the cost of such boarding. (1977, 2nd Sess., c. 1217, s. 18; 1987, c. 827, s. 69.)

§ 19A-38. Use of license fees.

All license fees collected shall be used in enforcing and administering this Article. (1977, 2nd Sess., c. 1217, s. 19.)

§ 19A-39. Article inapplicable to establishments for training hunting dogs.

Nothing in this Article shall apply to those kennels or establishments operated primarily for the purpose of boarding or training hunting dogs. (1977, 2nd Sess., c. 1217, s. 21; 1979, c. 734, s. 2.)

§ 19A-40. Civil Penalties.

The Director may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Director shall consider the degree and extent of harm caused by the violation. The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1995, c. 516, s. 6; 1998-215, s. 3.)

§ 19A-41. Legal representation by the Attorney General.

It shall be the duty of the Attorney General to represent the Commissioner of Agriculture and the Department of Agriculture and Consumer Services, or to designate some member of his staff to represent the Commissioner and the Department, in all actions or proceedings in connection with this Article. (2005-276, s. 11.5(c).)

§ **19A-42.** Reserved for future codification purposes.

§ **19A-43.** Reserved for future codification purposes.

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