

**REPORT OF THE  
SPECIAL WORKING GROUP ON**

**The Care Which Should Be  
Given by Pet Shops, Kennels,  
and Breeders to Dogs, Cats, and  
Other Household Pets**

**TO THE GOVERNOR AND  
THE GENERAL ASSEMBLY OF VIRGINIA**



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## Summary

In response to citizen dissatisfaction with the health of pets bought from commercial operations, the 1991 General Assembly passed Senate Joint Resolution 177, which established a special working group to examine the care given by pet shops, kennels and breeders to dogs, cats and other household pets. The study was to determine the adequacy of (i) current standards for the care and treatment of animals by pet shops, kennels and breeders in the Commonwealth; (ii) the procedures used to determine the health of animals these establishments import from other states; and (iii) remedies available to persons who purchase ill household pets from pet shops, kennels, or breeders in Virginia.

The group found that although Virginia boasts an impressive canon of animal welfare and consumer protection laws, a number of weaknesses exist, the most important of which are the limited application of consumer protection laws and the absence of any specific, uniform registration requirements for dealers and pet shops. Moreover, safeguards that would protect the animal at every stage as it moves from breeder to pet owner lack firm definition and, in some cases, are absent altogether. Simultaneously complicating and arising from these deficiencies is uneven enforcement of the provisions that do exist. To close loopholes and fill gaps, the study recommends, in general, expanding consumer protection, expanding and specifying definitions, augmenting statewide standards for animal health protection, establishing statewide registration of those dealing commercially with animals, and increasing penalties for violations of the animal welfare laws. A statement of individual problems and recommendations follows:

Problem 1: Current consumer protection for those purchasing defective animals covers only those who buy registered or registerable cats or dogs (§§ 3.1-796.78 through 3.1-796.83).

Recommendations: Consumer protections should be expanded to include purchasers of all companion animals, to require consumer reimbursement, up to the cost of the animal, for certain veterinary charges, and to require veterinary inspection certificates for all dogs and cats. Posted notice of the remedies should also be required.

To further guarantee the health of dogs and cats sold by dealers or pet shops to consumers, specific health care measures, such as vaccination and inoculation requirements, should be added.

New sections should be added to require boarding establishments to provide necessary veterinary care, to inform the consumer of his rights and responsibilities, and to post notice of the requirements.

Problem 2: Definitions (§ 3.1-796.66) are often unclear and too general to be uniformly understood by those across the state attempting to obey or enforce animal welfare laws.

Recommendation: Definitions, particularly those dealing with standards of care, should be clarified and better aligned with those of federal law and regulation and the pet industry, e.g., the Pet Industry Joint Advisory Council (PIJAC).

Problem 3: The current sections attempting to ensure animal health and hence consumer protection lack specificity and leave gaps in provision of care as the animal is transferred from one handler to another.

Recommendations: As mentioned earlier, definitions should be amended to better define the meanings of health-promoting practices, and various health care practices should be specified.

Problem 4: Statewide standards for enforcing animal health provisions are, at best, inadequate.

Recommendation: To provide the knowledge necessary for effective regulation and, hence, consumer protection, the study recommends requiring dealers and pet shops to register with the State Veterinarian's Office in the Department of Agriculture.

Problem 5: Some monetary penalties are too low to encourage compliance.

Recommendation: Where commercial establishments alone are involved, penalties should be elevated throughout the chapter to allow the court to assess penalties commensurate with the size of the business.

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Report of the Special Working Group  
Studying the Care Which Should be Given  
by Pet Shops, Kennels and Breeders  
to Dogs, Cats and Other Household Pets  
pursuant to Senate Joint Resolution 177

### Authority and Purpose

In response to citizen dissatisfaction with the health of pets bought from commercial operations, the 1991 General Assembly passed Senate Joint Resolution 177, which established a special working group to examine the care given by pet shops, kennels and breeders to dogs, cats and other household pets. The study is to determine the adequacy of (i) current standards for the care and treatment of animals by pet shops, kennels and breeders in the Commonwealth; (ii) the procedures used to determine the health of animals these establishments import from other states; and (iii) remedies available to persons who purchase ill household pets from pet shops, kennels, or breeders in Virginia (Appendix A).

### Group Activities

The group divided into four teams to study, respectively, (i) a questionnaire designed to assess the number of pet shops, dealers/breeders, and kennels in Virginia and their animal health practices, (ii) exotics and reptiles, (iii) consumer protection and remedies, and (iv) care and treatment, health, and euthanasia requirements; met with representatives from such groups as the Pet Industry Joint Advisory Council, the Virginia Veterinary Medical Association, agribusiness, and the Department of Game and Inland Fisheries; surveyed localities on standards for pet shops, kennels, breeders, and dealers; reviewed federal, Virginia, and other states' laws and regulations, as well as ordinances from selected Virginia and other states' localities; examined the Humane Societies of the United States proposed model legislation for licensing and regulating pet shops and commercial kennels (Appendix B); and developed draft legislation for the 1992 General Assembly's consideration.

### Current Law

Primarily through animal welfare and business registration standards, a considerable body of federal, state, and local law already exists to protect animals from cruelty and their purchasers from fraud. As the resolution implies, however, the adequacy of these remedies remains open to question.

## FEDERAL LAW AND REGULATION

### United States Code

Most U. S. law governing the treatment of companion and research animals appears in Title 7, Chapter 54 (§ 2131 et seq.), of the U. S. Code. Section 2131, the congressional statement of policy, classifies these animals as objects of commerce and hence regulates both animals and commerce to "insure that animals intended for use in research facilities or for exhibition purposes or for use as pets are provided humane care and treatment; . . . assure the humane treatment of animals during transportation in commerce; and . . . protect the owners of animals from the theft of their animals by preventing the sale or use of animals which have been stolen." The section requires regulation of "the transportation, purchase, sale, housing, care, handling, and treatment of animals by carriers or by persons or organizations engaged in using them for research or experimental purposes or for exhibition purposes or holding them for sale as pets or for any such purpose or use."

Section 2143 authorizes the Secretary of Agriculture to promulgate "humane standards for animals transported in commerce" that "shall include minimum requirements for handling, housing, feeding, watering, sanitation, ventilation, shelter from extremes of weather and temperatures, adequate veterinary care, and separation by species when the Secretary finds such separation necessary for the humane handling, care, or treatment of animals." In addition, the standards are to set out minimum requirements "for exercise of dogs . . . and for a physical environment adequate to promote the psychological well-being of primates."

Attempting to ensure that buyers receive healthy animals, the section stipulates that "no dogs or cats, or additional kinds of animals designated by regulation of the Secretary, shall be delivered by any dealer, research facility, exhibitor, operator of an auction sale, or department, agency, or instrumentality of the United States or of any State or local government, to any intermediate handler or carrier for transportation in commerce, or received by any such handler or carrier for such transportation from any such person, department, agency, or instrumentality, unless the animal is accompanied by a certificate issued by a veterinarian licensed to practice veterinary medicine, certifying that he inspected the animal on a specified date, which shall not be more than ten days before such delivery, and, when so inspected, the animal appeared free of any infectious disease or physical abnormality which would endanger the animal or animals or other animals or endanger public health . . . ."

To enforce these provisions, the chapter requires licensure of dealers and exhibitors (§ 2133) or registration of research facilities, handlers, carriers, and unlicensed exhibitors (§ 2136). Moreover, § 2146 requires at least one inspection each year for such entities and directs them to permit the Secretary of Agriculture or other law enforcement

personnel to inspect their facilities and investigate violations of the act or any standard or regulation promulgated under it. The section sets penalties of up to \$5,000 and three years' imprisonment for interfering with these duties, and up to \$10,000 and 10 years' imprisonment if obstruction involves a dangerous or deadly weapon. Section 2149 authorizes license suspension and revocation and civil and criminal penalties for violations. The Secretary may suspend a license for up to 21 days pending investigation and, after notice and hearing, "for such additional period as he may specify." If investigation reveals that the violation has occurred, the Secretary may revoke the license. Civil penalties cannot exceed \$2,500 per violation and criminal penalties not more than one year's imprisonment and \$2,500. The section also provides a \$1,500 penalty per day per offense for failure to obey a cease and desist order. In addition, organizations cannot escape responsibility for violations through distancing themselves from their employees: § 2139 makes organizations legally responsible for acts and omissions of their agents and employees.

Despite these measures which can promote the health of animals, § 2132 (Definitions) vitiates their application in terms of this study, for it specifically exempts pet shops which sell to the public from these protections. Kennels and breeders, however, appear to fall under the act's coverage since they buy, sell, or negotiate "the purchase or sale of, (1) any dog or other animal whether alive or dead for research, teaching, exhibition, or use as a pet, or (2) any dog for hunting, security, or breeding purposes . . . ."

#### Code of Federal Regulations

Federal regulations (CRF 9, Parts 1, 2, and 3 of the Animal Husbandry Standards) specify guidelines for humane handling, care, treatment and transportation of numerous types of warm-blooded animals, e.g., cats, dogs, rabbits, nonhuman primates, and marine mammals. These regulations set standards for the structure of primary enclosures, shelter from the weather or climate, temperature control, feeding and watering, size of enclosure and space available to each animal, number of animals which can be kept in a single enclosure, ventilation, exercise, lighting, drainage, cleanliness and waste disposal. They include particular space requirements (e.g., 2.5 square feet of floor space for each cat in a primary enclosure), temperature ranges (50-85 degrees Fahrenheit), and food and water schedules (feeding at least once a day with food of sufficient quantity and nutritive value to meet the normal daily requirements of the dog or cat; watering at least twice a day for a period of one hour). These standards, while not applying to pet shops and while using such generalities as "adequate," "good," "suitable," "normal," and "sufficiently," do provide some models for maintaining animals in healthy environments. For example, they require the primary enclosure for dogs to be of "a minimum square footage of floor space equal to the mathematical square of the sum of the length of the dog in inches, as measured from the tip of its nose to the base of its tail, plus 6 inches, expressed in square feet."

Federal provisions have withstood court challenges. For example, in Haviland v. Butz, a 1976 U. S. Court of Appeals decision involving a travelling animal exhibition whose owner claimed discrimination because the federal animal laws did not apply, in his eyes, equally to rodeos and animal shows, the Court stated: "In essence, Haviland's thesis is that Congress recognized a problem of inhumanity to animals but attacked only a part of it. He insists that the requirements imposed by the Act upon producers of animal acts and other performances, but not upon operators of rodeos and other enterprises, is unjustly discriminatory." The Appeals Court agreed with the Supreme Court that "' [a] statute is not invalid under the Constitution because it might have gone farther than it did, or because it may not succeed in bringing about the result that it intends to produce.'" Moreover, according to the U. S. House Committee on Agriculture, the Animal Welfare Act "'represents a continuing commitment by Congress to the ethic of kindness to dumb animals'. . .[and it] implement[s] a statutory mandate that small helpless creatures deserve the care and protection of a strong and enlightened public.'" The Animal Welfare Act has resisted constitutional challenges because it is "a valid exercise of the congressional power under the commerce clause of the United States Constitution . . . ."

#### STATE LAW AND REGULATION

##### Virginia Code

Chapter 27.4 (§ 3.1-796.66 et seq.) of Title 3.1 of the Virginia Code sets out the state's comprehensive animal laws. Although these statutes parallel federal law, they focus on companion rather than research animals and hence can offer pets and their owners greater protection than do the federal provisions.

Section 3.1-796.67 authorizes the Board of Agriculture and Consumer Services to promulgate rules, regulations, or guidelines for the care and transportation of animals; and § 3.1-796.66, through definitions, establishes the chapter's purview. The section lists broad food, water, shelter, and temperature specifications; defines companion animals as "domestic and feral dogs, domestic and feral cats, monkeys, guinea pigs, hamsters, rabbits, exotic animals, and exotic and native birds"; includes person, pet dealer, pet shop, and pound as entities to which the chapter applies; and, most importantly, broadly defines owner as "any person who: (i) has a right of property in an animal, (ii) keeps or harbors an animal, (iii) has an animal in his care, or (iv) acts as a custodian of an animal." Both preventing cruelty and promoting health, § 3.1-796.68 then lists duties that owners, including humane shelters, owe their companion animals:

1. Adequate food and adequate water;
2. Adequate shelter;
3. Adequate space in the primary enclosure for the particular animal depending on its age, size and weight;



4. Veterinary care when needed and to prevent suffering; and
5. Humane care and treatment.

According to § 3.1-796.66, "adequate feed means the provision, at suitable intervals, at least once daily, of quantities of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition in each animal. Adequate water means a constant access to a supply of clean, fresh, potable water provided in a sanitary manner or provided at suitable intervals and in a suitable manner for the species at least once daily at any interval. Adequate shelter means shelter that may reasonably be expected to protect the animal from physical suffering or impairment of health due to exposure to the elements or adverse weather."

Failure to provide these elements of care is punishable under § 3.1-796.128 (Unlawful acts; penalties) as a Class 4 misdemeanor (\$250 fine maximum).

To further ensure the health of pets, § 3.1-796.69 prohibits persons from importing into Virginia dogs younger than eight weeks without their mothers; and § 3.1-796.70 prohibits persons from selling or offering for sale "as pets or novelties, in quantities of less than six, any living baby chicks, ducklings, or other fowl under two months old." These violations carry Class 1 and Class 3 misdemeanor penalties respectively. In addition, § 3.1-796.71 requires pet dealers and pet shops "to adequately house, feed, water, exercise and care for animals in /their/ possession or custody as provided for under this chapter . . . ." Violations are Class 3 misdemeanors (\$500 maximum fine). Animal wardens, as defined in § 3.1-796.66, may seize or impound the person's animals, sell them and apply the profits to the cost of disposing of the animals, or euthanize them. Failure to provide adequate care constitutes grounds for revoking the person's permit or certificate of registration; however, Virginia does not require pet shops, dealers, kennels, and breeders to meet any registration criteria other than those for operating any business.

Owners and carriers, when transporting animals, are also required to follow standards that will promote the animals' health: "No owner, railroad or other common carrier when transporting any animal shall allow that animal to be confined in any type of conveyance more than twenty-four consecutive hours without being exercised, properly rested, fed and watered as necessary for that particular type and species of animal. . . . Adequate space in the primary enclosure within any type of conveyance shall be provided each animal depending upon the particular type and species of animal" (§ 3.1-796.69). Violation of the section is punishable as a Class 1 misdemeanor. Section 3.1-796.71 places essentially the same duties on pet shops and dealers: violators are subject to a Class 3 misdemeanor penalty. In addition, violators' animals may be seized, impounded and sold and their licenses and certificates of registration revoked.

It is also illegal to misrepresent an animal's physical condition to a potential buyer. Section 3.1-796.72 states that "no person shall misrepresent the physical condition of any animal at the animal's sale, trade, delivery, or other method of transfer. For the purpose of this section misrepresentation shall include selling, trading, delivering or otherwise transferring an animal to another person with the knowledge that the animal has an infection, communicable disease, parasitic infestation, abnormality or other physical defect that is not made known to the person receiving the animal. Violation of this section shall be punishable as a Class 3 misdemeanor." Person, as defined in § 3.1-796.66, includes both individuals and legal entities.

Purchasers who buy registered cats or dogs or cats or dogs capable of being registered from pet dealers have additional remedies under the Virginia Consumer Protection Act (§ 59.1-196 et seq.). Dealers must furnish purchasers of these animals with an animal history certificate, which shall contain no false or misleading statements (§§ 3.1-796.78 and 3.1-796.79). Moreover, should a veterinarian certify with 10 days of the animal's purchase that it is "unfit for purchase due to illness, a congenital defect deleterious to the health of the animal or the presence of symptoms of a contagious or infectious disease," the dealer must either allow the purchaser to return the animal and receive a full refund, including sales tax, or to exchange it for another equally valuable animal of the purchaser's choice (§ 3.1-796.80). The subsequent section requires pet dealers to provide, in statutorily defined words, written notification to buyers at the time of purchase that they have these options.

Article 5 (§ 3.1-796.104 et seq.) of the chapter authorizes localities to appoint animal wardens and human investigators to enforce these provisions. Section 3.1-796.106 requires the Board of Agriculture and Consumer Services to establish by regulation "reasonable qualifications for approved humane investigators." Qualifications include knowledge of the state animal laws and regulations, placement on the State Veterinarian's list of approved humane investigators and appointment by the circuit court, and deposit of a \$500 security bond with the circuit court of the jurisdiction in which the investigator is appointed. Animal wardens, custodians, or animal control officers engaged in the operation of a pound must also enroll in at least one training course offered by the state for law enforcement officers or humane investigators or any workshop approved by the State Veterinarian for animal wardens, humane officers, or law enforcement officers (§ 3.1-796.105).

In terms of enforcement authority, a 1991 amendment to § 3.1-796.112 expanded enforcement authority for the animal laws to cover not only law enforcement officers but compliance officers under the direction of the State Veterinarian as well. The law also states that such officers "shall [underline added for emphasis] enforce the provisions of this chapter to the same extent other laws in the Commonwealth are enforced."

Although § 3.1-796.113 allows a "proper authority" (a judge) discretion in determining whether there is reasonable cause to believe that a violation of the cruelty statutes has occurred, is occurring, or is about to occur as alleged on a sworn complaint submitted to a humane investigator, once the proper authority has so determined, he shall issue a warrant authorizing any sheriff, deputy sheriff or police officer to search the building or place. In addition, § 3.1-796.111 requires humane officers to "interfere to prevent the perpetuation of any act of cruelty upon any animal in his presence. Any person who shall interfere with or obstruct or resist any humane investigator in the discharge of his rights, powers, and duties as authorized and prescribed by law shall be deemed guilty of a Class 4 misdemeanor" (\$250 fine maximum). In addition, humane investigators, upon obtaining a warrant, may arrest animal law violators and impound their animals.

Article 8 (§ 18.2-403.1 et seq.) of Chapter 8 of Title 18.2 classifies the penalties imposed for violating animal laws (Appendix C).

#### Proposed legislation

House Bill 1869, patroned by Del. George W. Grayson (Williamsburg) and introduced in 1991, sought to conform Virginia law more closely to the federal Animal Welfare Act and the Animal Health and Husbandry Standards. The bill also broadened humane standards, and hence health-promotion standards, to include definitions of abandon, adequate space, adequate sustenance, adequately cleaned, and neglected. Adequate shelter became adequately cleaned shelter; boarding kennel became boarding establishment; and necessary sustenance, food, drink or shelter became adequate sustenance, food drink or shelter. This bill died in the House Agriculture Committee, but a task force chaired by Del. Gladys B. Keating (Franconia) and composed of Dels. Jean W. Cunningham (Richmond), Willard R. Finney (Rocky Mount), Malfourd W. Trumbo (Fincastle), and Mitchell Van Yahres (Charlottesville) continued to study the issues. This bill appears as Appendix D.

#### Regulations

The Virginia Department of Agriculture and Consumer Services has promulgated three regulations that pertain to this study: VR 115-02-08 (Qualifications for Humane Investigators); VR 115-02-12 (Health Requirements Governing the Admission of Livestock, Poultry, Companion Animals, and Other Animals or Birds Into Virginia); and VR 115-02-13 (Transportation of Companion Animals).

Aside from the statutory requirements already mentioned, VR 115-02-08 requires prospective humane investigators to complete six months of field training with a qualified humane investigator or other law-enforcement officer as defined in § 9-108.1 and to attend at least three criminal trials.

Two regulations, VR 115-02-12 and VR 115-02-13, relate specifically to this study's concern that animals transported into Virginia be healthy.

Section 2 of VR 115-02-12 states that "No livestock, other animals, poultry, or other birds, of any species, that are affected with or that have been exposed to any infectious or contagious disease shall be imported into Virginia except by special approval by the State Veterinarian." The section requires that the health certificate be issued by "a licensed graduate, accredited veterinarian approved by the livestock health official of the state of origin; a veterinarian employed by the state of origin; a veterinarian employed by the Veterinary Services Division, Animal and Plant Health Inspection Services, U. S. Department of Agriculture; or such other veterinarian as may be approved by the State Veterinarian." The certificate must be issued within 30 days of the animal's importation to Virginia unless otherwise provided in the regulation; be attached to the waybill or be in the possession of the person in charge of such animals or birds; be on an approved form of the state of origin; contain the names and exact addresses of the consignor and consignee and the exact destination of the animals or birds covered; indicate the health status of the animals or birds; and include the dates and results of all required tests. A copy of the certificate must be promptly forwarded to the Virginia State Veterinarian.

Section 11 requires the certificate specifically for dogs. In addition, the certificate must state that the issuing veterinarian has examined the dog within 10 days prior to the issuance of the certificate and date of shipment and that the animal was in apparent good health; that the dog "did not originate in an area under quarantine for rabies; that such dogs have not been exposed to rabies; that they have been vaccinated against rabies not more than one year (inactivated virus) and not more than three years (attenuated virus) prior to shipment."

Section 12 describes the health certificate for monkeys, which must include a separate statement affirming that the veterinarian has found no evidence of oral disease lesions or inflammatory processes; and that the animal has passed a tuberculin test performed by an accredited veterinarian within 30 days prior to shipment. The certificate must include the kind and amount of tuberculin used, the date and hour of injection, and the date and hour that no response of any degree was observed. The section further states that "Monkeys that have been associated with, or that originate in, a monkey colony where there have been other monkeys showing response to the tuberculin test shall not be eligible for entry into Virginia . . . until all monkeys in the group or colony . . . have passed two consecutive tuberculin tests not less than 30 days apart.

Section 13 regulates health verification practices for psittacine birds. These regulations stipulate that the birds be carefully isolated for at least 15 days and fed entirely on particular feed containing 0.5 milligrams of chlortetracycline per gram of feed or seed. Shippers of

these birds must obtain approval numbers from the Virginia State Veterinarian, and these numbers must be prominently displayed on the shipping label or each package container used to transport the birds into Virginia. Shippers must apply for the numbers on state forms and relate on the application such information as the applicant's name and addresses, the usual number of birds maintained at each address, and a statement signed by an appropriate official that the birds leaving that location have been subjected to the health requirements of the regulation.

In response to public outcries against inhumane, unsanitary, and debilitating animal transport practices in the state, the Board developed VR 115-02-13 to control in-state transportation of companion animals. Section 1.1 of the regulation includes exotic animals and birds as companion animals, but excludes game animals. Aware of the conflict surrounding these standards, the Board prefaced the regulation's publication with the following statement:

The need for these regulations has been carefully researched and demonstrated over the past six years. Their development was based on not only this research, but the considerable amount of public comment received during meetings with interested parties and during the public comment periods. All controversial points were carefully considered by the Board in an attempt to reach decisions that were fair, practical, and humane. The resulting regulations will serve not only to ensure humane transport of companion animals, but to enhance public perception of the animal industry and animal control, and to protect pet owners, consumers, and the public.

While the state regulations parallel federal ones for transporting animals, include exotic animals in their protection, and focus on companion animals, the standards lack the specificity provided by national guidelines. Like the federal rules, state guidelines require proper ventilation; adequately strong primary enclosures; enough space for the animal to sit, lie, stand, and turn around; temperatures between 45 and 75 degrees Fahrenheit; and provision of adequate food and water within the enclosure if the trip is to take longer than six hours and, otherwise, in conformity with the food and water requirements for the animal. Drivers, carriers, and other employees transporting companion animals in the Commonwealth are to "Visually observe the animals . . . not less than once every four hours during surface and air transit, except that where the animal cargo space is not accessible during flight, the animals shall be observed during loading and unloading and whenever the cargo space is otherwise accessible." These individuals are also to provide any needed veterinary care as soon as possible. Additional

standards exist for transporting dogs and cats, e.g., water offered at least every 12 hours in environmentally controlled vehicles and at least every four hours in other vehicles. Feeding and watering standards for birds require "an adequate supply of food and water or an alternate source of moisture within the primary enclosure" unless rendered inappropriate by professionally accepted standards. Cages and containers used for these animals must be cleaned and sanitized after every use.

### Ordinances

Most ordinances parallel state and federal law and exist primarily to protect the public health, e.g., requirements for cleaning stables and enclosures and prohibitions against selling noticeably sick or defective animals. In terms of protecting animal health, ordinances require the provision of adequate food and water to animals, specifying that "adequate" means at least once in every 24 hours and in a quantity to maintain a general level appropriate for the animal. While some localities have animal control and welfare ordinances, those of Fairfax County seem especially effective, particularly in that they require pet shops to apply for business permits that are tailored specifically to businesses selling animals. Loudoun County also requires licenses for kennels, inspects them before issuing or renewing licenses, and sets animal care standards that generally track federal ones.

### OTHER STATES' LAWS

The group reviewed 12 other states' animal laws: Maryland, North Carolina, Tennessee, and West Virginia because they border Virginia; Illinois, Iowa, and Kansas because of the recent national attention focused on their problems with puppy mills; California, Florida, and New York because they are populous states known for progressive legislation and, in the first two instances, because they represent gateways for exotic animals; Minnesota because of its nationally acclaimed animal welfare and consumer protection provisions; and Pennsylvania because of its comprehensive dog kennel laws.

In general, all of these states require animal custodians to supply their charges with adequate, necessary, reasonable, or suitable food, water, shelter, ventilation, space, and protection from weather. Some include veterinary care and sanitary living conditions among their requirements; some include all living creatures except man in their coverage, while others limit it to dogs and cats; some include neglect within the definition of cruelty; and some require that persons shipping animals into the state for resale must comply with all U. S. D. A. health requirements. Virtually all authorize a state department to promulgate animal welfare regulations; require business licenses of commercial endeavors of certain sizes; exempt from dealer controls those who use a small number of breeding females (usually three to five); discourage or prohibit the sale of diseased animals; prohibit the sale or commercial gift of very young and/or dyed baby fowl or rabbits; permit humane

officers to enter upon property to investigate cruelty complaints; and attach misdemeanor penalties (anything from a \$5.00 fine to a \$20,000 fine and 10 years in prison) to violations.

Of the border states, Maryland and North Carolina statutes approximate Virginia's, while Tennessee and West Virginia animal law is less stringent. Of the Midwestern states, Illinois includes within its Animal Welfare Act (Article 8, § 301 et seq.) not only commercial operators, but those who convey animals "with or without charge or donation"; Iowa's Chapter 162 (§ 162.1 et seq., Care of Animals in Commercial Establishments) applies to pounds and shelters as well as to kennels, breeders, and pet shops. A discussion of Kansas and Minnesota law will appear in subsequent paragraphs, along with detailed accounts of California, Florida and New York provisions.

### California

Sections 597 through 599 of the Penal Code constitute California's animal welfare laws. Much like Virginia's statutes, these provisions include failure to provide adequate food, water, shelter, and protection from weather as cruelty punishable by up to six months in jail and/or a \$1,000 fine for each instance of cruelty per animal. Unlike Virginia, however, California includes neglect as a form of cruelty. Those maliciously torturing, maiming, or killing an animal may receive penalties ranging from \$2,000 and/or a year in jail to \$20,000 and/or 10 years in prison. Animals of persons convicted of cruelty may be seized, impounded, and forfeited; and the owner must pay for their upkeep. In addition, any person who transports, or authorizes or permits to be transported, any domestic animal in a cruel or inhuman manner or permits it to be subjected to unnecessary torture, suffering, or cruelty of any kind is guilty of a misdemeanor. Peace officers, humane investigators, and animal control wardens may enforce the statutes. Violations involving game animals are enforced according to the game and fish laws. Section 599 stipulates that when a person files with a magistrate a complaint under oath that he believes that the animal welfare laws are being or are about to be violated, the magistrate must issue and deliver a warrant to a peace officer or an officer of any qualified incorporated association, authorizing him to enter and search the place and to arrest the violator. This law differs from Virginia's § 3.1-796.113, which requires investigation only if the judge determines that there is reasonable cause.

Section 597 encompasses numerous provisions. It defines animal as "every dumb creature" and includes within the meaning of torment, torture, and cruelty "every act, omission, or neglect whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted." In addition, "every owner, driver, or possessor of any animal who permits it to be in any building, enclosure, lane, street, square, or lot without proper care" is guilty of a misdemeanor. Moreover, when domestic animals are impounded without adequate food and water for more than 12

consecutive hours, any person may enter the premises as often as necessary to supply these necessities without liability and may recover the cost of the food and water. Not only does the section require provision of adequate food, water, and shelter, but it also provides for an adequate exercise area. It requires chains, leashes, or ropes to be long enough for the animal to reach adequate food, water, and shelter and to be affixed so that the animal cannot become entangled in the line. Failure to provide these elements of adequate care is a misdemeanor.

California's laws also include specific provisions for pet shops. Section 597 makes it a misdemeanor to fail to:

- (1) Maintain the facilities used for the keeping of pet animals in a sanitary condition.
- (2) Provide proper heating and ventilation for the facilities used for the keeping of pet animals.
- (3) Provide adequate nutrition for, and humane care and treatment of, all pet animals under his care and control.
- (4) Take reasonable care to release for sale, trade, or adoption only those pet animals which are free of disease or injuries.
- (5) Provide adequate space appropriate to the size, weight and specie of pet animals.

According to the section, pet shops are any place or premises where pet animals are kept for either wholesale or retail sale, and reptiles and amphibians as well as mammals and birds are included in the definition of animal.

The California Health and Safety Code also contains relevant provisions. Chapter 14 (§ 25990 et seq.) authorizes the state health services department to promulgate regulations for entry, quarantine, and release from quarantine of imported wild animals (i.e., those not normally domesticated in or native to California). The regulations and statutes are to be enforced by peace officers; officers, employees, and agents of the state department of health services; or local health officers. Offenses are misdemeanors. Importers must have department-issued import permits which state the scientific name of the animal, the number of animals being imported, the terms and conditions which govern import, the place and conditions of quarantine, a statement of required tests and veterinary exams, and the observation and



quarantine period. The person who transports, imports, or receives the animal shall hold it in confinement for inspection and shall notify the state health department immediately on the animal's arrival. Release from quarantine requires written approval from the state department; diseased animals and even exposed groups may be destroyed, refused admittance, or returned to the point of origin at the owner's or bailee's expense. For game animals, the Fish and Game Code controls.

Chapter 14.5 (§ 25995 et seq.) sets health-assurance practices for retailers of all dogs and cats, not only those that are registered or capable of being registered. The chapter requires that retailers transport dogs and cats from the carrier's premises within six hours of notification by the carrier that the animal has arrived at the carrier's destination. Although the section apparently does not require a veterinarian to examine the animal, it does require the retailer to examine the animal for sickness before putting it with other animals. If the animal appears sick, it must be caged separately. Section 25995.3 requires retail dealers to "deliver to the purchaser of each dog and cat at the time of sale a written statement in a standardized form prescribed by the Department of Consumer Affairs containing the following information:

(a) If the person from whom the dog or cat was obtained is a dealer licensed by the United States Department of Agriculture, the person's name, address, and federal dealer identification number.

(b) The date of the animal's birth, unless unknown because of the source of such animal.

(c) A record of the immunizations administered to the animal as of the time of sale, including the dates of administration and the type of vaccine.

(d) A record of any known disease or sickness that the dog or cat is afflicted with at the time of sale. In addition, this information shall also be verbally disclosed to the purchaser."

Section 25995.4 additionally requires each retail dealer "to maintain a written record on each dog and cat received by him, which shall contain all information required to be disclosed by Section 25995.3 and any disease or sickness of the animal observed while the animal is in possession of the retail dealer, including, but not limited to, symptoms of illness, diagnosed illness, treatment and medications."

Section 25995.5 sets a \$250 maximum penalty for violators and allows actions for recovery to be prosecuted by district attorneys.

These statutes appear as Appendix E.

The cruelty laws have been contested. As early as 1901, in Ex parte Mauch (66P. 734, 134 C. 500), the court found that "willful and unlawful cruelty constitutes malice." In a 1973 decision, People v. Farley (109 Cal. Rptr. 59, 33 C. A. 2d Supp.1), the court held that a cruelty conviction for "failing to provide proper food and water does not require proof of criminal intent or criminal negligence but does require proof that the defendant was negligent in that he intentionally did an act, or failed to act, from which harm to the animal was reasonably foreseeable, i.e., foreseeable by a reasonably prudent man caring for them." In People v. Untiedt, a 1979 decision on negligence, the court found that the section is violated if the defendant negligently committed acts or negligently refrained from committing acts, as a result of which unjustifiable harm to animals was reasonably foreseeable (116, Cal. Rptr. 899, 42 C. A. 3d 550). According to a 1980 decision, however, a conviction for neglect requires proof of "criminal negligence or conduct that amounts to a reckless, gross or culpable departure from ordinary standard of due care" (People v. Brian, 168 Cal. Rptr. 105, 110 C. A. 3d Supp. 1).

#### Florida

Chapter 828 of Florida's Code contains most of the state's animal welfare provisions. Like California, Florida defines animal as any "living dumb creature" and torture, torment, and cruelty as "every act, omission or neglect whereby unnecessary or unjustifiable pain or suffering is caused . . . or allowed to continue when there is reasonable remedy or relief" (§ 828.02). Section 828.12 includes deprivation of necessary sustenance or shelter and cruel and inhuman transporting as cruelty; and § 828.13 adds proper exercise and ventilation to the criteria for humane treatment. To further protect animals' health and hence their purchasers' investments, § 828.16 prohibits an owner or person in charge of animal from selling, bartering, or disposing of an animal that has or has been exposed to a contagious or infectious disease. The sale or commercial gift of extremely young or dyed animals is also prohibited. Violation of any of these provisions constitutes a misdemeanor of the second class punishable by a maximum fine of \$500 and/or a maximum sixty-day incarceration period. Law enforcement officers and humane investigators are responsible for enforcing the laws and, according to § 828.17, law enforcement officers shall arrest without a warrant any person found violating the cruelty statutes. The Division of Animal Industry is authorized to promulgate regulations and to enforce them for domestic animals, and the Game and Fresh Water Fish Commission has the same powers for nonindigenous species. Localities also may enact animal cruelty ordinances.

Most important for this study is § 828.31 (Dogs and cats transported or offered for sale; health requirements; consumer guarantee). Unlike Virginia's consumer protections, this law covers dogs and cats that are not registered or capable of being registered. It requires them to be inoculated and dewormed against particular diseases and parasites within specific time frames and requires that a veterinary certificate meeting certain criteria accompany the animal. In addition, if a veterinarian certifies within 14 days after purchase that the animal, at the time of sale, was sick, infested with parasites, or exhibited the symptoms of a contagious disease, or within one year certifies that the animal was unfit for purchase due to a congenital or hereditary condition or that the sex, age, or health was misrepresented to the buyer, the pet dealer must (i) allow return of the animal, refund the purchase price plus sales tax, and reimburse the customer for reasonable veterinary costs; (ii) replace the animal with one of equivalent value of the purchaser's choice and reimburse him for reasonable veterinary costs; or (iii) allow the buyer to keep the animal but reimburse for reasonable veterinary costs incurred in attempting to cure the animal. Pet dealers have the right to contest demands for veterinary expenses, refunds and exchanges by requiring the animal to be examined by a veterinarian the dealer chooses. If the dealer and the purchaser cannot agree within 10 business days after the second examination, the consumer may file a suit in a court of competent jurisdiction. Pet dealers must furnish consumers notice of their options under this section, and violations of the section are misdemeanors of the second class (\$1,000 fine and/or one-year confinement maximum).

Section 877.14 (Merchandising of dogs) requires "every person engaged in the business of selling dogs [to] keep a complete and true record of all transactions, showing the date of transaction, and the name and address of the person from whom each dog was purchased or otherwise obtained and to whom it was sold. The record also should show a sufficient description of the dog such as breed, sex, color, markings, and distinguishing features. The record shall at all times be subject to the inspection of all police and peace officers." Violations are second degree misdemeanors.

A copy of these statutes appears as Appendix F.

### Kansas

Article 17 (§ 47-1701 et seq., Animal Dealers) of the Kansas Code covers not only pet shops, breeders, and commercial kennels, but operators of hobby kennels as well. These are "premises where only dogs or cats, or both, which are produced and raised on such premises are sold, or offered or maintained for sale, by a person who resides on such premises, but only if the total number of dogs or cats, or both, which are produced and raised on such premises and are sold during the registration year is fewer than all or part of six litters of animals or 30 individual animals, whichever is less, whether such animals are dogs

or cats, or both." The definition exempts premises where fewer than all or part of three litters of dogs, cats, or both, are sold during the registration year (§ 47-1701). Section 47-1712 authorizes the livestock commissioner to adopt animal welfare regulations and requires that they provide for:

(1) Reasonable treatment of animals in the possession, custody or care of a licensee or registrant or being transported to or from a licensed or registered premises;

(2) a requirement that each licensee and registrant file with the commissioner evidence that animals entering or leaving the state are free from any visible symptoms of communicable disease;

(3) identification of animals handled;

(4) primary enclosures;

(5) housing facilities;

(6) pounds;

(7) research facilities;

(8) sanitation;

(9) euthanasia;

(10) ambient temperatures;

(11) feeding;

(12) watering;

(13) adequate veterinary medical care;

(14) inspections of licensed or registered premises, investigations of complaints and training of persons conducting such inspections and investigations;

(15) a requirement that each licensee keep and maintain, for inspection by the commission, such records as necessary to administer and enforce the provisions of this act; and

(16) seizure and impoundment of animals by the commissioner.

Certificates for pounds, shelters and research facilities can be denied, suspended, or revoked, after a hearing and "a determination that the housing facility or the primary enclosure is inadequate, or that the feeding, watering, sanitizing, and housing practices . . . are not consistent with this act, or the regulations adopted hereunder" (§ 47-1705).

Section 47-1713 requires animals sold by pet shops to be "accompanied by a written instrument issued by such pet shop operator on a form prescribed by the commissioner certifying that such animal is in sound health." Section 47-1716 declares a class C misdemeanor if "any person licensed as an animal dealer or as a pet shop operator, or . . . an officer or employee of a registered municipality or a research facility, or . . . any officer or employee operating an animal shelter as a pound [fails] to adequately house, feed and water animals in his possession or custody . . . ."

In an attempt to raise money for the Animal Health Department and hence to improve both its enforcement capabilities and, perhaps, the health of animals purchased from commercial operations, the 1991 Kansas General Assembly passed Senate Bill No. 443. The bill increases fees for entities already required to be licensed or registered and adds kennel operators to those required to be registered, requires licensure of pounds and shelters of all jurisdictions rather than those of cities of the first class only, creates the Animal Dealers Fee Fund, and stipulates that the money so raised will be deposited in the new fund and be expended only to administer and enforce the Animal Dealer Act. Also, the new law prohibits the purchase of a dog or cat for the purpose of resale to another from a person other than one required to be either licensed or registered under either state or federal requirements.

Kansas provisions appear as Appendix G.

### Minnesota

Of the states reviewed, Minnesota has enacted the most comprehensive animal welfare laws. The animal cruelty statutes (§§ 343.20 through 343.40) protect all nonhuman animals and, like some other states' laws, include acts, omissions, and neglect within the definition of cruelty. Violations of the statutes are misdemeanors, and persons convicted of maltreating pets may not only have their animals seized, but may be restricted for a period from owning pets, have required visits by animal control officers, be required to perform community service in a humane facility, and be required to receive behavioral counseling. Several sections are even more specifically designed to protect animal health. Section 343.28 makes it a misdemeanor to sell or barter an animal that has an infectious or contagious disease or has recently been exposed to one, or to permit the animal to run at large or to come into contact with any other animal or with another person without that person's knowledge and permission. While other states prohibit dying young fowl and selling

them if they are younger than certain ages but rely on other animal care standards to ensure their health, Minnesota has adopted a further provision: "Stores, shops, vendors, and others offering chicks, ducklings, or goslings for sale; raffle; or as a prize, premium, or advertising device; or displaying chicks, ducklings, or goslings to the public; shall provide and operate brooders or other heating devices that may be necessary to maintain the chicks, ducklings, or goslings in good health, and shall keep adequate food and water available to the birds at all times" (§ 343.34). Violation is a petty misdemeanor. Section 343.40 requires those "in charge or control of any dog which is kept outdoors or in an unheated enclosure [to] provide the dog with shelter and bedding as prescribed in this section as a minimum." Although the section allows for barn shelter, it requires that dog houses "include a moistureproof and windproof structure of suitable size to accommodate the dog and allow retention of body heat. It shall be made of durable material with a solid floor raised at least two inches from the ground and with the entrance covered by a flexible windproof material or a self-closing swinging door. The structure shall be provided with a sufficient quantity of suitable bedding material consisting of hay, straw, cedar shavings, blankets, or the equivalent, to provide insulation and protection against cold and dampness and promote retention of body heat." During June through September, the shelter must also be shaded from direct sun rays. Violations are petty misdemeanors.

Sections 346.35 through 346.44 deal with veterinarians, boarding facilities, and commercial animal facilities. While some states limit their "companion animal" provisions primarily to dogs and cats, with their major purpose the prevention of theft and sale to research laboratories, Minnesota includes nonhuman mammals, birds, and reptiles "impounded or held for breeding, or possessed by, cared for, or controlled by a person for the present or future enjoyment of that person or another" (§ 346.36). The section separates neglect from cruelty, defining it as "failure to provide the minimum care required for the health and well-being of a pet or companion animal." Hence, if the animal is not suffering but is not healthy or in a state of well-being, the statute applies, regardless of how officials interpret terms such as necessary, adequate, and suitable. Moreover, § 346.37 requires disputes over the meaning of abuse, cruelty, or neglect to be resolved by an expert opinion, i.e., at least one licensed Minnesota veterinarian selected by an investigating officer (§ 346.36). The companion animal care standards cover requirements specifically for equines (§ 346.38), dogs and cats (§ 346.39), birds (§ 346.40), and rodents (§ 346.41). All of these statutes incorporate qualitative standards for food, water, exercise, lighting, sanitation, shelter, space, transportation, temperature, and ventilation. Special requirements, such as hoof care for equines and chewing materials for rodents, are also included. For those animals not specifically mentioned, e.g., reptiles, § 346.42 requires that they "be maintained in accordance with a general standard of care necessary for the species as determined by an expert opinion." Violations of these laws are misdemeanors.

Appendix H contains these provisions.

New York

Article 26 (§ 350 et seq.) of the Agriculture and Marketing title comprises New York's animal welfare statutes. Like some other states' laws, the New York Code defines animals as all living creatures but man, and includes as cruelty every act, omission or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted (§ 350). The chapter stipulates that cruelty includes failure to provide proper food or water; prohibits sale of dyed baby fowl and rabbits under two months old; requires provision of sufficient food, water, shelter, and air for confined animals; permits persons, without liability, to enter property and provide necessities to confined animals if they are deprived of necessities for at least 12 consecutive hours and to collect for the costs of the food and water; prohibits the sale or offering for sale animals having contagious or infectious diseases or which are diseased past recovery; prohibits transporting or causing to be transported animals in a cruel or inhuman way; authorizes law enforcement and humane officers to enforce the law and makes interference with them in the performance of their duties a misdemeanor; requires police officers and permits humane officers to issue an "appearance ticket," to summons or arrest, and to bring before any court or magistrate any person violating the animal laws; requires magistrates to issue and deliver a warrant to persons authorized to arrest, permitting them to enter and search a building or place, arrest the violator, and bring him before the magistrate, upon a complaint under oath that the complainant has just and reasonable cause to suspect a violation or imminent violation of the animal laws. Violations of the laws are misdemeanors and are subject to a maximum fine of \$1,000 and/or a maximum period of incarceration for one year.

These laws have been contested, but convictions under them withstand scrutiny. In People v. Areicidicono (1973, 75 misc. 2d 294, 347 N.Y.S. 2d 850, affirmed 79 Misc. 2d 242, 360 N.Y.S. 2d 156), in which a stable keeper was accused of failing to provide sustenance, the court found that "Under this section providing that a person who neglects or refuses to furnish an animal with sustenance or drink or causes or permits any animal to be deprived of necessary food or drink is guilty of a misdemeanor whether the animal belongs to himself or to another, omissions and neglect are punishable as are acts of active cruelty."

In another case, People v. O'Rourke (1975, 83 Misc. 2d 175, 369 N.Y.S. 2d 3354, motion denied 83 Misc. 2d 51, 371 N.Y.S. 2d 603), in which a hansom driver was charged with failing to provide proper veterinary care, the court held that "Permitting a limping horse to continue to work without supplying necessary medical attention constitutes 'neglect' under this section."

The arm of the New York law also reaches into other states: "Any person who leaves the state to elude the provisions of the article or to commit any act out of New York prohibited by the article, or who, being a resident of New York, does any act without the state pursuant to such intent, which would be punishable under such provisions, if committed within this state, is punishable in the same manner as if such act had been committed in this state" (§ 367).

Even more pertinent to this study is Article 35B (Sale of Dogs and Cats § 740 et seq.) of New York's General Business Code. This law, similar in substance to Florida's dog and cat sale provisions, seeks to [guarantee] the good health of such dogs or cats sold to the public by [pet dealers] in the course of such transactions, or [provide] other alternatives to the consumer." Like Florida's law, this article protects purchasers of unregistered or unregistrable cats and dogs and allows them, in addition to other consumer remedies, to return the animal, upon appropriate veterinary certification, and to receive a full refund plus sales tax of the purchase price and reasonable veterinary costs; to return the animal and receive an animal of equivalent value of their choice plus reasonable veterinary costs; or to keep the animal and receive reimbursement for reasonable veterinary costs incurred in trying to cure the animal. The article restricts veterinary costs to charges beyond the initial examination and diagnostic fees for services not related to the veterinary certification that the animal is unfit for purchase and to those less than the purchase price of the animal. If the seller and the buyer cannot agree within 10 business days after the veterinary examination, the buyer may sue to recover appropriate refunds, exchanges, and reimbursements. Sellers must provide written notice to the buyer at the time of purchase of these provisions in terms prescribed by the commissioner. These provisions have become part of New York's regulations governing the sale of dogs and cat (Chapter II, Subchapter E, Part 81, of the animal industry regulations). This regulation sets out the veterinary certification form required for consumer reimbursement and the notice sellers must supply to consumers informing them of their reimbursement options (Appendix I). The regulation also very narrowly defines pet dealer as "any person, firm, partnership, corporation or other association which in the ordinary course of business engages in the sale of more than one litter of dogs or cats per year for profit to the public. Such definition includes breeders of animals who sell directly to a consumer but does not include duly incorporated humane societies . . ."

### Pennsylvania

Articles I through XII (§§ 459-101 through 459-1205) of Title 3 form Pennsylvania's dog laws. Section 459-102 defines kennel as "/a/ny establishment wherein dogs are kept for the purpose of breeding, hunting, training, renting, research or vivisection, buying, boarding, sale, show or any other similar purpose and is so constructed that dogs cannot stray therefrom." Hence, the term "kennel" covers boarding and breeding



kennels as well as pet shops; however, it applies only to businesses that sell 50 or more dogs a year. Section 459-207 requires kennels to keep for two years a record of the breed, color, markings, sex and age of each dog; the date the dog entered the kennel, where it came from, to whom it belongs, and why each dog is kept in the kennel. The records must also show the date on which each dog leaves the kennel, and how and to whom it is disposed. Like New York, Pennsylvania requires out-of-state dealers to conform to its law. Section 459-209 requires out-of-state dealers to apply each year for a \$300 out-of-state kennel license if they plan to transport dogs into Pennsylvania for resale. The section declares it "unlawful for out-of-state dealers to transport dogs into or within the Commonwealth or to operate or maintain a kennel or to deal in any manner with dogs without first obtaining an out-of-state kennel license from the department" (of agriculture). Section 459-214 stipulates that dogs transported into Pennsylvania, with certain restrictions, must be accompanied by a health certificate signed by a licensed veterinarian. These provisions appear in Appendix J.

In addition, Pennsylvania P. L. No. 225 (1983) stipulates space requirements for primary enclosures for dogs: for dogs up to 25 pounds, 5 square feet per dog; up to 45 pounds, 8 square feet per dog; and over 45 pounds, 12 square feet per dog. Runs must be at least 36 inches wide for dogs up to 45 pounds and at least 48 inches wide for dogs over 45 pounds. Enclosures used to transport dogs must meet the following requirements:

<u>Weight of dog</u>	<u>Width, Depth, Height (Inches)</u>		
Up to 15 lbs.	12	20	18
Up to 25 lbs.	16	24	18
Up to 35 lbs.	18	30	22
Up to 45 lbs.	10(sic)	36	28
Up to 60 lbs.	24	46	32
Over 60 lbs.	24	46	36

#### Ordinances

In other state, ordinances in Gaithersburg, Maryland, and Durham County, North Carolina, seem especially comprehensive. Both localities require licensure of pets shops, and the Durham ordinance sets specific standards for keeping animals through reference to the Pet Industry Joint Advisory Council Animal Husbandry Manual. In addition, the Carrol County, Maryland, ordinance includes an inspection checklist for pet shops that covers mammals, birds, reptiles, and fish and lists criteria for cleanliness, food and water, environment, exercise, and miscellaneous requirements (Appendix K).

## Findings and Recommendations

Although Virginia boasts an impressive canon of animal welfare and consumer protection laws, the study revealed a number of weaknesses, the most important of which are the limited application of consumer protection laws and the absence of any specific, uniform registration requirements for dealers and pet shops. Moreover, safeguards that would protect the animal at every stage as it moves from breeder to pet owner lack firm definition and, in some cases, are absent altogether. Simultaneously complicating and arising from these deficiencies is uneven enforcement of the provisions that do exist. To close loopholes and fill gaps, the study recommends, in general, expanding consumer protection, expanding and specifying definitions, augmenting statewide standards for animal health protection, establishing statewide registration of those dealing commercially with animals, and increasing penalties for violations of the animal welfare laws. A discussion of individual problems and recommendations follows:

Problem 1: Current consumer protection for those purchasing defective animals covers only those who buy registered or registerable cats or dogs (§§ 3.1-796.78 through 3.1-796.83). While this application protects many purchasers and requires responsible business practices from many dealers, it falls far short of meeting the needs of a rapidly growing number of consumers: those who buy expensive birds and other exotic animals. In addition, current protections ignore the emotional investment that goes with buying a companion animal, regardless of its price or pedigree.

Recommendations: Article 3 (§§ 3.1-796.78 et seq.) of Chapter 27.4 of Title 3.1 should be extensively amended to broaden consumer protections. The proposed legislation accomplishes this expansion in numerous ways. First, the article's name is changed from "Sale of Dogs and Cats by Dealers" to "Consumer Remedies" to more accurately reflect both the breadth and specificity of the amended article. The article now covers four different categories of companion animals sold by dealers or pet shops: registered dogs and cats, all dogs and cats, registered companion animals, and all companion animals. Sections 3.1-796.78 (Sale without animal history certificate) and 3.1-796.79 (Inclusion of false or misleading statements in certificate), which formerly covered only registered or registerable cats or dogs, now cover all cats and dogs, with additional provisions for registered and registerable cats and dogs. Unlike the existing section, the proposed section includes a provision for those wanting to purchase a cat or dog with a known defect: the animal history certificate will include this option, with an explanation of the defect and a signature line for the customer to sign indicating that he understands the nature of the defect, that he waives his consumer rights with respect to the particular defect, and that he has three business days to reverse his decision and return the animal. If he does, then he will be entitled to a refund of the purchase price of

the dog or cat, plus sales tax, or an equivalent animal of his choice. He may not, however, receive reimbursement for veterinary costs related to the defect acknowledged in the waiver. The dealer or pet shop is to retain a copy of the signed waiver and the animal history certificate for at least one year from the date of purchase.

To further guarantee the health of dogs and cats sold by dealers or pet shops to consumers, Article 3 contains three new health requirement sections: § 3.1-796.78:1 sets inoculation requirements for dogs and cats imported into the Commonwealth; § 3.1-796.78:2 sets them for dogs and cats sold in the Commonwealth; and § 3.1-796.78:3 requires veterinary inspection certificates for dogs and cats imported into the Commonwealth. For this section, the certificate must be issued by a veterinarian licensed in the state of the animal's origin, and copies must be filed with the Virginia State Veterinarian and kept by the dealer or pet shop for a year after the animal is sold.

Section 3.1-796.79 makes it a Class 1 misdemeanor, rather than only a violation of the Consumer Protection Act (§ 59.1-196 et seq.), to include false or misleading information in animal history or veterinary inspection certificates, and includes all cats and dogs a dealer or pet shop sells. The reason for the increased penalty is not only to protect the consumer's investment, but his health; ascarid infestation and rabies can, of course, kill humans as well as cats and dogs. Moreover, this type of misrepresentation is fraud, and could become life-threatening fraud.

Section 3.1-796.80 describes consumer remedies and procedures for obtaining them for those who purchase any companion animal from a dealer or pet shop. In addition to the existing provisions, the proposal allows purchasers to receive from the dealer or pet shop reimbursement for veterinary costs incurred in diagnosing and treating the defect that rendered the animal unfit for purchase. The section also includes the waiver option previously mentioned, and sets time limits on the dealer for reimbursing the consumer or supplying him with an equivalent animal. These limits should remedy the situations in which dealers delay reimbursement or replacement for over a year, thereby running out the statute of limitations and robbing the consumer of his remedies.

To accommodate PIJAC's recommendation, the section also allows the dealer or pet shop, at its own cost, to seek a second veterinary opinion regarding the animal's fitness for purchase if the seller has reason to disagree with the first veterinary opinion. The second veterinarian must be agreed upon in writing by the seller and the buyer. If the two veterinary opinions conflict and the issue cannot be resolved to the consumer's satisfaction, the consumer and the seller must agree on a third veterinarian, whose charge will be divided equally between the buyer and the seller, to render a final opinion. None of these charges may be factored into the reimbursements required earlier in the section.

Veterinarians are exempted from legal liability for rendering opinions pursuant to this section.

The section also allows the consumer to bring a veterinary statement of the animal's death rather than the dead animal to the dealer to obtain the consumer remedies. The consumer must also, however, return any registration documents to the dealer if he returns a registered or registerable animal. This requirement prevents unscrupulous consumers from passing on registration papers with animals for which the papers were not issued.

Section 3.1-796.81 (Written notice of consumer remedies required to be supplied by pet dealers) now covers purchasers of all companion animals and requires posting conspicuous notice in the dealer's or pet shop's place of business.

Completely new to this article are §§ 3.1-796.80:1 (Boarding establishments; veterinary care requirements; consumer protections) and 3.1-796.81:1 (Written notice of consumer remedies required to be supplied by boarding establishments). While requiring the boarding establishment to provide veterinary care for illnesses and injuries that occur while the animal is at the establishment, the section sets out the boarding establishment's and the consumer's financial responsibilities for veterinary care for such treatment. Section 3.1-796.74 exempts veterinary establishments from these provisions, however.

The sections also require consumer notification of remedies that are similar to those required for dealers and pet shops.

Section 3.1-796.82 still covers only registered and registerable animals, but all companion animals rather than only cats and dogs. The penalty for dilatory registration is consumer reimbursement for at least 75 percent of the purchase price and sales tax rather than "an amount not to exceed fifty percent of the purchase price and sales tax," a sum that could conceivably amount to no more than one cent. Subsection B has been moved to § 3.1-796.80 as procedures for obtaining consumer remedies.

Finally, to prevent dealers and pet shops from being caught between suppliers and consumers, the definition of consumer in § 3.1-796.66 is changed to include dealers and pet shops.

Problem 2: Definitions (§ 3.1-796.66) are often unclear and too general to be uniformly understood by those across the state attempting to obey or enforce animal welfare laws. In addition, the general nature of the definitions permits those who care little about animal health--and hence consumer satisfaction and dealer responsibility--to care for animals in a fashion that produces sick or defective animals. These ambiguities and weaknesses produce inconsistent standards of health care from locality to locality; animals of varying and unpredictable quality from locality to locality; and, despite a state consumer protection statute, varying levels of consumer protection from locality to locality.

Recommendations: To assure understanding and compliance even with existing animal welfare and consumer protection statutes, § 3.1-796.66 (Definitions) should be amended to align Virginia's definitions of animal care more closely with those of federal law and regulation and the pet industry, e.g., the Pet Industry Joint Advisory Council (PIJAC).

All of the adequacy definitions, e.g., feed, shelter, space, water, care, and exercise, now include specific descriptions that conform to federal or industry language. New items, properly cleaned and properly lighted, are added for additional clarity and conformity. In making these changes, the study group tried to incorporate language specific enough that it could provide real guidance without becoming so specific that the application of the definitions would be impossible.

Perhaps of most significance are changes in definitions of animal, boarding establishment, companion animal, consumer, dealer, exhibitor, and kennel, for these changes significantly broaden the application of the consumer protections.

**Animal:** This term now includes all nonhuman vertebrates. This change will permit many consumer protections to apply to exotic animals and fish, although not to bugs, spiders, and some kinds of aquatic animals.

**Boarding establishment:** As mentioned earlier, consumer remedies are now specifically offered to those who board their animals with any boarding establishment other than a veterinary establishment. Under the new definition, animals boarded for any reason, including hunting, training, and showing, are covered. The reason underlying this breadth is that owners who board their animals, regardless of the purpose, should have some recourse against unprofessional practices that harm the animal and cost the consumer.

**Companion animal:** The list is deleted as both too specific and not specific enough, e.g., it includes hamsters but not gerbils, and there is no definition for exotic animal. The new definition includes all nonhuman vertebrates, except agricultural, game, and wildlife species, in terms of human custodianship.

**Consumer:** As mentioned earlier, consumer now means not only a private individual purchasing a pedigreed dog or cat, but dealers, pet shops, and persons boarding their animals, as well as private persons purchasing any companion animals.

**Dealer:** Dealers now include breeders and are defined in terms of whether they offer companion animals commercially in "the regular course of business." This term now means (i) advertising for sale, exchange or barter companion animals on more than seven days per year or holding oneself out as a dealer of companion animals on more than seven days per year; (ii) offering for sale, exchange, or barter a combined total of

more than fifteen companion animals per year; and (iii) within one year offering for sale, exchange, or barter companion animals whose combined value totals \$500 or more. The subcommittee found that the extremes are often the major sources for diseased pets, for the large dealers include pet shop franchises that may have little personal involvement with the animals, and the backyard dealers often lack the money and expertise to produce healthy animals.

Exhibitor: This new definition brings zoos and other exhibitors under the provisions of the chapter, for they sell their excess or unwanted animals to the public.

Kennel: Since kennels often board or sell animals, the definition was added to clarify that these establishments are subject to the chapter.

Problem 3: The current sections attempting to ensure animal health and hence consumer protection lack specificity and leave gaps in provision of care as the animal is transferred from one handler to another.

Recommendations: As mentioned earlier, § 3.1-796.66 should be amended to define the meanings of health-promoting practices. These proposals have been discussed under Problem 2.

Section 3.1-796.68 (Duties of owner) has always included dealers, pet shops, kennels, and breeders, as well as private persons, in its application of owner. However, the standards of care should be amended to reflect the new adequacy definitions proposed in § 3.1-796.66. Moreover, because the study found "duties" to be a legally unenforceable term, the group recommends establishing the violation of the section as a Class 4 misdemeanor. The relatively small penalty reflects the private as well as commercial application of the law, and the fact that if businesses do not live up to their responsibilities, more expensive penalties may be assessed against them under other sections.

Section 3.1-796.69 (Transporting animals . . . .) should be expanded to cover all unweaned mammalian companion animals. Again, this change should discourage dealers from exporting or importing animals too young for healthy survival.

Section 3.1-796.70 (Sale of baby fowl in certain quantities prohibited; penalty) should be amended to include unweaned mammalian companion animals. Obviously, animals too young to survive easily without their mothers would often sicken or die. To minimize commercial impact on the person offering the animals, the statute allows the person to offer the animals with the understanding that purchasers can claim them when the animals are old enough to have a good chance of healthy survival.

Section 3.1-796.71:1, a new section, describes procedures dealers and pet shops must follow for receiving animals. The new provisions respond to complaints that animals arrive sick or are left in health-threatening

conditions. The section requires that dealers pick up their animals from the delivery area within four hours of their arrival, a practice that saves animals from lengthy exposure to inclement conditions or animals with contagious diseases. In addition, it prohibits dealers and pet shops from exposing healthy animals they already possess to sick ones they have just received, from shipping a defective animal back to the supplier, and from according defective animals less than adequate care.

Sections 3.1-796.78:1, 3.1-796.78:2, and 3.1-796.78:3 are all new sections that expand the health-protection measures offered by § 3.1-796.78 (Sale without pet dealer's animal history certificate violation of Consumer Protection Act...). The new sections require and specify the types of vaccinations and deworming medicines required for dogs and cats imported into the state and/or sold within the state. These include inoculations for the commonest types of communicable diseases, e.g., distemper, leukemia, parvovirus, and rabies. The third new section requires a veterinary inspection certificate with each cat or dog imported to Virginia for delivery to a dealer or pet shop. These sections are designed not only to ensure the animal's health, but humans' as well. They also purport to restrict both in-state and out-of-state dealers and breeders from supplying defective animals. In response to complaints that dealers refuse to allow enforcement officials to inspect their animal health records, § 3.1-796.78:3 requires that they permit inspection. New language in § 3.1-796.78 adds similar language.

Problem 4: Statewide standards for enforcing animal health provisions are, at best, inadequate. Although some localities, such as Fairfax County, have permit ordinances for pet shops, most localities simply require a general business license for those dealing in companion animals, with no specific provisions protecting animal health or consumer investment. As the previously mentioned survey revealed, most localities do not know how many dealers or pet shops operate within their jurisdictions, much less what standards of quality they adhere to.

Recommendation: To provide the knowledge necessary for effective regulation and, hence, consumer protection, the study recommends requiring dealers and pet shops to register with the State Veterinarian's Office in the Department of Agriculture. New § 3.1-796.69:1 accomplishes this. To offset administrative costs, the section imposes a \$50 registration fee on dealers and a \$100 registration fee on pet shops, with registration to be accomplished by September 30, 1992, and violations to be punished as Class 1 misdemeanors. Since the State Veterinarian already requires livestock dealers and agents to register and has procedures in place for that, the expansion of registration requirements should not prove unduly burdensome on the state or its declining revenues. Moreover, since the Code contains specific health-protection measures, the Department of Agriculture should not have to spend time and money developing regulations. Clearly, this provision could significantly reduce consumer dissatisfaction with dealer and pet shops and would reduce unequal responsibilities placed on commercial establishments operating in different areas of the state.

Problem 5: Some monetary penalties are too low to encourage compliance. Moreover, the penalty is the same for a large dealer who may be able financially to assimilate the penalty and the small dealer for whom it represents a major cost of doing business.

Recommendation: Where commercial establishments alone are involved, penalties should be elevated throughout the chapter to allow the court to assess penalties commensurate with the size of the business.



Respectively submitted,

*Alvina G. Pitches*

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Alvina G. Pitches, Chairman  
Virginia Federation of Humane Societies

*Tom Benson*

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Tom Benson  
American Boarding and Kennel Association

*Jeffrey E. Brown*

---

Jeffrey E. Brown  
Virginia Federation of Dog Clubs and Breeders

*Kay A. Carter-Corker*

---

Kay A. Carter-Corker, DVM  
U. S. Department of Agriculture

*Barry G. Dawkins*

---

Barry G. Dawkins, DVM  
Division of Animal Health  
Office of the State Veterinarian  
Virginia Department of Agriculture and Consumer Services

*Barbara A. Snow*

---

Barbara A. Snow  
Virginia Animal Control Association

1991 SESSION

APPENDIX A

LD9190119

1                   **SENATE JOINT RESOLUTION NO. 177**  
2                   **AMENDMENT IN THE NATURE OF A SUBSTITUTE**  
3                   **(Proposed by the Senate Committee on Rules**  
4                   **on February 1, 1991)**

5                   **(Patron Prior to Substitute—Senator Goode)**

6                   *Requesting a special working group to study the care which should be given by pet shops,*  
7                   *kennels, and breeders to dogs, cats, and other household pets.*

8                   WHEREAS, healthy household pets can provide their owners with years of love,  
9 affection, and enjoyment; and

10                  WHEREAS, many household pets are initially purchased by their owners from a pet  
11 shop, kennel, or breeder; and

12                  WHEREAS, many animals sold by pet shops, kennels, or breeders in the Commonwealth  
13 may have been born and raised in other states which impose different standards of care  
14 and treatment requirements on animal owners; and

15                  WHEREAS, the treatment and care given to pets by pet shops, kennels, or breeders  
16 before the animal is sold to its eventual owner can greatly influence the health and  
17 temperament of the animal throughout the remainder of its lifetime; and

18                  WHEREAS, certain species of household pets, including but not limited to such animals  
19 as exotic birds and reptiles, may require special care; and

20                  WHEREAS, while current law provides limited remedies to persons who purchase ill or  
21 unregistrable dogs or cats from a pet dealer who has certified that such dogs or cats are  
22 registered or capable of being registered, few, if any, remedies are available to persons  
23 who purchase ill animals from pet dealers under other circumstances; now, therefore, be it

24                  RESOLVED by the Senate, the House of Delegates concurring, That a special working  
25 group be requested to examine the care which should be given by pet shops, kennels, and  
26 breeders to dogs, cats, and other household pets. The special working group shall consist of  
27 five members as follows: one representative of the Virginia Federation of Humane Society,  
28 the Virginia Association of Dog Clubs and Breeders, and the Virginia Animal Control  
29 Association to be appointed by the Governor, the United States Department of Agriculture  
30 Veterinarian Medical officer and the State Veterinarian. The members of the study are  
31 encouraged to determine the adequacy of:

32                  1. Current requirements for the care and treatment of animals by pet shops, kennels,  
33 and breeders in the Commonwealth;

34                  2. Procedures used to determine the health of animals imported from other states by  
35 pet shops, kennels, or breeders in Virginia who sell such animals as household pets; and

36                  3. Remedies available to persons who purchase ill household pets from pet shops,  
37 kennels, or breeders in Virginia.

38                  The Division of Legislative Services shall serve as staff to the study.

39                  The indirect costs of this study are estimated to be \$10,650.

40                  The members of the study are further requested to report their findings and  
41 recommendations by December 1, 1991, to the Governor and the 1992 Session of the  
42 General Assembly as provided in the procedures of the Division of Legislative Automated  
43 Systems for processing legislative documents.

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APPENDIX B  
HSUS MODEL ACT FOR LICENSING  
PET SHOPS AND COMMERCIAL KENNELS

An Act to provide standards for the care of animals in pet shops and commercial kennels and to protect the purchasers of animals sold by such facilities.

Section 1. TITLE. This Act shall be known and may be cited as The State Pet Shop and Kennel Licensing Act.

Section 2. DEFINITIONS. As used in this Act except as otherwise expressly provided:

"Pet Shop" means every place or premise which sells, offers for sale, or exchanges at either wholesale or retail, birds, fish, reptiles, or mammals intended as pets; provided that such term shall not include commercial kennels and hobby breeders as defined in this Act.

"Commercial Breeder" means every place or premise which sells, offers for sale, or lets for hire for breeding purposes dogs and cats which are raised on the premises or kept at other facilities under contractual arrangements; provided such term shall not include Hobby Breeders as defined in this Act.

"Hobby Breeder" means every place or premise which sells, offers for sale, or lets for hire for breeding purposes five or less dogs or cats.

"Commissioner" means the Commissioner of the State Department of Agriculture.

Section 3. LICENSING. No person shall operate a pet shop or commercial kennel without a license therefore from the Commissioner. Application for a license shall be made in the manner prescribed by the Commissioner and shall include such information as in the judgment of the Commissioner will enable the Department of Agriculture to pass on the qualifications of the applicant.

(b) The license fee for both pet shops and commercial kennels shall be \$75.00 for each fiscal year or part thereof. Every premises housing a pet shop or commercial kennel shall require a separate license. The license shall be prominently displayed at the place of business for which said license was issued.

(c) A license may be renewed upon application and payment of the prescribed fee provided that the licensee has conformed to all statutory and regulatory requirements of this Act.

(d) If there is a change in ownership of a pet shop or commercial kennel, the new owner may have the current license transferred to his name upon payment of a \$10.00 fee.

(e) Failure to apply for a license prior to opening a pet shop or commercial kennel or within 30 days of renewal shall constitute a misdemeanor in accordance with Section 8 of this Act.

Section 5. LICENSE DENIAL AND REVOCATION. The Commissioner may deny, revoke or suspend the license of a pet shop or commercial kennel if, after public hearings, it is determined that:

(A) There has been material misstatement or misrepresentation in the license application.

(B) There has been a violation of this Act or the rules and regulations promulgated thereto.

(C) The licensee has failed to comply with any municipal, state, or federal law applicable to pet shops and commercial kennels.

(D) The licensee or any of his employees have been convicted of a violation of law involving the mistreatment of animals.

(E) The licensee refuses to allow the inspection of his premises pursuant to Section 6 of this Act.

Section 6. INSPECTION. Officials of the Department of Agriculture and humane agents so authorized by the Commissioner shall have the right to inspect the premises of licensees for compliance with this Act and the rules and regulations promulgated thereto.

(b) Such officials and authorized agents may seize and impound any animal found to housed in violation of this Act or the rules and regulations promulgated thereto. If, after public hearing, a license is suspended or revoked such animals may be sold or euthanized at the discretion of the Secretary. The expense of harboring and treating such animals shall be born by the licensee.

Section 8. PENALTIES. Any person found guilty of violating any portion of this Act or the rules and regulations promulgated thereto shall be deemed guilty of a misdemeanor punishable by a fine of not more than \$1000 and/or 90 days in jail.

(b) Each and every violation of this Act shall be considered a separate offense.

These rules are promulgated to apply to all dogs, cats, rabbits, rodents, nonhuman primates, birds or other vertebrate animals handled.

#### Housing Facilities

a. Buildings shall be of adequate structure and maintained in good repair so as to ensure protection of animals from injury.

b. Shelter shall be provided to allow access to shade from direct sunlight and regress from exposure to rain or snow. Heat, insulation, or bedding adequate to provide comfort shall be provided when the atmospheric temperature is below 50° F. or that temperature to which the particular animals are acclimated. Indoor housing facilities shall be provided for dogs and cats under the age of eight weeks and for dogs and cats within two weeks of whelping.

c. Indoor and outdoor housing facilities shall at all times be provided with ventilation by means of doors, windows, vents, air conditioning or direct flow of fresh air that is adequate to provide for the good health and comfort of the animals. Such ventilation shall be environmentally provided as to minimize drafts, moisture, condensation, odors or stagnant vapors of excreta.

d. Ample lighting shall be provided by natural or artificial means or both during sunrise to sunset hours to allow efficient cleaning of the facilities and routine inspection of the facilities and animals contained therein.

e. Ceilings, walls and floors shall be so constructed as to lend themselves to efficient cleaning and sanitizing. Such surfaces shall be kept in good repair and maintained so that they are substantially impervious to moisture. Floors and walls to a height of four feet shall have finished surfaces.

f. Food supplies and bedding materials shall be stored so as to adequately protect them from contamination or infestation by vermin or other factors which would render the food or bedding unclean. Separate storage facilities shall be maintained for cleaning and sanitizing equipment and supplies.

g. Washrooms, basins or sinks shall be provided within or be readily accessible to each housing facility, for maintaining cleanliness among animal caretakers and sanitizing of food and water utensils.

h. Equipment shall be available for removal and disposal of all waste materials from housing facilities to minimize vermin infestation, odors and disease hazards. Drainage systems shall be functional to effect the above purposes.

i. Facilities shall be provided to isolate diseased animals, to prevent exposure to healthy animals.

j. Outdoor dog runs and exercise areas shall be of sound construction and kept in good repair so as to safely contain the animal(s) therein without injury. Floors shall be concrete, gravel or materials which can be regularly cleaned and kept free of waste accumulation. Wire floors are permissible, provided that they are not injurious to the animals.

k. Group housing is permitted for animals which are compatible with one another. Adequate space shall be provided to prevent crowding and to allow freedom of movement and comfort to animals of the size which are housed in the facility. Females in estrus shall not be housed with males, except for breeding purposes.

#### Primary Enclosures

a. Primary enclosures shall be of sound construction and maintained in good repair to protect the animals from injury.

b. Construction materials and maintenance shall allow the animals to be kept clean and dry. Walls and floors shall be impervious to urine and other moisture.

c. The shape and size of the enclosure shall afford ample space for the individual(s) to comfortably turn about, stand erect, sit or lie. Not more than twelve dogs or cats shall be housed in the same primary enclosure.

d. Litter pans, containing clean litter, shall be provided at all times for kittens and cats.

e. Means shall be provided to maintain that temperature and ventilation which is comfortable for the species within the primary enclosure. Lighting shall be adequate to allow observation of the animals but they shall be protected from excessive illumination.

f. Animals shall be removed from their primary enclosures at least twice in each twenty-four hour period and exercised, unless the primary enclosure shall be of sufficient size to provide this exercise.

#### Feeding and Watering

a. All species covered under general care and husbandry standards of the Code shall be provided with adequate feed as defined in this section.

b. Young animals shall be fed at more frequent intervals and with specific diets as their needs shall dictate.

c. All species shall be provided with adequate water.

d. All animals must be fed, watered and cages cleaned every day, including Sundays and Holidays.

### Sanitation

- a. Housing facilities and primary enclosures shall be cleaned a minimum of once in each twenty-four hour period and more frequently as may be necessary to reduce disease hazards and odors.
- b. Primary enclosures for dogs and cats in pet shops shall be sanitized at intervals not to exceed forty-eight hours. Sanitizing shall be done by washing the surfaces with hot water and soap or detergent, followed by the application of a safe and effective disinfectant. Pressure water systems or live steam may be used for cleaning if animals are removed while cleaning. Runs and exercise areas having gravel or other nonpermanent surface materials shall be sanitized by periodic removal of soiled materials, application of suitable disinfectants, and replacement with clean surface materials.
- c. An effective program shall be established and maintained for the control of vermin infestation.

### Veterinary Care

- a. Programs of disease prevention and control shall be established and maintained.
- b. Sick, diseased or injured animals shall be provided with proper veterinary care or disposed of by euthanasia.

### Personnel

- a. A sufficient number of employees shall be utilized to provide the required care of animals and maintenance of facilities during normal business hours.

### Vehicles

- a. Protection shall be afforded to primary enclosures transported in the vehicle, sheltering the animals from drafts and extremes of hot or cold temperatures to which they are not acclimated.
- b. Primary enclosures used in transportation shall be securely positioned in the vehicle to protect the animals from injury.

### Purchase, Sale, Trade and Adoption

- a. Licensees shall furnish a statement of sale, transfer, or adoption to each purchaser or recipient of a dog, cat, nonhuman primate, bird, or other vertebrate animal. This statement shall include: Name and address of the seller or transferor, name and address of the purchaser or recipient, date of sale or transfer, description or identification of the vertebrate sold or transferred, prophylactic immunization(s) and date(s) administered, and internal parasite medication(s) given and date(s) administered.
- b. All vertebrate animals which are known to be exposed to or show symptoms of having infectious and contagious diseases or which show symptoms of parasitism or malnutrition sufficient to adversely affect the health of the animals are restricted from sale or transfer.

The secretary may order quarantine on premises or housing facilities in which any of the above listed conditions shall exist. Quarantine shall be removed when at the discretion of the secretary or his designee, the disease conditions for which quarantined are no longer evident and the apparent health of the animals indicates absence of contagion.

#### Public Health

a. Animal wardens shall enlist veterinary aid in programming control measures to protect the public from zoonotic diseases which may be suspected to be on the premises of a licensee or registrant.

b. Animals, housing facilities, or premises may be placed under quarantine by order of the secretary when it is deemed necessary to protect the public from zoonotic diseases.

#### Boarding Kennels and Commercial Kennels

a. Records shall be made, and retained for a period of twelve months for each animal boarded, groomed, or trained. Records shall include owner's name and address, identification of animal, duration of stay, service provided and illnesses which have occurred.

b. Animals exhibiting symptoms of disease shall be promptly examined and treated by a veterinarian.

c. Group housing is permitted only if the animals are owned by the same person and are compatible.

d. Grooming and training utensils and equipment shall be cleaned and sanitized between use on animals owned by different persons.

e. Primary enclosures shall be cleaned and sanitized between use in containing animals owned by different persons.

For further information or assistance, write  
The Humane Society of the United States,  
2100 L Street, N.W., Washington, D.C. 20037.



# APPENDIX C

## ARTICLE 8.

### *Offenses Involving Animals.*

§ 18.2-403.1. **Offenses involving animals — Class 1 misdemeanors.** — The following unlawful acts and offenses against animals shall constitute and be punished as a Class 1 misdemeanor:

1. Violation of § 3.1-796.122 pertaining to cruelty to animals.
2. Violation of § 3.1-796.69 pertaining to transporting animals under certain conditions.
3. Making a false claim or receiving money on a false claim under § 3.1-796.118 pertaining to compensation for livestock and poultry killed by dogs. (1984, c. 492.)

§ 18.2-403.2. **Same — Class 3 misdemeanors.** — The following unlawful acts and offenses against animals shall constitute and be punished as a Class 3 misdemeanor:

1. Violation of § 3.1-796.71 pertaining to the failure of a shopkeeper or pet dealer to provide adequate care to animals.
2. Violation of § 3.1-796.72 pertaining to the misrepresentation of an animal's condition by the shopkeeper or pet dealer.
3. Violation of §§ 3.1-796.73 and 3.1-796.122 pertaining to the abandonment of animals.
4. Violation of § 3.1-796.70 pertaining to the sale of baby fowl.
5. Violation of § 3.1-796.125 pertaining to fighting cocks, dogs and other animals.
6. Violation of § 3.1-796.123 pertaining to soring horses. (1984, c. 492.)

§ 18.2-403.3. **Same — Class 4 misdemeanors.** — The following unlawful acts and offenses against animals shall constitute and be punished as a Class 4 misdemeanor:

1. Violation of § 3.1-796.111 pertaining to interference of agents charged with preventing cruelty to animals.
2. Violation of § 3.1-796.126 pertaining to shooting pigeons.
3. Violation of § 3.1-796.121 pertaining to disposing of the body of a dead dog.
4. Violation of ordinances passed pursuant to §§ 3.1-796.98 and 3.1-796.100 pertaining to rabid dogs and preventing the spread of rabies and the running at large of vicious dogs.
5. Violation of an ordinance passed pursuant to § 3.1-796.95 requiring dogs to be on a leash.
6. Failure by any person to secure and exhibit the permits required by § 29.1-422 pertaining to field trials, night trials and foxhounds.
7. Diseased dogs. — For the owner of any dog with a contagious or infectious disease to permit such dog to stray from his premises if such disease is known to the owner.
8. License application. — For any person to make a false statement in order to secure a dog license to which he is not entitled.
9. License tax. — For any dog owner to fail to pay the license tax required by § 3.1-796.88 before February 1 for the year in which it is due. In addition, the court may order confiscation and the proper disposition of the dog.
10. Concealing a dog. — For any person to conceal or harbor any dog on which the license tax has not been paid.
11. Removing collar and tag. — For any person, except the owner or custodian, to remove a legally acquired license tag from a dog without the permission of the owner or custodian. (1984, c. 492.)

1991 SESSION

APPENDIX D

LD5315468

HOUSE BILL NO. 1869

Offered January 22, 1991

A BILL to amend and reenact §§ 3.1-796.66, 3.1-796.68, 3.1-796.73, 3.1-796.75, and 3.1-796.122 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 3.1-796.67:2, relating to duties of animal owners.

Patron—Grayson

Referred to the Committee on Agriculture

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.1-796.66, 3.1-796.68, 3.1-796.73, 3.1-796.75, and 3.1-796.122 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 3.1-796.67:2 as follows:

§ 3.1-796.66. Definitions.—The following words as used in this chapter shall have the following meanings:

“Abandon” means to desert, forsake, or absolutely give up an animal without having secured another owner or custodian for the animal or to fail to provide the elements of basic care as set forth in § 3.1-796.68 for a period of five or more days.

“Adequate feed” means the provision, at suitable intervals, at least once daily, of quantities of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition in each animal food of sufficient quantity and nutritive value to meet the normal daily requirements in accordance with the Animal Health and Husbandry Standards of the United States Department of Agriculture (USDA) Animal Welfare Act .

“Adequate shelter” means shelter that may reasonably be expected to protect the animal from physical suffering or impairment of health due to exposure to the elements or adverse weather in accordance with the USDA Animal Welfare Act Facilities and Operating Standards .

“Adequate space” means sufficient space to allow each animal to easily stand, sit, lie and turn about freely and in a comfortable normal position for the animal in accordance with USDA Animal Welfare Act Facilities and Operating Standards.

“Adequate sustenance” means that which is needed to sustain an animal in a normal or reasonably comfortable state of health, considering the species, age and temperament of the animal.

“Adequate water” means a constant access to a supply of clean, fresh, potable water provided in a sanitary manner or provided at suitable intervals and in a suitable manner for the species at least once daily at any interval in accordance with the USDA Animal Welfare Act Animal Health and Husbandry Standards .

“Adequately cleaned” means the removal of carcasses, debris and excrement as often as necessary, and disinfection of surfaces as needed, so as to prevent contamination of animals and to reduce the hazard of disease and odors in accordance with Animal Welfare Act Animal Health and Husbandry Standards for cleaning and housekeeping of enclosures or primary enclosures.

“Agricultural animals” means cattle, horses, swine, sheep, goats and poultry.

“Ambient temperature” means the temperature surrounding the animal.

“Animal” means domestic animals, including both agricultural and companion animals, if not specified otherwise. For the purposes of § 3.1-796.98, animal means any animal susceptible to rabies.

“Animal shelter” means a facility which is used to house or contain animals and which is owned, operated, or maintained 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 and humane treatment of animals.

“Animal warden” means any person employed, contracted or appointed by the

1 Commonwealth or any political subdivision for the purpose of aiding in the enforcement of  
2 this law or any other law or ordinance relating to the licensing of dogs, control of dogs,  
3 cruelty to animals, or seizure and impoundment of dogs and includes any state or  
4 municipal police officer, animal control officer, sheriff, constable or other employee whose  
5 duties in whole or in part include assignments which involve seizure or taking into custody  
6 of any dog or other animal.

7 "Board" means the Board of Agriculture and Consumer Services.

8 "Boarding kennel establishment" means a place or establishment other than a pound or  
9 animal shelter where companion animals not owned by the proprietor are sheltered, fed  
10 and watered in exchange for a fee, but shall not include training or show kennels.

11 "Companion animals" means domestic and feral dogs, domestic and feral cats, monkeys,  
12 guinea pigs, hamsters, rabbits, exotic animals and exotic and native birds. Game species  
13 shall not be considered companion animals for the purposes of this chapter.

14 "Consumer" means any natural person purchasing from a pet dealer a dog or cat  
15 described as being registered with any animal pedigree organization.

16 "Dealer" means any person who in the regular course of business for compensation or  
17 profit buys, sells, transfers, exchanges or barter companion animals. Any person who  
18 transfers companion animals in the regular course of business as a common carrier shall  
19 not be considered a dealer.

20 "Enclosure" means a structure used to house or restrict animals from running at large.

21 "Euthanasia" means the humane destruction of an animal accomplished by a method  
22 that involves instantaneous unconsciousness and immediate death or by a method that  
23 involves anesthesia, produced by an agent which causes painless loss of consciousness, and  
24 death during such loss of consciousness.

25 "Exotic birds" means any bird that is not a species native to the United States.

26 "Housing facility" means any room, building, or area used to contain a primary  
27 enclosure or enclosures.

28 "Humane society" means any chartered, not-for-profit organization incorporated under  
29 the laws of this Commonwealth and organized for the purpose of preventing cruelty to  
30 animals and promoting humane care and treatment of animals.

31 "Investigator" or "approved humane investigator" means a person employed or  
32 approved by the State Veterinarian to determine whether there has been a violation of this  
33 chapter.

34 "Livestock" includes cattle, horses, sheep, goats, swine and enclosed domesticated  
35 rabbits or hares.

36 "Local ordinance" means any law, rule, regulation or ordinance promulgated by the  
37 governing body of any county, city or town.

38 "*Neglected animal*" means an animal for which one or more of the basic needs as set  
39 out in § 3.1-796.68 have not been provided for by the owner or custodian for a period of  
40 seventy-two or more consecutive hours.

41 "Other officer" includes all other persons employed or elected by the people of  
42 Virginia, or by any municipality, county or incorporated town thereof, whose duty it is to  
43 preserve the peace, to make arrests or to enforce the law.

44 "Owner" means any person who: (i) has a right of property in an animal, (ii) keeps or  
45 harbors an animal, (iii) has an animal in his care, or (iv) acts as a custodian of an  
46 animal.

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

49 "Pet dealer" means any person engaging in the ordinary course of business in the sale  
50 to the public for profit of cats or dogs described as being registered or capable of being  
51 registered with any animal pedigree organization.

52 "Pet shop" means an establishment where companion animals are bought, sold,  
53 exchanged, or offered for sale or exchange to the general public.

54 "Poultry" includes all domestic fowl and game birds raised in captivity.

1 "Pound" means a facility operated by the Commonwealth, or any political subdivision,  
2 for the purpose of impounding or harboring seized, stray, homeless, abandoned or unwanted  
3 animals; or a facility operated for the same purpose under a contract with any county,  
4 city, town or incorporated society for the prevention of cruelty to animals.

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

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

10 "Sanitize" means to make physically clean and to remove and destroy, to a practical  
11 minimum, agents injurious to health.

12 "State Veterinarian" means a veterinarian employed by the Commissioner of Agriculture  
13 and Consumer Services as provided in § 3.1-13.

14 "Treasurer" includes the treasurer and his assistants of each county or city or other  
15 officer designated by law to collect taxes in such county or city.

16 § 3.1-796.67:2. *Accepted practices allowed.*—*Nothing in this chapter shall be construed*  
17 *to prohibit industry-accepted practices of good husbandry, management, production and*  
18 *confinement of animals raised for the purposes of food or fiber as recognized as*  
19 *acceptable by the Virginia Polytechnic Institute and State University Agricultural Research*  
20 *Experiment Station and the Virginia Cooperative Extension Service.*

21 § 3.1-796.68. Duties of owner.—Each owner shall have the duty to provide for each of  
22 his companion animals, pursuant to regulations adopted by the Board:

- 23 1. Adequate feed and adequate water;
- 24 2. Adequate shelter *that is adequately cleaned so as to prevent accumulation of*  
25 *carcasses, debris and excrement, thereby reducing disease hazards and odors;*
- 26 3. Adequate space in the primary enclosure for the particular type of animal depending  
27 upon its age, size and weight;
- 28 4. Veterinary care when needed and to prevent suffering; and
- 29 5. Humane care and treatment, handling and transportation.

30 The provisions of this section shall also apply to every animal shelter with respect to  
31 animals contained therein, pound, dealer, pet dealer, pet shop, exhibitor, and boarding  
32 establishment.

33 § 3.1-796.73. Abandonment of animal; penalties.—No person shall abandon any animal.  
34 Abandonment for the purposes of this section is defined as deserting, forsaking, or  
35 intending to absolutely give up an animal without securing another owner or without  
36 providing the necessities set out in § 3.1-796.68. Violation of this section shall be punishable  
37 as a Class 3 misdemeanor. *Nothing in this section shall be construed to mean the release*  
38 *of an animal by its owner to an animal shelter, pound or humane society establishment.*

39 § 3.1-796.75. Procedure for animals left unclaimed with veterinarian or boarding  
40 establishment after public notice; lien; sale.—Any animal not claimed by its owner from a  
41 licensed veterinarian or boarding ~~kenel~~ establishment within fourteen days after a letter  
42 of notice has been sent to the owner, by the veterinarian or boarding ~~kenel~~ establishment  
43, may be sold by the veterinarian or boarding ~~kenel~~ establishment. The animal may be  
44 sold at public or private sale for fair compensation to a person capable of providing care  
45 consistent with this chapter. Any expense incurred by the veterinarian or boarding ~~kenel~~  
46 establishment becomes a lien on the animal and the proceeds of the sale shall first  
47 discharge this lien. Any balance of the proceeds shall be paid over to the owner. If the  
48 owner cannot be found within the next ensuing thirty days, the balance shall be paid to the  
49 state treasury. If no purchaser is found, the animal may be offered for adoption or  
50 euthanized.

51 § 3.1-796.122. Cruelty to animals; penalty.—Any person who (i) overrides, overdrives,  
52 overloads, tortures, ill-treats, abandons, willfully inflicts inhumane injury or pain not  
53 connected with bona fide scientific or medical experimentation, or cruelly or unnecessarily  
54 beats, maims, mutilates, or kills any animal, whether belonging to himself or another; or

1 (ii) deprives any animal of ~~necessary~~ *adequate* sustenance, food, drink or shelter; or (iii)  
 2 willfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to  
 3 any animal; or (iv) carries or causes to be carried in or upon any vehicle, vessel or  
 4 otherwise any animal in a cruel, brutal, or inhumane manner, so as to produce torture or  
 5 unnecessary suffering; or (v) causes any of the above things, or being the owner of such  
 6 animal permits such acts to be done by another, shall be guilty of a Class 1 misdemeanor.

7 Any person who abandons any dog, cat or other domesticated animal in any public  
 8 place including the right-of-way of any public highway, road or street or on the property of  
 9 another shall be guilty of a Class 3 misdemeanor.

10 Nothing in this section shall be construed to prohibit the dehorning of cattle.

11 For the purposes of this section and §§ 3.1-796.109, 3.1-796.111, 3.1-796.113 through  
 12 3.1-796.115, and 3.1-796.125, the word animal shall be construed to include birds and fowl.

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# APPENDIX E

## CALIFORNIA STATUTES

### § 5971. Pet shops; maintenance and care of premises and animals; definitions; punishment

It shall be unlawful for any person who operates a pet shop to fail to do all of the following:

- (1) Maintain the facilities used for the keeping of pet animals in a sanitary condition.
- (2) Provide proper heating and ventilation for the facilities used for the keeping of pet animals.
- (3) Provide adequate nutrition for, and humane care and treatment of, all pet animals under his care and control.
- (4) Take reasonable care to release for sale, trade, or adoption only those pet animals which are free of disease or injuries.
- (5) Provide adequate space appropriate to the size, weight and specie of pet animals.

(b) As used in this section:

(1) "Pet animals" means dogs, cats, monkeys, and other primates, rabbits, birds, guinea pigs, hamsters, mice, snakes, iguanas, turtles, and any other species of animal sold or retained for the purpose of being kept as a household pet.

(2) "Pet shop" means every place or premises where pet animals are kept for the purpose of either wholesale or retail sale. "Pet shop" does not include any place or premises where pet animals are occasionally sold.

(c) Any person who violates any provision of this section is guilty of a misdemeanor and is punishable by a fine of not to exceed one thousand

dollars (\$1,000), or by imprisonment in the county jail for not more than 90 days, or by both such fine and imprisonment.

(Added by Stats.1972, c. 844, p. 1502, § 1. Amended by Stats.1983, c. 1092, § 309, urgency, eff. Sept. 27, 1983, operative Jan. 1, 1984.)

**§ 25995. Retail dealers; conformance to chapter; definition; exceptions**

Every retail dealer of dogs and cats shall conform to the provisions of this chapter. As used in this chapter, "retail dealer" means a person engaging in the business of selling dogs or cats, or both, at retail, and by virtue of such sales of dogs and cats is required to possess a permit pursuant to Section 6066 of the Revenue and Taxation Code. For purposes of this chapter, the separate sales of dogs or cats from a single litter shall constitute only one sale under Section 6019 of the Revenue and Taxation Code.

The provisions of this chapter shall not apply to publicly operated pounds and humane societies.

(Added by Stats.1976, c. 1114, p. 2397, § 4.)

**§ 25995.1. Receipt of dogs or cats from common carrier; transportation from premises**

Every retail dealer receiving dogs or cats from a common carrier shall transport, or have transported, such dogs and cats from the carrier's premises within six business hours after receipt of notification by the carrier of the completion of shipment and arrival of the animal at the carrier's point of destination.

(Added by Stats.1976, c. 1114, p. 2397, § 4.)

**§ 25995.2. Examination for sickness upon receipt; separate cages for animals with contagious diseases**

All dogs or cats received by a retail dealer shall, prior to being placed with other dogs or cats, be examined for sickness. Any dog or cat found to be afflicted with a contagious disease shall be kept caged separately from healthy animals.

(Added by Stats.1976, c. 1114, p. 2397, § 4.)

**§ 25995.3. Written statement; delivery to purchaser; form; contents**

Every retail dealer shall deliver to the purchaser of each dog and cat at the time of sale a written statement in a standardized form prescribed by the Department of Consumer Affairs containing the following information:

(a) If the person from whom the dog or cat was obtained is a dealer licensed by the United States Department of Agriculture, the person's name, address, and federal dealer identification number.

(b) The date of the animal's birth, unless unknown because of the source of such animal.

(c) A record of the immunizations administered to the animal as of the time of sale, including the dates of administration and the type of vaccine.

(d) A record of any known disease or sickness that the dog or cat is afflicted with at the time of sale. In addition, this information shall also be verbally disclosed to the purchaser.

(Added by Stats.1976, c. 1114, p. 2397, § 4.)

**§ 25995.4. Records of retail dealer; contents**

Every retail dealer shall maintain a written record on each dog and cat received by him which shall contain all information required to be disclosed by Section 25995.3 and any disease or sickness of the animal observed while the animal is in possession of the retail dealer, including, but not limited to, symptoms of illness, diagnosed illness, treatment and medications.

(Added by Stats.1976, c. 1114, p. 2397, § 4.)

**§ 25995.5. Violations; civil penalty; action for recovery**

Any person violating any provision of this chapter shall be subject to a civil penalty, not to exceed two hundred fifty dollars (\$250). An action for recovery of such a civil penalty may be prosecuted in the name of the people of the State of California by the district attorney for the county in which the violation occurred in the appropriate court.

(Added by Stats.1976, c. 1114, p. 2397, § 4.)



APPENDIX F  
FLORIDA STATUTES

**828.125. Killing or aggravated abuse of registered breed horses or cattle; offenses; penalties**

Any other provisions of this chapter to the contrary notwithstanding:

(1) Any person who willfully and unlawfully, by any means whatsoever, kills, maims, mutilates, or causes great bodily harm or permanent breeding disability to any animal of<sup>1</sup> any registered breed of the genus *Equus* (horse) or genus *Bos* (cattle), or any recognized registered hybrid of the specified genera, shall be guilty of a felony of the second degree, punishable as provided by s. 775.082, s. 775.083, or s. 775.084.

(2) Any person who individually attempts or solicits, or jointly agrees, conspires, combines, or confederates with another person to commit, any act prohibited by subsection (1) and does an act in furtherance of said attempt, solicitation, or conspiracy shall be guilty of a felony of the second degree and is punishable as if the person or persons had actually committed such prohibited act as enumerated in subsection (1), notwithstanding any provisions found in s. 777.04. Nothing in this subsection shall be construed to prohibit separate convictions and sentences for a violation of this subsection and any violation of subsection (1).

(3) Any person who verbally or in writing threatens to commit any act prohibited by subsection (1) and has the apparent ability to carry out such threat and places the owner or custodian of said animal in fear that such an act as described in subsection (1) is about to take place shall be guilty of a felony of the third degree, punishable as provided by s. 775.082, s. 775.083 or s. 775.084.

(4) In addition to any other fines or penalties authorized by law, a person found guilty of violating any provision of subsection (1), subsection (2), or subsection (3) may be ordered by the court to make restitution to the aggrieved party in an amount not to exceed twice the gross fair market value of the said *Equus* or *Bos* killed or abused in an aggravated manner, or up to twice the gross loss caused, whichever is greater, plus attorney's fees and any and all related costs. Upon notice the court shall hold a hearing to determine the amount of fines, restitution, or costs to be imposed under this section, if not agreed upon by the parties.

(5) This section shall not be construed to abridge, impede, prohibit, or otherwise interfere in any way with the application, implementation, or conduct of recognized livestock husbandry practices or techniques by or at the direction of the owner of the livestock so husbanded.

Added by Laws 1986, c. 86-14, § 1, eff. Oct. 1, 1986.

<sup>1</sup>The words "any animal of" were inserted by the division of statutory revision.

**828.13. Confinement of animals without sufficient food, water, or exercise; abandonment of animals**

(1) As used in this section:

(a) "Abandon" means to forsake an animal entirely or to neglect or refuse to provide or perform the legal obligations for care and support of an animal by its owner.

(b) "Owner" includes any owner, custodian, or other person in charge of an animal.

(2) Whoever:

(a) Impounds or confines any animal in any place and fails to supply the animal during such confinement with a sufficient quantity of good and wholesome food and water,

(b) Keeps any animals in any enclosure without wholesome exercise and change of air, or

(c) Abandons to die any animal that is maimed, sick, infirm, or diseased,

is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or by a fine of not more than \$5,000, or by both imprisonment and a fine, or as provided in s. 775.084.<sup>1</sup>

(3) Any person who is the owner or possessor, or has charge or custody, of any animal who abandons such animal to suffer injury or malnutrition or abandons any animal in a

street, road, or public place without providing for the care, sustenance, protection, and shelter of such animal is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or by a fine of not more than \$5,000, or by both imprisonment and a fine, or as provided in s. 775.084.<sup>1</sup>

Amended by Laws 1981, c. 81-17, § 1, eff. Oct. 1, 1981; Laws 1982, c. 82-116, § 3, eff. July 1, 1982.

<sup>1</sup> Section 775.084 was amended by Laws 1988, c. 88-131, § 6, deleting all reference to misdemeanors.

#### **828.27. Local animal control or cruelty ordinances; penalty**

(1) As used<sup>1</sup> in this section, the term<sup>1</sup>:

(a) "Animal" means any living dumb creature.

(b) "Animal control officer" means any person employed or appointed by a county or municipality who is authorized to investigate, on public or private property, civil infractions relating to animal control or cruelty and to issue citations as provided in this section. An animal control officer is not authorized to bear arms or make arrests.

(c) "Control" means the regulation of the possession, ownership, care, and custody of animals.

(d) "Cruelty" means any act of neglect, torture, or torment that causes unjustifiable pain or suffering of an animal.

(e) "Officer" means any law enforcement officer defined in s. 943.10 or any animal control officer.

(f) "Citation" means a written notice, issued to a person by an officer, that the officer has probable cause to believe that the person has committed a civil infraction in violation of a duly enacted ordinance and that the county court will hear the charge. The citation shall contain:

1. The date and time of issuance.
2. The name and address of the person.
3. The date and time the civil infraction was committed.
4. The facts constituting probable cause.
5. The ordinance violated.
6. The name and authority of the officer.
7. The procedure for the person to follow in order to pay the civil penalty or to contest the citation.
8. The applicable civil penalty if the person elects to contest the citation.
9. The applicable civil penalty if the person elects not to contest the citation.
10. A conspicuous statement that if the person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citation, he shall be deemed to have waived his right to contest the citation and that, in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.

(g) "Ordinance" means any ordinance relating to the control of or cruelty to animals enacted by the governing body of a county or municipality the violation of which<sup>2</sup> is a civil infraction.

(2) The governing body of a county or municipality is authorized to enact ordinances relating to animal control or cruelty, which ordinances shall provide:

(a) That a violation of such an ordinance is a civil infraction.

(b) A maximum civil penalty not to exceed \$500.

(c) A civil penalty of less than the maximum civil penalty if the person who has committed the civil infraction does not contest the citation.

(d) For the issuance of a citation by an officer who has probable cause to believe that a person has committed an act in violation of an ordinance.

(e) For the contesting of a citation in the county court.

(f) Such procedures and provisions as are<sup>3</sup> necessary to implement any ordinances enacted under the authority of this section.

(3)(a)1. County-employed animal control officers shall, and municipally employed animal control officers may, successfully complete a 40-hour minimum standards training course. Such course shall include, but is not limited to, training for: animal cruelty investigations, search and seizure, animal handling, courtroom demeanor, and civil citations. The course curriculum must be approved by the Florida Animal Control Association. An animal control officer who successfully completes such course shall be issued a certificate indicating that he has received a passing grade.

**828.31. Dogs and cats transported or offered for sale; health requirements, consumer guarantee**

(1)(a) If a dog is transported into the state for sale, it shall be inoculated and dewormed, as provided in this section, no more than 30 days and no less than 14 days before entry into the state.

(b) Each dog offered for sale within the state shall be inoculated and dewormed, prior to being offered for sale, by or under the supervision of a veterinarian licensed by the state, unless the veterinarian certifies, on the certificate of veterinary inspection, that to inoculate the dog is not in the best medical interest of the animal, in which case the inoculum shall not be administered to that particular animal. Each dog shall be inoculated and dewormed against the following diseases and internal parasites:

1. Canine distemper.
2. Leptospirosis.
3. Bordetella (by intranasal inoculation, which shall be administered in this state once before sale).
4. Parainfluenza.
5. Hepatitis.
6. Canine parvo.
7. Rabies, provided the dog is over 4 months of age and the inoculation is administered by a licensed veterinarian.
8. Roundworms.
9. Hookworms.

If the dog is under 4 months of age, it shall be inoculated and dewormed no more than 21 days prior to sale within the state. If the dog is 4 months of age or older, it shall be inoculated and dewormed no more than 1 year prior to sale within the state.

(2)(a) If a cat is transported into the state for sale, it shall be inoculated and dewormed, as provided in this section, no more than 30 days and no less than 14 days before entry into the state.

(b) Each cat offered for sale within the state shall be inoculated and dewormed, prior to being offered for sale, by or under the supervision of a veterinarian licensed by the state, unless the veterinarian certifies on the certificate of veterinary inspection that to inoculate the cat is not in the best medical interest of the animal, in which case the inoculum shall not be administered to that particular animal. Each cat shall be inoculated and dewormed against the following diseases and internal parasites:

1. Panleukopenia.
2. Feline viral rhinotracheitis.
3. Calici virus.
4. Rabies, provided the cat is over 4 months of age and the inoculation is administered by a licensed veterinarian.
5. Hookworms.
6. Roundworms.

If the cat is under 4 months of age, it shall be inoculated and dewormed no more than 21 days prior to sale within the state. If the cat is 4 months of age or older, it shall be inoculated and dewormed no more than 1 year prior to sale within the state.

(3)(a) Each dog or cat subject to subsection (1) or subsection (2) shall be accompanied by a certificate of veterinary inspection at all times while being offered for sale within the state. The examining veterinarian shall retain one copy of the certificate on file for at least 1 year after the date of examination. At the time of sale of the animal, one copy of the certificate shall be given to the buyer. The seller shall retain one copy of the certificate on record for at least 1 year after the date of sale.

(b) The term "certificate of veterinary inspection" means a certificate signed by the examining veterinarian licensed by the state, that shows the age, sex, breed, color, and health record of the dog or cat, the printed or typed names and addresses of the person or business from whom the animal was obtained, the consignor or seller, the consignee or purchaser, and the examining veterinarian, and the veterinarian's license number. The certificate shall list all vaccines and deworming medications administered to the dog or cat, including the manufacturer, vaccine, type, lot number, expiration date, and the dates of administration thereof, and shall state that the examining veterinarian warrants that, to the best of his knowledge, the animal has no contagious or infectious diseases and has no internal or external parasites, including coccidiosis and ear mites, but excluding fleas and ticks.

(c) The examination of each dog and cat by a veterinarian shall take place no more than 21 days prior to sale within the state. Such examination shall include, but not be limited to, a fecal test to determine if the dog or cat is free of internal parasites, including hookworms, roundworms, tapeworms, and whipworms. If the examination reveals the animal is not free of internal parasites, the animal subsequently shall be treated for the specific parasites. Each dog over 6 months of age shall also be tested for heartworms. Each cat shall also be tested for feline leukemia before being offered for sale in the state. Such tests shall be performed by or under the supervision of a licensed veterinarian, and the results of such tests shall be listed on the certificate of veterinary inspection.

(d) All dogs and cats offered for sale and copies of certificates held by the seller and veterinarian shall be subject to inspection by any law enforcement officer or any agent

(4) No person shall transport into the state for sale or offer for sale within the state any dog or cat that is less than 8 weeks of age.

(5) If, within 14 days following the sale by a pet dealer of an animal subject to this section, a licensed veterinarian of the consumer's choosing certifies that, at the time of the sale, such animal was unfit for purchase due to illness or disease, the presence of symptoms of a contagious or infectious disease, or the presence of internal or external parasites, excluding fleas and ticks; or if, within 1 year following the sale of an animal subject to this section, a licensed veterinarian of the consumer's choosing certifies such animal to be unfit for purchase due to a congenital or hereditary disorder which adversely affects the health of the animal; or if, within 1 year following the sale of an animal subject to this section, the breed, sex, or health of such animal is found to have been misrepresented to the consumer, the pet dealer shall afford the consumer the right to choose one of the following options:

(a) The right to return the animal and receive a refund of the purchase price, including the sales tax, and reimbursement for reasonable veterinary costs directly related to the veterinarian's examination and certification that the dog or cat is unfit for purchase pursuant to this section and directly related to necessary emergency services and treatment undertaken to relieve suffering;

(b) The right to return the animal and receive an exchange dog or cat of the consumer's choice of equivalent value, and reimbursement for reasonable veterinary costs directly related to the veterinarian's examination and certification that the dog or cat is unfit for purchase pursuant to this section and directly related to necessary emergency services and treatment undertaken to relieve suffering; or

(c) The right to retain the animal and receive reimbursement for reasonable veterinary costs for necessary services and treatment related to the attempt to cure or curing of the dog or cat.

Reimbursement for veterinary costs shall not exceed the purchase price of the animal. The cost of veterinary services is reasonable if comparable to the cost of similar services rendered by other licensed veterinarians in proximity to the treating veterinarian and the services rendered are appropriate for the certification by the veterinarian.

(6) A consumer may sign a waiver relinquishing his right to return the dog or cat for congenital or hereditary disorders. In the case of such waiver, the consumer has 48 normal business hours, excluding weekends and holidays, in which to have the animal examined by a licensed veterinarian of the consumer's choosing. If the veterinarian certifies that, at the time of sale, the dog or cat was unfit for purchase due to a congenital or hereditary disorder, the pet dealer shall afford the consumer the right to choose one of the following options:

(a) The right to return the animal and receive a refund of the purchase price, including sales tax, but excluding the veterinary costs related to the certification that the dog or cat is unfit; or

(b) The right to return the animal and receive an exchange dog or cat of the consumer's choice of equivalent value, but not a refund of the veterinary costs related to the certification that the dog or cat is unfit.

(7) A pet dealer may specifically state at the time of sale, in writing to the consumer, the presence of specific congenital or hereditary disorders, in which case the consumer has no right to any refund or exchange for those disorders.

(8) The refund or exchange required by subsection (5) or subsection (6) shall be made by the pet dealer not later than 10 business days following receipt of a signed veterinary certification as required in subsection (5) or subsection (6). The consumer shall notify the pet dealer within 2 business days of the veterinarian's determination that the animal is unfit. The written certification of unfitness shall be presented to the pet dealer not later than 3 business days following receipt thereof by the consumer.

(9) An animal may not be determined unfit for sale on account of an injury sustained or illness contracted subsequent to the consumer's taking possession thereof. A veterinary finding of intestinal or external parasites shall not be grounds for declaring a dog or cat unfit for sale unless the animal is clinically ill due to such condition.

(10) In the event that a pet dealer wishes to contest a demand for veterinary expenses, refund, or exchange made by a consumer pursuant to this section, the dealer shall have the right to require the consumer to produce the animal for examination by a licensed veterinarian designated by the dealer. Upon such examination, if the consumer and the dealer are unable to reach an agreement which constitutes one of the options set forth in subsection (5) or subsection (6) within 10 business days following receipt of the animal for such examination, the consumer may initiate an action in a court of competent jurisdiction to recover or obtain such reimbursement of veterinary expenses, refund, or exchange.

(11) Nothing in this section shall in any way limit the rights or remedies which are otherwise available to a consumer under any other law.

(12) Every pet dealer who sells an animal to a consumer shall provide the consumer at the time of sale with a written notice, printed or typed, which reads as follows:

It is the consumer's right, pursuant to section 828.31, Florida Statutes, to receive a certificate of veterinary inspection with each dog or cat purchased from a pet dealer. Such certificate shall list all vaccines and deworming medications administered to the animal and shall state that the animal has been examined by a Florida licensed veterinarian who certifies that, to the best of his knowledge, the animal was found to have been healthy at the time of the veterinary examination. In the event that the consumer purchases the animal and finds it to have been unfit for purchase as provided in section 828.31(5), Florida Statutes, the consumer must notify the pet dealer within 2 business days of the veterinarian's determination that the animal was unfit. The consumer has the right to retain, return, or exchange the animal and receive reimbursement for certain related veterinary services rendered to the animal, subject to the right of the dealer to have the animal examined by another veterinarian.

(13) For the purposes of this section, "pet dealer" means any person, firm, partnership, corporation, or other association which, in the ordinary course of business, engages in the sale of more than two litters, or 20 dogs or cats, per year, whichever is greater, for profit, to the public. Such definition includes breeders of animals who sell such animals directly to a consumer.

(14) The state attorney may bring an action to enjoin any violator of this section or s. 828.12 or s. 828.13 from being a pet dealer.

(15) County-operated or city-operated animal control agencies and registered nonprofit humane organizations shall be exempt from the provisions of this section.

(16) No pet dealer shall knowingly misrepresent the breed, sex, or health of any dog or cat offered for sale within the state.

(17) A person who violates any provision of this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

# APPENDIX G

## KANSAS STATUTES

**47-1701. Definitions.** As used in this act, unless the context otherwise requires:

(a) "Adequate feeding" means supplying at suitable intervals (not to exceed 24 hours) of a quantity of wholesome foodstuff, suitable for the animal species and age, and sufficient to maintain a reasonable level of nutrition in each animal.

(b) "Adequate watering" means a supply of clean, fresh, potable water, supplied in a sanitary manner and either continuously accessible to each animal or supplied at intervals suitable for the animal species, not to exceed intervals of 12 hours.

(c) "Ambient temperature" means the temperature surrounding the animal.

(d) (1) "Animal" means any live dog, cat, rabbit, rodent, nonhuman primate, bird or other warm-blooded vertebrate or any fish, snake or other cold-blooded vertebrate.

(2) Animal does not include horses, cattle, sheep, goats, swine or domestic fowl.

(e) "Animal dealer" means any person who operates animal dealer premises.

(f) (1) "Animal dealer premises" means any premises where dogs or cats, or both, are sold, or offered or maintained for sale, at wholesale for resale to another.

(2) Animal dealer premises does not include: (A) Any pound or animal shelter; or (B) any premises described in subsection (m)(1).

(g) "Animal shelter" means a facility which is used or designed for use to house or contain any animal and which is owned, operated or maintained by a duly incorporated humane society, animal welfare society, society for the prevention of cruelty to animals or other non-profit corporate organizations devoted to the welfare, protection and humane treatment of animals.

(h) "Cat" means an animal which is wholly or in part of the species *Felis domesticus*.

(i) "Commissioner" means the livestock commissioner appointed by the Kansas animal health board.

(j) "Dog" means any animal which is wholly or in part of the species *Canis familiaris* but does not include any greyhound, as defined by K.S.A. 1987 Supp. 74-8802 and amendments thereto.

(k) "Dog warden" means any person employed by, contracted with or appointed by the state, or any political subdivision thereof, for the purpose of aiding in the enforcement of this law, or any other law or ordinance relating to the licensing of animals, control of animals or seizure and impoundment of animals, and includes any state, county or municipal law

enforcement officer, animal control officer, constable or other employee, whose duties in whole or in part include assignments which involve the seizure or taking into custody of any animal.

(l) "Euthanasia" means the humane destruction of an animal, which may be accomplished by any of those methods provided for in K.S.A. 47-1718 and amendments thereto.

(m) (1) "Hobby kennel" means any premises where only dogs or cats, or both, which are produced and raised on such premises are sold, or offered or maintained for sale, by a person who resides on such premises, but only if the total number of dogs or cats, or both, which are produced and raised on such premises and are sold during the registration year is fewer than all or part of six litters of animals or 30 individual animals, whichever is less, whether such animals are dogs or cats, or both.

(2) Hobby kennel does not include: (A) Any pound or animal shelter; or (B) any premises where fewer than all or part of three litters of animals, whether dogs or cats, or both, are sold during the registration year.

(n) "Hobby kennel operator" means any person who operates a hobby kennel.

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

(p) "License year" or "registration year" means the 12-month period ending on June 30.

(q) "Person" means any individual, association, partnership, corporation or other entity.

(r) (1) "Pet shop" means any premises where there are sold, or offered or maintained for sale, at retail and not for resale to another: (A) Any dogs or cats, or both; or (B) any other animals except those which are produced and raised on such premises and are sold, or offered or maintained for sale, by a person who resides on such premises.

(2) Pet shop does not include: (A) Any pound or animal shelter; (B) any premises where only fish are sold, or offered or maintained for sale; or (C) any animal dealer premises, or any premises described in subsection (m)(1), where the only animals, other than dogs or cats, which are sold, or offered or maintained for sale, are animals which are produced and raised on such premises and are sold, or offered or maintained for sale, by a person residing on such premises.

(s) "Pet shop operator" means any person who operates a pet shop.

(t) "Pound" means a facility:

(1) Operated by the state, or any political subdivision thereof, for the purpose of impounding or harboring any seized stray, homeless or abandoned animal; or

(2) operated for such a purpose under contract with any municipality or incorporated society for the prevention of cruelty to animals or by another person under contract with such municipality.

(u) "Primary enclosure" means any structure used or designed for use to restrict any animal to a limited amount of space, such as a room, pen, cage, compartment or hutch.

(v) "Research facility" means any place, laboratory or institution, except an elementary school, secondary school, college or university, at which any scientific test, experiment or investigation involving the use of any living animal is carried out, conducted or attempted.

(w) "Sale," "sell" and "sold" include transfers by sale or exchange.

(x) "Sanitize" means to make physically clean and to remove and destroy, to a practical minimum, agents injurious to health, at such intervals as necessary.

**History:** L. 1972, ch. 201, § 1; L. 1974, ch. 226, § 1; L. 1980, ch. 157, § 2; L. 1988, ch. 189, § 1; July 1.

**47-1702. Animal dealer license.** Except as otherwise provided by K.S.A. 1988 Supp. 47-1722, it shall be unlawful for any person, other than a person licensed under public law 91-579 (7 U.S.C. § 2131 et seq.), to act as or be an animal dealer unless such person has obtained from the commissioner an animal dealer license for each animal dealer premises operated by such person. Except as otherwise provided by K.S.A. 1988 Supp. 47-1722, on and after January 1, 1989, it shall be unlawful for any person licensed under public law 91-579 (7 U.S.C. § 2131 et seq.) to act as or be an animal dealer unless such person has obtained from the commissioner an animal dealer license for each animal dealer premises operated by such person. Application for such license shall be made in writing on a form provided by the commissioner. The license period shall be for the license year ending on June 30 following the issuance date.

**History:** L. 1972, ch. 201, § 2; L. 1980, ch. 156, § 7; L. 1986, ch. 197, § 6; L. 1988, ch. 189, § 2; July 1.

**47-1703. Pet shop operator license.** Except as otherwise provided by K.S.A. 1988

Supp. 47-1722, it shall be unlawful for any person to act as or be a pet shop operator unless such person has obtained from the commissioner a pet shop operator license for each pet shop operated by such person. Application for each such license shall be made in writing on a form provided by the commissioner. The license period shall be for the license year ending on June 30 following the issuance date.

**History:** L. 1972, ch. 201, § 3; L. 1988, ch. 189, § 3; July 1.

**47-1704. Pound or animal shelter license.** Except as otherwise provided by K.S.A. 1988 Supp. 47-1722, it shall be unlawful for any city of the first class or the officials thereof to operate a pound or any corporate entity to operate an animal shelter as a pound unless a license for such pound or shelter has been obtained from the commissioner. Application for such license shall be made on a form provided by the commissioner. The license period shall be for the registration year ending on June 30 following the issuance date.

**History:** L. 1972, ch. 201, § 4; L. 1988, ch. 189, § 4; July 1.

**47-1705.**

**History:** L. 1972, ch. 201, § 5; L. 1988, ch. 356, § 158; Repealed, L. 1988, ch. 189, § 15; Repealed, L. 1989, ch. 157, § 1; July 1.

**47-1706. Refusal to issue or renew or suspension or revocation of license or registration; grounds; judicial review; seizure and disposition of animals, when.** (a) The commissioner may refuse to issue or renew or may suspend or revoke any license or certificate of registration required under K.S.A. 47-1701 et seq. and amendments thereto for any one or more of the following reasons:

(1) Material misstatement in the application for the original license or certificate of registration, or in the application for any renewal of a license or certificate of registration;

(2) willful disregard of any provision of this act or any rule and regulation adopted hereunder, or any willful aiding or abetting of another in the violation of any provision of this act or any rule and regulation adopted hereunder;

(3) permitting any license or certificate of registration issued hereunder to be used by an unlicensed or unregistered person or transferred to unlicensed or unregistered premises;

(4) the conviction of any crime, an essential element of which is misstatement, fraud or dis-

honesty, or relating to the theft of or cruelty to animals;

(5) substantial misrepresentation;

(6) misrepresentation or false promise, made through advertising, salespersons, agents or otherwise, in connection with the operation of business of the licensee or registrant;

(7) fraudulent bill of sale;

(8) the housing facility or the primary enclosure is inadequate; or

(9) the feeding, watering, sanitizing and housing practices at the licensee's or registrant's premises are not consistent with this act or the rules and regulations adopted hereunder.

(b) Any refusal to issue or renew a license or certificate of registration, and any suspension or revocation of a license or certificate of registration, under this section shall be in accordance with the provisions of the Kansas administrative procedure act.

(c) Whenever the commissioner denies, suspends or revokes a license or certificate of registration under this section, the commissioner shall seize and impound any animals in the possession, custody or care of the person whose license or certificate of registration is denied, suspended or revoked if there are reasonable grounds to believe that the animals' health, safety or welfare is endangered. Except as provided by K.S.A. 21-4311 and amendments thereto, such animals may be returned to the person owning them if there is satisfactory evidence that the animals will receive adequate care by that person or such animals may be sold or euthanized, at the discretion of the commissioner. Costs of care of such animals while impounded shall be paid by the person from whom the animals were seized and impounded.

History: L. 1972, ch. 201, § 6; L. 1988, ch. 189, § 7; July 1.

**47-1707. Administrative civil fine for violations of act; judicial review; seizure and disposition of animals, when.** [See Revisor's Note] (a) In addition to or in lieu of any other civil or criminal penalty provided by law, the commissioner, upon a finding that a person has violated or failed to comply with any provision of this act or any rule and regulation adopted hereunder, may impose on such person a civil fine not exceeding \$1,000 for each violation.

(b) Any imposition of a civil fine pursuant to this section shall be only upon notice and a hearing conducted in accordance with the

Kansas administrative procedure act and shall be subject to review in accordance with the act for judicial review and civil enforcement of agency actions.

(c) Whenever the commissioner has reasonable grounds to believe that a person required to be licensed or registered under this act has failed to comply with or has violated any provision of this act or any rule and regulation adopted hereunder and that the health, safety or welfare of animals in such person's possession, custody or care is endangered thereby, the commissioner shall seize and impound such animals using emergency adjudicative proceedings in accordance with the Kansas administrative procedure act. Except as provided by K.S.A. 21-4311 and amendments thereto, such animals may be returned to the person owning them if there is satisfactory evidence that the animals will receive adequate care by that person or such animals may be sold or euthanized, at the discretion of the commissioner. Costs of care of such animals while impounded shall be paid by the person from whom the animals were seized and impounded.

History: L. 1972, ch. 201, § 7; L. 1988, ch. 189, § 8; July 1.

**Revisor's Note:**

This section was amended twice in the 1988 session, see also 47-1707a.

**47-1707a. Same; hearing.** [See Revisor's Note] Before refusing to issue or renew an animal dealer's license or a pet shop operator's license and before suspending or revoking such a license, the commissioner shall conduct a hearing in accordance with the provisions of the Kansas administrative procedure act and shall determine whether the applicant or the person holding such a license is qualified and privileged to be licensed.

History: L. 1972, ch. 201, § 7; L. 1988, ch. 356, § 159; July 1, 1989.

**Revisor's Note:**

Section was amended twice in 1988 session, see also 47-1707.

**47-1709. Inspections and investigations; confidentiality of complaints; records of inspections.** (a) The commissioner or the commissioner's authorized representative shall make an inspection of the premises for which an application for an original license is made under K.S.A. 47-1701 et seq. and amendments thereto before issuance of such license.



(b) The commissioner or the commissioner's authorized representative shall make an inspection of each premises for which a license has been issued under K.S.A. 47-1701 et seq. and amendments thereto. If such premises are premises of a person licensed under public law 91-579 (7 U.S.C. § 2131 et seq.), such premises shall be inspected at least once each year. Otherwise, the premises shall be inspected at least twice each year.

(c) The commissioner or the commissioner's authorized representative shall make inspections of the premises of a person required to be licensed or registered under K.S.A. 47-1701 et seq. and amendments thereto upon a determination by the commissioner that there are reasonable grounds to believe that the person is violating the provisions of K.S.A. 47-1701 et seq. and amendments thereto or rules and regulations adopted thereunder or that there are grounds for suspension or revocation of such person's license or certificate of registration.

(d) Any complaint filed with the commissioner shall be confidential and shall not be released to any person other than employees of the commissioner as necessary to carry out the duties of their employment.

(e) Any person making inspections under this section shall be trained by the commissioner in reasonable standards of animal care.

(f) The commissioner may request a licensed veterinarian to assist in any inspection or investigation made by the commissioner or the commissioner's authorized representative under this section.

(g) Any person acting as the commissioner's authorized representative for purposes of making inspections and conducting investigations under this section who knowingly falsifies the results or findings of any inspection or investigation or who intentionally fails or refuses to make an inspection or conduct an investigation pursuant to this section shall be guilty of a class A misdemeanor.

(h) No person shall act as the commissioner's authorized representative for the purposes of making inspections and conducting investigations under this section if such person has a beneficial interest in a person required to be licensed or registered pursuant to K.S.A. 47-1701 et seq. and amendments thereto.

(i) Records of inspections pursuant to this section shall be maintained in the office of the Kansas animal health department.

**History:** L. 1972, ch. 201, § 9; L. 1988, ch. 189, § 9; July 1.

**47-1712. Rules and regulations.** (a) The commissioner is hereby authorized to adopt rules and regulations necessary for the administration of this act. Such rules and regulations shall include, but not be limited to, provisions relating to: (1) Reasonable treatment of animals in the possession, custody or care of a licensee or registrant or being transported to or from licensed or registered premises; (2) a requirement that each licensee and registrant file with the commissioner evidence that animals entering or leaving the state are free from any visible symptoms of communicable disease; (3) identification of animals handled; (4) primary enclosures; (5) housing facilities; (6) pounds; (7) research facilities; (8) sanitation; (9) euthanasia; (10) ambient temperatures; (11) feeding; (12) watering; (13) adequate veterinary medical care; (14) inspections of licensed or registered premises, investigations of complaints and training of persons conducting such inspections and investigations; (15) a requirement that each licensee keep and maintain, for inspection by the commission, such records as necessary to administer and enforce the provisions of this act; and (16) seizure and impoundment of animals by the commissioner.

(b) The commissioner may adopt in whole or in part, the rules and regulations promulgated by the secretary of the United States department of agriculture pursuant to the provisions of the United States public law 91-579 (7 U.S.C. § 2131 et seq.), commonly known as the animal welfare act.

**History:** L. 1972, ch. 201, § 12; L. 1988, ch. 189, § 10; July 1.

**47-1714.**

**History:** L. 1972, ch. 201, § 14; Repealed, L. 1988, ch. 189, § 15; July 1.

**47-1715. Violation of act or rules and regulations; penalty; seizure and disposition of animals, when.** (a) Any violation of or failure to comply with any provision of this act, or any rule and regulation adopted hereunder, shall constitute a class A misdemeanor. Continued operation, after a conviction, shall constitute a separate offense for each day of operation.

(b) Upon a conviction of a person for any violation of this act, or any rule and regulation adopted hereunder, the court shall order the commissioner to seize and impound any ani-

imals in the convicted person's possession, custody or care if there are reasonable grounds to believe that the animals' health, safety or welfare is endangered. Except as provided by K.S.A. 21-4311 and amendments thereto, such animals may be returned to the person owning them if there is satisfactory evidence that the animals will receive adequate care by that person or such animals may be sold or euthanized, at the discretion of the commissioner. Costs of care of such animals while impounded shall be paid by the convicted person.

History: L. 1972, ch. 201, § 15; L. 1988, ch. 189, § 11; July 1.

**47-1716.**

History: L. 1972, ch. 201, § 16; Repealed, L. 1988, ch. 189, § 15; July 1.

**47-1719. Hobby kennel operator certificate of registration.** (a) On and after January 1, 1989, it shall be unlawful for any person to act as or be a hobby kennel operator unless such person has obtained from the commissioner a hobby kennel operator certificate of registration. Application for such certificate shall be made in writing on a form provided by the commissioner. The registration period shall be for the registration year ending on June 30 following the issuance date.

(b) This section shall be part of and supplemental to K.S.A. 47-1701 *et seq.* and amendments thereto.

History: L. 1988, ch. 189, § 5; July 1.

**47-1720. Research facility license.** (a) On and after January 1, 1989, it shall be unlawful for any person to operate a research facility unless such person has obtained from the commissioner a research facility license. Application for such license shall be made in writing on a form provided by the commissioner. The license period shall be for the license year ending on June 30 following the issuance date.

(b) This section shall be part of and supplemental to K.S.A. 47-1701 *et seq.* and amendments thereto.

History: L. 1988, ch. 189, § 6; July 1.

**47-1721. License and registration fees; costs of inspection; disposition of moneys.** (a) Each application for issuance or renewal of a license or certificate of registration required under K.S.A. 47-1701 *et seq.* and amendments thereto shall be accompanied by the fee prescribed by the commissioner under this section. Such fees shall be as follows:

(1) For a license for premises of a person licensed under public law 91-579 (7 U.S.C. § 2131 *et seq.*), an amount not to exceed \$75.

(2) For a license for any other premises, an amount not to exceed \$150.

(3) For a certificate of registration, an amount not to exceed \$25.

(b) The commissioner shall determine annually the amount necessary to carry out and enforce K.S.A. 47-1701 *et seq.* and amendments thereto for the next ensuing fiscal year and shall fix by rules and regulations the license and registration fees for such year at the amount necessary for that purpose, subject to the limitations of this section. In fixing such fees, the commissioner may establish categories of licenses and registrations, based upon the type of license or registration, size of the licensed or registered business or activity and the premises where such business or activity is conducted, and may establish different fees for each such category. The fees in effect immediately prior to the effective date of this act shall continue in effect until different fees are fixed by the commissioner as provided by this subsection.

(c) If a licensee, registrant or applicant for a license or registration requests an inspection of the premises of such licensee, registrant or applicant, the commissioner shall assess the costs of such inspection, as established by rules and regulations of the commissioner, to such licensee, registrant or applicant.

(d) No fee or assessment required pursuant to this section shall be refundable.

(e) The commissioner shall remit all moneys received by or for the commissioner under this section to the state treasurer at least monthly. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury and shall credit it to the animal disease control fund.

(f) This section shall be part of and supplemental to K.S.A. 47-1701 *et seq.* and amendments thereto.

History: L. 1988, ch. 189, § 12; July 1.

**47-1722. Extension of required licensure date, when.** (a) Any person who is acting as a pet shop operator or animal dealer on the effective date of this act but was not required to be licensed under K.S.A. 47-1701 *et seq.* as it existed on June 30, 1988, must apply for a license as a pet shop operator or animal dealer before January 1, 1989, if such person wishes to continue acting as a pet shop op-

erator or animal dealer on and after January 1, 1989. However, such person shall not be required to have obtained a license until January 1, 1991, or such earlier time as the commissioner completes the inspection required by subsection (a) of K.S.A. 47-1709 and amendments thereto and grants or denies the person's application for an original license.

(b) Any certificate of registration issued to a pound or animal shelter before the effective date of this act and valid for the fiscal year ending June 30, 1988, shall continue to be valid, unless suspended or revoked, until January 1, 1989, at which time the certificate shall expire, and no additional license or fee shall be required hereunder until January 1, 1989.

(c) This section shall be part of and supplemental to K.S.A. 47-1701 *et seq.* and amendments thereto.

History: L. 1988, ch. 189, § 13; July 1.

**47-1723 to 47-1730. Reserved.**

**47-1731. Dogs and cats; spaying or neutering required, when.** (a) No dog or cat may be released for adoption from any pound or animal shelter, as defined by K.S.A. 47-1701 and amendments thereto, or from any duly incorporated humane society, unless:

(1) Such dog or cat has been first surgically spayed or neutered; or

(2) the adopting party signs an agreement to have the dog or cat spayed or neutered and deposits with the pound or animal shelter funds sufficient to ensure that the dog or cat will be sterilized. Any funds deposited pursuant to such an agreement shall be refunded to the adopting party upon presentation of a written statement signed by a licensed veterinarian that the adopted dog or cat has been spayed or neutered.

(b) No person shall spay or neuter any dog or cat for or on behalf of a pound, animal shelter or humane society unless such person is a licensed veterinarian. No pound, animal shelter or humane society shall designate the veterinarian which a person must use, or a list from which a person must select a veterinarian, to spay or neuter a dog or cat adopted by such person from such pound, shelter or society, nor shall such pound, shelter or society in any way penalize a person for such person's selection of a veterinarian to spay or neuter a dog or cat adopted from such pound, shelter or society.

(c) Nothing in this section shall be construed to require sterilization of a dog or cat

which is being held by a pound or animal shelter and which may be claimed by its rightful owner.

History: L. 1988, ch. 185, § 1; July 1.

# APPENDIX H

## MINNESOTA STATUTES

### 343.20. Definitions

**Subdivision 1. Application.** Except as otherwise indicated by the context, for purposes of sections 343.20 to 343.36, the terms defined in this section have the meanings given them.

**Subd. 2. Animal.** "Animal" means every living creature except members of the human race.

**Subd. 3. Torture; cruelty.** "Torture" or "cruelty" means every act, omission, or neglect which causes or permits unnecessary or unjustifiable pain, suffering, or death.

**Subd. 4. Impure milk.** "Impure and unwholesome milk" means all milk obtained from diseased or unhealthy animals, or from animals fed on any substance which is putrefied or fermented.

**Subd. 5. Animal control officer.** "Animal control officer" means an officer employed by or under contract with an agency of the state, county, municipality, or other governmental subdivision of the state which is responsible for animal control operations in its jurisdiction.

Amended by Laws 1989, c. 37, § 1, eff. April 18, 1989.

### 343.21. Overworking or mistreating animals; penalty

**Subdivision 1. Torture.** No person shall overdrive, overload, torture, cruelly beat, neglect, or unjustifiably injure, maim, mutilate, or kill any animal, or cruelly work any animal when it is unfit for labor, whether it belongs to that person or to another person.

**Subd. 2. Nourishment; shelter.** No person shall deprive any animal over which the person has charge or control of necessary food, water, or shelter.

**Subd. 3. Enclosure.** No person shall keep any cow or other animal in any enclosure without providing wholesome exercise and change of air.

**Subd. 4. Low feed.** No person shall feed any cow on food which produces impure or unwholesome milk.

**Subd. 5. Abandonment.** No person shall abandon any animal.

**Subd. 6. Temporary abandonment.** No person shall allow any maimed, sick, infirm, or disabled animal to lie in any street, road, or other public place for more than three hours after receiving notice of the animal's condition.

**Subd. 7. Cruelty.** No person shall willfully instigate or in any way further any act of cruelty to any animal or animals, or any act tending to produce cruelty to animals.

**Subd. 8. Caging.** No person shall cage any animal for public display purposes unless the display cage is constructed of solid material on three sides to protect the caged animal from the elements and unless the horizontal dimension of each side of the cage is at least four times the length of the caged animal. The provisions of this subdivision do not apply to the Minnesota state agricultural society, the Minnesota state fair, or to the county agricultural societies, county fairs, to any agricultural display of caged animals by any political subdivision of the state of Minnesota, or to district, regional or national educational livestock or poultry exhibitions. The provisions of this subdivision do not apply to captive wildlife, the exhibition of which is regulated by section 97A.011.

**Subd. 9. Penalty.** A person who fails to comply with any provision of this section is guilty of a misdemeanor.

**Subd. 10. Restrictions.** If a person is convicted of violating this section, the court may require that pet or companion animals, as defined in section 346.36, subdivision 6, that have not been seized by a peace officer or agent and are in the custody of the person must be turned over to a peace officer or other appropriate officer or agent if the court determines that the person is unable or unfit to provide adequately for an animal. If the evidence indicates lack of proper and reasonable care of an animal, the burden is on the person to affirmatively demonstrate by clear and convincing evidence that the person is able and fit to have custody of and provide adequately for an animal. The court may limit the person's further possession or custody of pet or companion animals, and may impose other conditions the court considers appropriate, including, but not limited to:

(1) imposing a probation period during which the person may not have ownership, custody, or control of a pet or companion animal;

(2) requiring periodic visits of the person by an animal control officer or agent appointed pursuant to section 343.01, subdivision 1;

(3) requiring performance by the person of community service in a humane facility; and

(4) requiring the person to receive behavioral counseling.

### **343.22. Investigation of cruelty complaints**

**Subdivision 1. Reporting.** Any person who has reason to believe that a violation of this chapter has taken place or is taking place may apply to any court having jurisdiction over actions alleging violation of that section for a warrant and for investigation. The court shall examine under oath the person so applying and any witnesses the applicant produces and the court shall take their affidavits in writing. The affidavits must set forth facts tending to establish the grounds for believing a violation of this chapter has occurred or is occurring, or probable cause to believe that a violation exists. If the court is satisfied of the existence of the grounds of the application, or that there is probable cause to believe a violation exists, it shall issue a signed search warrant and order for investigation to a peace officer in the county. The order shall command the officer to proceed promptly to the location of the alleged violation, along with a doctor of veterinary medicine.

**Subd. 2. Police investigation.** The peace officer shall search the place designated in the warrant and, together with the veterinary doctor, shall conduct an investigation of the facts surrounding the alleged violation. The peace officer may retain in custody, subject to the order of the court, any property or things which are specified in the warrant, including any animal if the warrant so specifies. The warrant shall contain the names of the persons presenting affidavits in support of the application and the grounds for its issuance. Service shall be made in accordance with the provisions of sections 626.13, 626.14, and 626.16. The warrant must be executed and returned to the court which issued the warrant within ten days after its date; after the expiration of that time the warrant, unless executed, is void. The officer executing the warrant shall promptly return the warrant to the court, and deliver to it a written inventory of the property or things taken, verified by the certificate of the officer. The warrant and order for investigation issued pursuant to this section and section 343.23 shall have the same force as a warrant issued pursuant to chapter 626.

**Subd. 3. Disposal of certain animals.** Upon a proper determination by a licensed doctor of veterinary medicine, any animal taken into custody pursuant to this section may be immediately disposed of when the animal is suffering and is beyond cure through reasonable care and treatment.

### **343.23. Expenses of investigation**

The expenses of the investigation authorized by section 343.22, including the fee of the doctor of veterinary medicine, the expenses of keeping or disposing of any animal taken into custody pursuant to an investigation, and all other expenses reasonably incident to the investigation shall be paid by the county treasurer from the general fund of the county. If the person alleged to have violated section 343.21 is found guilty of the violation, the county shall have judgment against the guilty person for the amount of the expenses.

### **343.24. Cruelty in transportation**

**Subdivision 1. Penalty.** Any person who does any of the following is guilty of a misdemeanor: (a) Carries or causes to be carried, any live animals upon any vehicle or otherwise, without providing suitable racks, cars, crates, or cages in which the animals can both stand and lie down during transportation and while awaiting slaughter; (b) Carries or causes to be carried, upon a vehicle or otherwise, any live animal having feet or legs tied together, or in any other cruel or inhuman manner; (c) Transports or detains livestock in cars or compartments for more than 28 consecutive hours without unloading the livestock in a humane manner into properly equipped pens for rest, water, and feeding for a period of at least five consecutive hours, unless requested to do so as provided in subdivision 2, or unless prevented by storm or unavoidable causes which cannot be anticipated or avoided by the exercise of due diligence and foresight; or (d) Permits livestock to be crowded together without sufficient space to stand, or so as to overlie, crush, wound, or kill each other.

**Subd. 2. Exception.** A person or corporation engaged in transporting livestock may confine livestock for 36 consecutive hours if the owner or person with custody of that particular shipment of livestock requests in writing that an extension be allowed. That written request shall be separate from any printed bill of lading or other railroad form.

### **343.28. Animal with infectious disease**

An owner or person having charge of any animal who knows the animal has any infectious or contagious disease, or knows the animal has recently been exposed to an infectious or contagious disease, who sells or barter the animal, or knowingly permits the animal to run at large or come into contact with any other animal, or with another person without that person's knowledge and permission shall be guilty of a misdemeanor.

### **343.29. Exposure of animals; duty of officers**

**Subdivision 1. Delivery to shelter.** Any peace officer, animal control officer, or agent of the federation or county or district societies for the prevention of cruelty, may remove, shelter, and care for any animal which is not properly sheltered from cold, hot, or inclement weather or any animal not properly fed and watered, or provided with suitable food and drink. When necessary, a peace officer, animal control officer, or agent may deliver the animal to another person to be sheltered and cared for, and furnished with suitable food and drink. In all cases, the owner, if known, shall be immediately notified, and the person having possession of the animal, shall have a lien thereon for its care and keeping, the reasonable value of the food and drink furnished, and the expenses of the notice. If the owner or custodian is unknown and cannot by reasonable effort be ascertained, or does not, within five days after notice, redeem the animal by paying the expenses authorized by this subdivision, the animal may be treated as an estray.

**Subd. 2. Disposal of animals.** Upon a proper determination by a licensed doctor of veterinary medicine, any animal taken into custody pursuant to subdivision 1 may be immediately disposed of when the animal is suffering and is beyond cure through reasonable care and treatment. The expenses of disposal shall be subject to the provisions of section 343.23.

### **343.32. Artificially colored animals; sale**

No chick, duckling, gosling, or rabbit that has been dyed or otherwise colored artificially may be sold or offered for sale; raffled; offered or given as a prize, premium, or advertising device; or displayed in any store, shop, carnival, or other public place.

### **343.33. Use as advertising devices**

Chicks, ducklings, and goslings younger than four weeks of age shall not be sold or offered for sale; raffled; or offered or given as a prize, premium, or advertising device, in quantity of fewer than 12 birds to an individual person unless sold by a person, firm, partnership or corporation engaged in the business of selling chicks, ducklings, and goslings for agricultural or wildlife purposes.

### **343.34. Care of animals used as advertising devices**

Stores, shops, vendors, and others offering chicks, ducklings, or goslings for sale; raffle; or as a prize, premium, or advertising device; or displaying chicks, ducklings, or goslings to the public; shall provide and operate brooders or other heating devices that may be necessary to maintain the chicks, ducklings, or goslings in good health, and shall keep adequate food and water available to the birds at all times.

### **343.35. Violations**

A violation of sections 343.32 to 343.34 is a petty misdemeanor; provided that, after any violation has been called to the attention of the violator by any law enforcement officer, each day on which the violation continues or is repeated constitutes a separate offense.

### **343.40. Dog houses**

**Subdivision 1. In general.** A person in charge or control of any dog which is kept outdoors or in an unheated enclosure shall provide the dog with shelter and bedding as prescribed in this section as a minimum.

**Subd. 2. Building specifications.** The shelter shall include a moisture-proof and windproof structure of suitable size to accommodate the dog and allow retention of body heat. It shall be made of durable material with a solid floor raised at least two inches from the ground and with the entrance covered by a flexible windproof material or a self-closing swinging door. The structure shall be provided with a sufficient quantity of suitable bedding material consisting of hay, straw, cedar shavings, blankets, or the equivalent, to provide insulation and protection against cold and dampness and promote retention of body heat.

**Subd. 3. Shade.** Shade from the direct rays of the sun, during the months of June to September shall be provided.

**Subd. 4. Farm dogs.** In lieu of the requirements of subdivisions 2 and 3, a dog kept on a farm may be provided with access to a barn with a sufficient quantity of loose hay or bedding to protect against cold and dampness.

**Subd. 5. Zoning.** All shelters required by this section shall be subject to all building or zoning regulations of any city, township, county, or state.

**Subd. 6. Penalty.** Whoever violates the provisions of this section is guilty of a petty misdemeanor.

### 346.36. Definitions

**Subdivision 1. Scope.** Sections 346.35 to 346.44 shall only apply to veterinarians, animal boarding facilities, and commercial animal facilities. As used in sections 346.35 to 346.44 the terms defined in this section have the meanings given them.

**Subd. 2. Abuse.** "Abuse" means intentionally causing unnecessary pain, injury, suffering, or harassment to a pet or companion animal.

**Subd. 3. Cruelty.** "Cruelty" means causing or allowing unnecessary pain, suffering, or unjustifiable injury or death to a pet or companion animal.

**Subd. 4. Expert opinion.** "Expert opinion" means the opinion of at least one licensed Minnesota veterinarian selected by an investigating officer.

**Subd. 5. Neglect.** "Neglect" means failure to provide the minimum care required for the health and well-being of a pet or companion animal.

**Subd. 6. Pet or companion animal.** "Pet" or "companion animal" means a nonhuman mammal, bird, or reptile impounded or held for breeding, or possessed by, cared for, or controlled by a person for the present or future enjoyment of that person or another.

**Subd. 7. Shelter; confinement area.** "Shelter" or "confinement area" means an enclosure provided to protect or confine a pet or companion animal when it is not in transit.

Laws 1983, c. 358, § 2. Amended by Laws 1983, c. 216, art. 2, § 14, eff. Aug. 1, 1983.

#### Historical and Statutory Notes

Laws 1983, c. 216, article 2, § 14, at the end of the first sentence of subd. 1, deleted ", excepting section 4, subdivision nine", a refer-

ence to a nonexistent provision previously removed during legislative debate.

#### Library References

Animals §§ 38 to 42.  
WESTLAW Topic No. 28.

C.J.S. Animals §§ 99 to 116.  
Words and Phrases (Perm.Ed.)

### 346.37. General provisions

**Subdivision 1. Abandoned animals.** Whenever an animal is left with a veterinarian, boarding facility, or commercial facility pursuant to a written agreement and the owner does not claim the animal by the agreed date, the animal is abandoned. If the owner or custodian is unknown and cannot with reasonable effort be ascertained, or does not within six working days after mailing of notice by certified mail to the last known address redeem the animal by paying the expenses incurred, the animal may become the ward of the veterinarian, boarding facility, or commercial facility. Each veterinarian, boarding facility, or commercial facility shall warn its patrons of the provisions of this subdivision by a conspicuously posted notice or by conspicuous type in a written receipt.

**Subd. 2. Good samaritans.** A person is not liable for rendering humane assistance to an injured pet or companion animal.



**Subd. 3. Cruel training or handling.** A person may not inflict cruelty on a pet or companion animal by the use of a cruel training or handling device or method.

**Subd. 4. Health care.** Adequate health care, including parasite and pest control, must be provided to each pet or companion animal.

**Subd. 5. Interpretation of terms.** A dispute as to the meaning of "abuse," "cruelty," or "neglect" shall be resolved by an expert opinion.

**Subd. 6. Reports of abuse, cruelty, or neglect.** A veterinarian must report known or suspected cases of abuse, cruelty, or neglect to peace officers and humane agents as provided in 343.12 and 343.29.

Laws 1983, c. 358, § 3. Amended by Laws 1987, c. 394, § 10, eff. June 4, 1987.

#### Historical and Statutory Notes

The 1987 amendment, at the end of subd. 6, as provided in 343.12 and 343.29" for "the state substituted "peace officers and humane agents humane society or a local humane society".

#### Library References

Animals 38 to 42.  
WESTLAW Topic No. 28.

C.J.S. Animals §§ 99 to 116.  
Words and Phrases (Perm.Ed.)

### 346.38. Equines

**Subdivision 1. Definition.** "Equines" are horses, ponies, mules, and burros.

**Subd. 2. Food.** Equines must be provided with food of sufficient quantity and quality to allow for normal growth or the maintenance of body weight. Feed standards shall be those recommended by the National Research Council.

**Subd. 3. Water.** Equines must be provided with clean, potable water in sufficient quantity to satisfy the animal's needs or supplied by free choice. Snow or ice is not an adequate water source.

**Subd. 4. Shelter.** Equines must be provided a minimum of free choice protection or constructed shelter from direct rays of the sun when temperatures exceed 95 degrees Fahrenheit, from wind, and from freezing precipitation. Natural or constructed shelters must be of sufficient size to provide the necessary protection. Constructed shelters must be structurally sound, free of injurious matter, maintained in good repair, and ventilated.

**Subd. 5. Space and cleanliness requirements.** Constructed shelters except for tie stalls must provide space for the animal to roll with a minimum danger of being cast. Stalls must be cleaned and kept dry to the extent the animal is not required to lie or stand in fluids. Bedding must be provided in all stalls, kept reasonably clean, and periodically changed. The nature of the bedding must not pose a health hazard to the animal.

**Subd. 6. Exercise.** Equines must be provided opportunity for periodic exercise, either through free choice or through a forced work program, unless exercise is restricted by a licensed veterinarian.

**Subd. 7. Hoof care.** All equines must have their hooves properly trimmed periodically to prevent lameness.

**Subd. 8. Transportation.** A vehicle used to transport an equine must have a floor capable of supporting the animal's weight safely. Floors must be of nonskid construction or of nonskid material sufficient to provide the animal with traction while in transport. A minimum of 12 inches must be allowed between the withers of the largest equine and the structure above the animal while it is in a natural standing position. Sturdy partitions must be provided at a minimum of approximately every ten feet inside the vehicle. Interior compartments of transporting vehicles must be of smooth construction with no protruding or sharp objects and must provide ventilation. Food and water must be provided in sufficient quantities to minimize stress and maintain hydration.

Laws 1983, c. 358, § 4. Amended by Laws 1986, c. 444.

#### **Historical and Statutory Notes**

The 1986 amendment authorized the removal of nonsubstantive gender specific references.

#### **Library References**

Animals  $\S$  38 to 42.  
WESTLAW Topic No. 28.  
C.J.S. Animals  $\S$  99 to 116.

### **346.39. Dogs and cats**

**Subdivision 1. Food.** Dogs and cats must be provided with food of sufficient quantity and quality to allow for normal growth or the maintenance of body weight. Feed standards shall be those recommended by the National Research Council.

**Subd. 2. Water.** Dogs and cats must be provided with clean, potable water in sufficient quantity to satisfy the animal's needs or supplied by free choice. Snow or ice is not an adequate water source.

**Subd. 3. Transportation and shipment.** When dogs or cats are transported in crates or containers, the crates or containers must be constructed of nonabrasive wire or a smooth, durable material suitable for the animals. Crates and containers must be clean, adequately ventilated, contain sufficient space to allow the animals to turn around, and provide maximum safety and protection to the animals. Exercise for 20 to 30 minutes and water must be provided at least once every eight hours. Food must be provided at least once every 24 hours or more often, if necessary, to maintain the health and condition of the animals.

**Subd. 4. Shelter size.** A confinement area must provide sufficient space to allow each animal to turn about freely and to easily stand, sit, and lie in a normal position. Each confined animal must be provided a minimum square footage of floor space as measured from the tip of its nose to the base of its tail, plus 25 percent, expressed in square feet. The formula for computing minimum square footage is: (length of animal plus 25 percent) times (length

of animal plus 25 percent), divided by 144. A shaded area must be provided sufficient to protect the animal from the direct rays of the sun at all times during the months of May to October.

**Subd. 5. Exercise.** All dogs and cats must be provided the opportunity for periodic exercise, either through free choice or through a forced work program, unless exercise is restricted by a licensed veterinarian.

**Subd. 6. Group housing and breeding.** Animals housed together must be kept in compatible groups. Animals must not be bred so often as to endanger their health.

**Subd. 7. Temperature.** Confinement areas must be maintained at a temperature suitable for the animal involved.

**Subd. 8. Ventilation.** An indoor confinement area must be ventilated. Drafts, odors, and moisture condensation must be minimized. Auxiliary ventilation, such as exhaust fans, vents, and air conditioning, must be used when the ambient temperature rises to a level that may endanger the health of the animal.

**Subd. 9. Lighting.** An indoor confinement area must have at least eight hours of illumination sufficient to permit routine inspection and cleaning.

**Subd. 10. Confinement and exercise area surfaces.** Where applicable, the interior surfaces of confinement and exercise areas, including crates or containers, must be constructed and maintained so that they are substantially impervious to moisture and may be readily cleaned. They must protect the animal from injury and be kept in good repair.

**Subd. 11. Drainage.** Where applicable, a suitable method must be used to rapidly eliminate excess fluids from confinement areas.

**Subd. 12. Sanitation.** Food and water receptacles must be accessible to each animal and located so as to minimize contamination by excreta. Feeding and water receptacles must be kept clean. Disposable food receptacles must be discarded when soiled. Measures must be taken to protect animals from being contaminated with water, wastes, and harmful chemicals. Wastes must be disposed of properly. Where applicable, flushing methods and a disinfectant must be used periodically. Bedding, if used, must be kept clean and dry. Outdoor enclosures must be kept clean and base material replaced as necessary.

Laws 1983, c. 358, § 5.

#### Library References

Animals ⇐38 to 42.  
WESTLAW Topic No. 28.  
C.J.S. Animals §§ 99 to 116.

### 346.40. Pet birds

**Subdivision 1. Food.** Birds must be fed at least once each day except as otherwise required to provide adequate health care. The food must be wholesome, palatable, and of sufficient quantity and nutritive value to meet

the normal daily requirements for the condition and size of the bird, and must be free from contamination.

**Subd. 2. Water.** Except for birds in shipment for less than four hours, all birds must be provided with clean, potable water in sufficient quantity to satisfy the bird's needs or supplied by free choice. Snow or ice is not an adequate water source.

**Subd. 3. Transportation.** Birds may be transported only in containers constructed of a smooth, durable material. Containers must:

- (a) be suitable for the species being shipped;
- (b) be constructed to prevent escape or chewing of the container by the bird that may be injurious to the health of the bird;
- (c) have ventilation on only one side to prevent cross drafts;
- (d) provide enough space for the bird to stand up, turn around, and obtain necessary food, water, and roosting space;
- (e) have fresh food and water available to the bird at all times if the shipping period exceeds four hours.

**Subd. 4. Shelter or cage construction.** A shelter or cage for a bird must be constructed of materials that are impervious to moisture and can be readily cleaned. Perches or other space must be provided to allow the bird to roost without physical harassment from other birds.

**Subd. 5. Exercise.** Room must be provided for a bird to obtain exercise to maintain itself in good health.

**Subd. 6. Temperature.** A confinement area must be maintained at a temperature suitable for the bird involved.

**Subd. 7. Ventilation.** A bird shelter or cage must provide ventilation with minimized drafts, odors, and moisture condensation.

**Subd. 8. Lighting.** Shelters or cages for birds must have at least eight hours of either natural or artificial light to allow for intake of food and water. Lighting must be of sufficient intensity and distribution to permit routine inspection and cleaning on a regular basis.

**Subd. 9. Sanitation.** Excreta must be removed from the bottom of a bird cage on a regular basis to prevent the contamination of the caged bird. The cage, perches, and food and water receptacles must be cleaned on a regular basis.

Laws 1983, c. 358, § 6.

#### Library References

Animals ⇄38 to 42.  
WESTLAW Topic No. 28.  
C.J.S. Animals §§ 99 to 116.

### 346.41. Rodents

**Subdivision 1. Food.** Food must be made available to every pet rodent at least once a day. This food must be fresh, wholesome, palatable, free from

contamination, and of sufficient nutritive value to meet the normal daily requirements necessary to maintain the health and condition of the animal.

**Subd. 2. Water.** A pet rodent must be provided with clean, potable water in sufficient quantity to satisfy the animal's needs or supplied by free choice. Snow or ice is not an adequate water source.

**Subd. 3. Transportation.** Rodents may be transported only in containers constructed of a smooth, durable material. Containers must:

- (a) be constructed so as to prevent escape or injury by chewing;
- (b) provide fresh air to each contained animal and yet prevent exposure to injurious drafts;
- (c) provide enough space for each animal to stand up, turn around, and obtain necessary food and water;
- (d) have fresh food and water available to each animal during all shipping periods exceeding six hours. Food and water requirements may be met by providing vegetables or fruits sufficient to meet an animal's food and water needs.

**Subd. 4. Shelter and cage construction.** Shelters or cages must be constructed in a manner that allows cleaning of the entire surface area. The materials used must be of sufficient strength to prevent escape or injury by chewing and to protect the animal from predators.

A shelter or cage with a solid bottom must be constructed of materials that are impervious to moisture. A shelter or cage with a wire or mesh bottom must be constructed to allow excreta to pass through the spaces in the wire or mesh. The wire or mesh floor must be constructed to prevent injury to the feet and legs of the animals.

Outdoor confinement areas must provide sufficient shade to protect the animal from the direct rays of the sun and shelter the animal from rain or snow.

**Subd. 5. Exercise.** A shelter or cage must be of sufficient height and have sufficient floor space to allow the caged animals to obtain proper exercise and maintain good health.

**Subd. 6. Temperature.** A confinement area must be maintained at a temperature suitable for the confined animal.

**Subd. 7. Ventilation.** A shelter or cage must provide ventilation to the confined animals. It must be constructed to minimize drafts, odors, and moisture condensation. Additional ventilation must be provided when the ambient temperature rises to a level that may endanger the health of the animal.

**Subd. 8. Lighting.** Lighting of sufficient intensity and distribution must be available to permit routine inspection and regular cleaning.

**Subd. 9. Sanitation.** A shelter or cage must be cleaned on a regular basis to prevent the accumulation of excreta, hair, contaminated or wet litter, and uneaten or contaminated food. If the shelter or cage has a solid floor, the floor must be covered with clean, dry bedding which must be changed at least

once a week. If the shelter or cage has a wire or mesh floor, the catch pans or troughs under the cage must be cleaned at least once a week. If the cage or shelter becomes soiled or wet to a degree that may be harmful to the caged animals due to water leakage, dead animals, or spoiled foods, the animals must be transferred to clean, dry quarters as soon as possible after discovery of the condition. The shelter or cage, and food and water receptacles, must be regularly cleaned.

**Subd. 10. Chewing materials.** A rodent must be provided with materials that allow necessary chewing to prevent detrimental overgrowth of the animal's teeth.

Laws 1983, c. 358, § 7.

#### Library References

Animals ⇐38 to 42.  
WESTLAW Topic No. 28.  
C.J.S. Animals §§ 99 to 116.

#### **346.42. Other animals**

Animals not covered in detail in sections 346.38 to 346.41 must be maintained in accordance with a general standard of care necessary for the species as determined by an expert opinion.

Laws 1983, c. 358, § 8.

#### Library References

Animals ⇐38 to 42.  
WESTLAW Topic No. 28.  
C.J.S. Animals §§ 99 to 116.

#### **346.43. Farm animals excluded**

Sections 346.35 to 346.44 do not apply to the care or treatment of an agricultural or farm animal which is used for food or other products or any other agricultural use.

Laws 1983, c. 358, § 9.

#### Library References

Animals ⇐38 to 42.  
WESTLAW Topic No. 28.  
C.J.S. Animals §§ 99 to 116.

#### **346.44. Penalties**

Except where otherwise indicated, a person found guilty of failure to comply with a provision of sections 346.36 to 346.42 is guilty of a misdemeanor.

# APPENDIX I

## NEW YORK STATUTES

### § 740. Legislative intent [See, also, § 740 ante.]

It is hereby determined and declared that supervision by the state of the sale of dogs or cats by pet dealers is within the public interest and for the purpose of safeguarding the public and insuring the humane treatment of such animals by guaranteeing the good health of such dogs or cats in the course of such transactions, or providing other alternatives to the consumer.

### § 741. Definitions [See, also, § 741 ante.]

As used in this article:

1. "Animal" means a dog or a cat.
2. "Consumer" means any individual purchasing an animal from a pet dealer. A pet dealer shall not be considered a consumer.
3. "Pet dealer" means any person, firm, partnership, corporation or other association which in the ordinary course of business engages in the sale of more than nine animals per year for profit to the public. Such definition shall include breeders of animals who sell animals directly to a consumer but it shall not include duly incorporated humane societies dedicated to the care of unwanted animals which make such animals available for adoption whether or not a fee for such adoption is charged.
4. "Commissioner" shall mean the commissioner of agriculture and markets.

### § 742. Sale of animal [See, also, § 742 ante.]

1. If, within fourteen days following the sale of an animal subject to this article, a veterinarian of the consumer's choosing, licensed by a state certifies such animal to be unfit for purchase due to illness, a congenital malformation which adversely affects the health of the animal, or the presence of symptoms of a contagious or infectious disease, the pet dealer shall afford the consumer the right to choose one of the following options:

(a) The right to return the animal and receive a refund of the purchase price including sales tax and reasonable veterinary costs directly related to the veterinarian's certification that the animal is unfit for purchase pursuant to this section;

(b) The right to return the animal and to receive an exchange animal of the consumer's choice of equivalent value and reasonable veterinary costs directly related to the veterinarian's certification that the animal is unfit for purchase pursuant to this section; or

(c) The right to retain the animal and to receive reimbursement from a pet dealer for veterinary services from a licensed veterinarian of the consumer's choosing, for the purpose of curing or attempting to cure the animal. The reasonable value of reimbursable services rendered to cure or attempting to cure the animal shall not exceed the purchase price of the animal. The value of such services is reasonable if comparable to the value of similar services rendered by other licensed veterinarians in proximity to the treating veterinarian. Such reimbursement shall not include the costs of initial veterinary examination fees and diagnostic fees not directly related to the veterinarian's certification that the animal is unfit for purchase pursuant to this section.

The commissioner by regulations shall prescribe a form for, and the content of, the certification that an animal is unfit for purchase, which shall be provided by an examining veterinarian to a consumer upon the examination of an animal which is subject to the provisions of this section. Such form shall include, but not be limited to, information which identifies the type of animal, the owner, the date and diagnosis of the animal, the treatment recommended if any, and an estimate or the actual cost of such treatment. Such form shall also include the notice prescribed in section seven hundred forty-three of this article.

The commissioner by regulations shall prescribe information which shall be provided in writing by the pet dealer to the consumer upon the sale of the animal. Such information shall include, but not be limited to, a description, including breed of the animal, the date of purchase, the name, address and telephone number of the consumer, and the amount of the purchase. The pet dealer shall certify such information by signing the document in which it is contained.

2. The refund and/or reimbursement required by subdivision one of this section shall be made by the pet dealer not later than ten business days following receipt of a signed veterinary certification as herein required. Such certification shall be presented to the pet dealer not later than three business days following receipt thereof by the consumer.

3. A veterinary finding of intestinal parasites shall not be grounds for declaring the animal unfit for sale unless the animal is clinically ill due to such condition. An animal may not be found unfit for sale on account of an injury sustained or illness contracted subsequent to the consumer taking possession thereof.

4. In the event that a pet dealer wishes to contest a demand for refund, exchange or reimbursement made by a consumer pursuant to this section, such dealer shall have the right to require the consumer to produce the animal for examination by a licensed veterinarian designated by such dealer. Upon such examination, if the consumer and the dealer are unable to reach an agreement which constitutes one of the options set forth in subdivision one of this section within ten business days following receipt of the animal for such examination, the consumer may initiate an action in a court of competent jurisdiction to recover or obtain such refund, exchange and/or reimbursement.

5. Nothing in this section shall in any way limit the rights or remedies which are otherwise available to a consumer under any other law.

**§ 743. Notice [See, also, § 743 ante.]**

Every pet dealer who sells an animal to a consumer shall provide the consumer at the time of sale with a written notice, printed or typed, setting forth the rights provided under this article. Such notice shall be prescribed by the commissioner, but may be contained in a written contract, an animal history certificate or separate document, provided such notice is in ten-point boldface type.



# APPENDIX J

## PENNSYLVANIA STATUTES

### § 459-102. Definitions

The following words and phrases when used in this act shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

**"Boarding kennel."** Any kennel available to the general public where dogs are housed or trained for compensation by the day, week or a specified or unspecified time; but the term shall not include those kennels where the practice of veterinary medicine is performed and that the establishment is covered by the provisions of the act of December 27, 1974 (P.L. 995, No. 326), known as the "Veterinary Medicine Practice Act,"<sup>1</sup> but shall include any facility operated by a veterinarian whether or not this facility is on the same premises as a veterinary hospital.

**"Breeding kennel."** Any kennel operated for the purpose of breeding, buying and selling or in any way transferring dogs for nonresearch purposes.

**"County treasurer."** The elected officer for any county or any county employee assigned to the office of the county treasurer charged with the receipt, custody and disbursements of its moneys or funds. The term county treasurer shall include those officials in home rule charter counties responsible for county treasurer's duties.

**"Department."** The Pennsylvania Department of Agriculture.

**"Dog."** The genus and species known as *Canis familiaris*.

**"Dog control."** The apprehending, holding and disposing of stray or unwanted dogs or activities that reduce the number of dog related problems. Dog control activities may be performed by agents of incorporated humane organizations, police, State dog wardens or agents of animal control organizations such as municipal dog control officers.

**"Domestic game bird."** All game birds as defined by the act of June 3, 1937 (P.L. 1225, No. 316), known as "The Game Law,"<sup>2</sup> which are kept in captivity.

**"Kennel."** Any establishment wherein dogs are kept for the purpose of breeding, hunting, training, renting, research or vivisection, buying, boarding, sale, show or any other similar purpose and is so constructed that dogs cannot stray therefrom.

**"Livestock."** Members of the equine, bovine, ovine, caprine, and porcine species, and confined domesticated hares, rabbits and mink.

**"Nonprofit kennel."** Any kennel operated by Animal Rescue Leagues, Societies for the Prevention of Cruelty to Animals, Animal Humane Societies, and nonprofit animal control kennels, which are legally constituted law enforcement agencies and approved medical and veterinary schools and nonprofit institutions conducting medical and scientific research shall be required to register, but shall not be required to pay any of the following license fees, and may use their own identification tags for dogs within their kennels without being required to attach tags hereinafter prescribed while dogs are within such kennels, if approved by the Secretary of Agriculture.

**"Out-of-state dealer."** Anyone who does not reside in the Commonwealth of Pennsylvania and who buys, sells or otherwise deals with dogs within the Commonwealth of Pennsylvania.

**"Owner."** When applied to the proprietorship of a dog, includes every person having a right of property in such dog, and every person who keeps or harbors such dog or has it in his care, and every person who permits such dog to remain on or about any premises occupied by him.

**"Persons."** Includes State and local officers, or employees, individuals, corporations, copartnerships and associations. Singular words shall include the plural. Masculine words shall include the feminine and neuter.

**"Pet shop-kennel."** Any kennel or person that acquires and sells dogs for the purpose of resale, whether as owner, agent or consignee, and sells or offers to sell such dogs on a retail basis.

**"Police officer."** Any person employed or elected by this Commonwealth, or by any municipality and whose duty it is to preserve peace or to make arrests or to enforce the law. The term includes State constabulary, dog, game, fish and forest wardens.

**"Poultry."** Includes all domestic fowl.

**"Private kennel."** A kennel at, in, or adjoining a residence where dogs are kept or bred by their owner, for the purpose of hunting, tracking and exhibiting in dog shows, or field and obedience trials.

**"Research."** Investigation or experimentation aimed at the discovery and interpretation of facts or procedures, revision of accepted theories or laws in the light of new facts or practical application of such new or revised theories or laws as related to the advancement of medical science and technological treatment of disease or surgical operations, medical procedures, transplants, functions and any form of medical or pharmacological actions on dogs when applied and personally supervised by a qualified scientist with degrees approved by the secretary.

**"Research, vivisection or dealer kennel."** (D kennels) Any profit oriented kennel within the Commonwealth wherein research or vivisection is conducted with dogs, or any establishment that breeds, buys, sells, or in any way transfers dogs to laboratories, hospitals, establishments for research or any other similar purpose, or who sells, gives away or in any way transfers dogs to another research, vivisection or dealer kennel (D kennel), or who sells or offers for sale any dog belonging to another person for a fee, commission or percentage of the sales price, either privately or publicly.

**"Secretary."** The Secretary of Agriculture or any person to whom authority has been delegated by the Secretary of Agriculture.

**"State dog warden."** An employee of the department whose primary duty is to enforce this act and the regulations pursuant thereto.

**"Vivisection."** The cutting of or operation on a living animal for physical or pathological investigation or animal experimentation.

#### § 459-207. Transfer of kennels

(a) **Kennel removed to another county.**—Whenever any person who keeps or operates a kennel permanently removes the kennel to another county, he shall file an application with the secretary to transfer his license to the county of removal. Upon approval by the secretary, the kennel license shall remain in effect, until it has expired pursuant to section 206.<sup>1</sup>

(b) **Maintenance of kennels.**—All kennels shall be maintained in a sanitary and humane condition in accordance with standards and sanitary codes promulgated by the secretary.

(c) **Records to be maintained.**—Every keeper of a kennel shall keep a record of each dog at any time kept in the kennel for two years. Such record shall show:

- (1) The breed, color, markings, sex and age of each dog.
- (2) The date on which each dog entered the kennel.
- (3) Where it came from.
- (4) To whom it belongs.
- (5) For what purpose each dog is kept in the kennel.
- (6) The date on which each dog leaves the kennel.
- (7) How and to whom it is disposed.

Such record shall be legible and shall be open to inspection by any employee of the department, State dog warden or police officer or agent of any legally constituted law enforcement agency as defined by this act.

(d) **Additional requirements.**—Every holder of a kennel license shall attach one tag to a collar or harness of each dog six months old or older kept by that person, whenever the dog is not within the kennel except as provided for in section 202.<sup>2</sup> 1982, Dec. 7, P.L. 784, No. 225, art. II, § 207, effective Jan. 1, 1983.

<sup>1</sup> Section 459-206 of this title.

<sup>2</sup> Section 459-202 of this title.

#### § 459-208. Kennels in first and second class cities

All owners or operators of kennels described in section 206(a) in cities of the first class, second class and second class A shall apply for an applicable license. Persons operating and maintaining such kennels shall comply with the provisions of this act and shall be subject to the same penalties for violations of this act. Such persons shall apply to the applicable treasurer who shall process the applications in the same manner as provided herein for county treasurers.

1982, Dec. 7, P.L. 784, No. 225, art. II, § 208, effective Jan. 1, 1983.

#### § 459-209. Out-of-state kennel license; application; fee; prohibitions

(a) **Out-of-state dealers.**—All out-of-state dealers shall on or before January 1 of each year, apply to the secretary for an out-of-state kennel license. The fee for such license shall be \$300. All fees collected under this section shall be remitted to the State Treasury for credit to the Dog Law Restricted Account. All licenses under this section shall expire upon December 31 of the year for which the license was issued. The forms for the application and license shall be approved by the secretary through regulations.

(b) **Unlawful acts.**—It shall be unlawful for out-of-state dealers to transport dogs into or within the Commonwealth or to operate or maintain a kennel or to deal in any manner with dogs without first obtaining an out-of-state kennel license from the department.

1982, Dec. 7, P.L. 784, No. 225, art. II, § 209, effective Jan. 1, 1983.

**§ 459-210. Bills of sale**

All owners or operators of kennels described in section 206,<sup>1</sup> and all out-of-state dealers shall be required to have in their possession a bill of sale for each dog purchased or transported, except for dogs delivered to the kennel licensee for purposes of boarding or for dogs whelped at the kennel. Any bill of sale which is fraudulent or indicates the theft of any dog, shall be prima facie evidence for the immediate revocation of license by the secretary. The bill of sale shall contain information required by the secretary through regulations.

1982, Dec. 7, P.L. 784, No. 225, art. II, § 210, effective Jan. 1, 1982.

<sup>1</sup> Section 459-206 of this title.

**§ 459-211. Revocation or refusal of licenses**

The secretary shall have the power to revoke or refuse to issue any kennel license for conviction of any violation of this act or the noncompliance with any regulations pursuant to this act or for the conviction for violation of any law relating to cruelty to animals.

1982, Dec. 7, P.L. 784, No. 225, art. II, § 211, effective Jan. 1, 1983.

**§ 459-212. Dogs temporarily in the Commonwealth**

Any person may bring, or cause to be brought into the State, for a period of 30 days, one or more dogs for show, trial, or breeding purposes or as a household pet without securing a Pennsylvania license, and any person holding a Pennsylvania nonresident hunting license may, without securing a license or licenses therefor, bring or cause to be brought into the State one or more dogs for the purpose of hunting game during any hunting season when hunting with dogs is permitted by law, if a similar exemption from the necessity of securing dog licenses is afforded for hunting purposes to residents of Pennsylvania by the State of such person's residence; but each dog shall be equipped with a collar bearing a name plate giving the name and address of the owner.

1982, Dec. 7, P.L. 784, No. 225, art. II, § 212, effective Jan. 1, 1983.

**§ 459-213. Transportation of dogs**

It shall be unlawful for any dog required to be licensed as hereinbefore provided, to be transported for any purpose without a current license tag firmly attached to a collar or harness securely fastened to the dog except when a dog is being transported for law enforcement or humane purposes. All vehicles being used to transport dogs are subject to inspection and must meet requirements for such transportation through regulations as promulgated by the secretary.

1982, Dec. 7, P.L. 784, No. 225, art. II, § 213, effective Jan. 1, 1983.

**§ 459-214. Health certificates for importation**

It shall be unlawful to transport any dog into this Commonwealth except under the provisions in section 212<sup>1</sup> without a certificate of health prepared by a licensed graduate veterinarian, which certificate shall accompany such dog while in this Commonwealth. Such certificate shall state that the dog is at least seven weeks of age and shows no signs or symptoms of infectious or communicable disease; did not originate within an area under quarantine for rabies; and, as ascertained by reasonable investigation, has not been exposed to rabies within 100 days of importation. All dogs over three months and under one year of age shall have been vaccinated against rabies with an approved rabies vaccine. All dogs over one year of age shall have been vaccinated or revaccinated against rabies after one year of age. The vaccination to prevent rabies shall be valid for a period of three years for dogs vaccinated at more than one year of age with an approved three-year MLV vaccine or inactivated vaccine and for a period of one year for all other approved inactivated vaccines. The name of the vaccine manufacturer, the date of administration, and the rabies tag number must appear on health certificates prepared by a licensed graduate veterinarian.

**§ 459-215. Selling, bartering or trading dogs**

It shall be unlawful for any person to buy, sell, transfer, barter, trade, raffle, rent, auction or offer as an inducement to purchase any product, commodity or service, any dog at any public place other than at licensed kennel locations, pet shop-kennels licensed pursuant to this act, dog shows, or field trials sponsored by a recognized breed or kennel association. For purposes of this section the term public place shall mean a place to which the general public has a right to resort; not necessarily a place devoted solely to the uses of the public, but a place which is in point of fact public rather than private, a place visited by many persons and usually accessible to the neighboring public. It shall be unlawful to barter, trade, sell or in any way transfer any dog under seven weeks of age, unless such puppies have been orphaned and it becomes necessary to transfer said orphaned puppies to a nonprofit kennel.

1982, Dec. 7, P.L. 784, No. 225, art. II, § 215, effective Jan. 1, 1983.

**§ 459-216. County and city treasurer records, licenses and transfers**

The county or city treasurer shall keep a record of all dog licenses for a period of two years or more as directed by the secretary and all kennel licenses and all transfers issued during the year. Such record shall contain the name and address of the person to whom each license is issued. In the case of an individual license, the record shall also state the breed, sex, age, color and markings of the dog licensed, and in the case of a kennel license, it shall state the place where the business is conducted. The record shall be a public record and open to persons interested during business hours. Whenever the ownership or possession of any dog licensed under the provisions of this act is transferred from one person to another, as provided in section 205,<sup>1</sup> except the temporary transfer of dogs for hunting purposes or for breeding, trial, or show, such transfer shall be noted on the record of the county or city treasurer and be so reported to the department. The county or city treasurer shall keep an accurate record for two years of all license fees collected by him or paid over to him by any district justice or authorized agent of the treasurer. License fees as herein provided shall be remitted by the county or city treasurer to the State Treasurer through the Department of Agriculture for credit to the Dog Law Restricted Account on or before the 15th day of each calendar month together with a report of each payer on forms furnished by the department.

1982, Dec. 7, P.L. 784, No. 225, art. II, § 216, effective Jan. 1, 1983.

<sup>1</sup> Section 459-205 of this title.

**§ 459-217. Guide dogs, hearing dogs, aid dogs for the handicapped and dogs used by municipal or State Police departments**

(a) **Fee exemptions.**—The provisions of this act relating to the payment of fees and other charges shall not apply to any blind person owning a guide dog or any deaf person owning a hearing dog or any handicapped person who uses a dog for aid or any municipal or State Police department or agency using a dog in the performance of the functions or duties of such department or agency. License tags for dog guides for the blind, hearing dogs for the deaf, aid dogs for the handicapped and dogs used by any municipal or State agency in the performance of the functions or duties of such department or agency shall be issued without charge.

(b) **Licensing exemption for puppies being trained to be dog guides for the blind.**—Notwithstanding the provisions of section 201<sup>1</sup> or any other provisions of this act, puppies that are brought into this Commonwealth for a period of less than 18 months as part of a formalized training to be dog guides for the blind shall be exempt from the licensing requirements of this act.

**§ 459-218. Inspections of premises and dogs**

State dog wardens and other employees of the department are hereby authorized to inspect all kennels and individually licensed dogs within the Commonwealth and to enforce the provisions of this act and regulations promulgated by the department pursuant to this act: Provided, however, That only regular, full-time employees of the department shall be authorized to enter upon the premises of approved medical, dental, or veterinary schools, hospitals, clinics, or other medical or scientific institutions, organizations or persons where research is being conducted or pharmaceuticals, drugs or biologicals are being produced. Research facilities in the Commonwealth that are currently under Federal Government inspection shall be exempt from State inspection if they have undergone no less than one Federal Government inspection within the past 12 months. Submission of such evidence of Federal inspection by documentation to the department may be established by regulation subject to legislative review. It shall be unlawful for any person to refuse admittance to such State dog wardens and employees of the department for the purpose of making inspections and enforcing the provisions of this act.

# APPENDIX K

## Inspection Standards for Pet Shops

Date Inspected: \_\_\_\_\_ Time: \_\_\_\_\_ a:m:  
p:m:  
Name of Facility: \_\_\_\_\_ Phone: \_\_\_\_\_  
Address: \_\_\_\_\_  
Town: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Person in Charge of Department: \_\_\_\_\_ No. of Employees \_\_\_\_\_

\*\*\*\*\*

### Provisions for Dogs / Cats and Other Animals

\_\_\_ Dogs/Pups \_\_\_ Cat/Kittens \_\_\_ Hamsters \_\_\_ Gerbils \_\_\_ Mice \_\_\_ Guinea Pigs \_\_\_ Other

- Animals:
1. Selling kittens/pups under 8 weeks of age.
  2. All appear to be clean/ well-groomed.
  3. All appear to be healthy.
  4. All identified by kennel cards.
  5. Any animal showing visible evidence of illness or injury on display.
  6. Dogs and Cats exercised twice daily.

- Food and Water:
1. Food free from contamination.
  2. Food freshness/nutritional value.
  3. Food/water available each cage.
  4. Water bowls clean.
  5. Sipper tube-type water bottles clean.

- Cages:
1. Cages clean-free from feces/urine.
  2. Empty cages clean/free of debris.
  3. Floor around cages clean.
  4. Cage size adequate for animal.
  5. Cages free from snags/secure.
  6. Ventilation and temperature adequate.
  7. Window glass clean.
  8. Floor grids appropriate for feet..

- General Info:
1. Veterinarian \_\_\_\_\_
  2. Waste disposal Septic \_\_\_\_\_ Trash \_\_\_\_\_ Other \_\_\_\_\_
  3. Have isolation area for sick/injured.
  4. Has a permanent record of the death of any warm-blooded animal.
  5. Animals of different species confined in same cage.

Comments: \_\_\_\_\_

Provisions for Birds

- Birds:
1. All appear to be clean.
  2. All appear to be healthy.
  3. All identified.
  4. Any bird showing visible signs of illness, or injury, on display.

- Food and Water:
1. Food/water available each cage (above perches).
  2. Food-fresh, free from contamination.
  3. Water - fresh.
  4. Food containers clean.
  5. Water containers clean.
  6. Fresh gravel available.

- Cages:
1. Cages clean.
  2. Floor around cages clean.
  3. Cage size adequate for birds.
  4. Cage free from snags/secure.

- General Info:
1. Waste disposal Septic  Trash  Other
  2. Have isolation area for sick/injured. Yes  No
  3. Large-birds confined in same cage with smaller birds.  
Yes  No
  4. Perch size/diameter adequate for birds. Yes  No
  5. Have at least two (2) perches aligned vertically.  
Yes  No

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Provisions for Fish / Reptile

- Fish/Reptile:
1. Fish appear healthy.
  2. Reptile appear healthy.
  3. All identified.
  4. Fish showing evidence of illness.
  5. Dead fish in tank.
  6. Reptile showing evidence of illness.

- Food/Water:
1. Fish feeding schedule.
  2. Fish feeding dates for those which DO NOT require daily feeding.
  3. Reptile - Water available for soaking.
  4. Reptile - Feeding dates for those which DO NOT require daily feeding.

- Tanks:
1. Water crystal clear.
  2. Tank free of algae.
  3. Gravel clean.
  4. Each tank functioning properly/filters working.
  5. Tank clean inside and out.
  6. Tank size adequate.
  7. Top secured.

- General Info:
1. Poisonous reptiles for sale.
  2. Poisonous reptiles on display.
  3. Name of reptile: \_\_\_\_\_  
Number # \_\_\_\_\_

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Provisions for Isolation Area

- Cages:
1. Doors/floor of cages free from feces/urine.
  2. Floor around cages clean.
  3. Cage size adequate for animal/bird/reptile.
  4. Floor grida appropriate for feet.
  5. Cage free from snags/secure.
  6. Ventilation/temperature adequate.
  7. Food/water bowls/bottles clean.

- Food/Water Medication:
1. Medication administered as acheduled.
  2. Drugs and pharmacy secured.
  3. Medication chart available.
  4. Food available.
  5. Water available.

Provisions for Backroom / Office

- Back Room/  
Office:
1. Floors swept.
  2. Refuse removed.
  3. Merchandise, supplies stored neatly.

Inspected By \_\_\_\_\_

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



FAIRFAX: PET SHOP PERMIT ORDINANCE

ARTICLE 6 - PET SHOPS

**Section 41-6-1**

This Article is enacted pursuant to the provisions of Chapter 27.3, Animal Welfare Act, Section 3.1-76.44 of the Code of Virginia to ensure that animals confined in pet shops or premises of a dealer are provided humane care and treatment.

It is the intent of this Article to protect the public health, safety and welfare by controlling animals as items of commerce to prevent disease, fraudulent practice and inhumane treatment and conditions.

It is also the purpose of this Article to protect the owners and purchasers of animals from misleading or fraudulent information regarding animals to ensure that only animals that are free of infections, communicable diseases and abnormalities are released for sale.

The provisions of this Chapter shall apply to all pet shops, and premises of a dealer in operation on July 1, 1981, and to all pet shops and premises of a dealer thereafter opened for operation. (19-81-41.)

**Section 41-6-2**  
Definitions.

(a) The following words and terms when used in this Article shall have the following meanings unless the content clearly indicates otherwise:

(1) **Ambient temperature** shall mean the air temperature surrounding the animal.

(2) **Administrative Authority** shall mean the Director of Animal Control or the Director of Health Services or their designated agents.

(3) **Companion Animals** for purposes of this Article - ~~Companion Animals~~ shall mean any animal kept on the premises of a pet shop, dealer or commercial animal establishment.

(4) **Dealer** means any person who, for compensation or profit, buys, sells, transfers, except as a common carrier, exchanges or barter companion animals.

(5) **Housing facility** shall mean any room, building or area used to contain a primary enclosure or enclosures.

(6) **Owner** shall mean any person, firm, partnership or corporation, irrespective of resident or business address, who sells, offers for sale or rent, or exchange at either wholesale or retail any companion animal in Fairfax County.

(7) **Person** shall mean an individual, or a firm, partnership, company, corporation, trustee, association, or any public or private entity.

(8) **Pet Shop** shall mean any property, premises or commercial enterprise where companion animals, being offered for sale or rent, are sold, rented or located, including but not limited to pet shops.

(9) **Primary enclosure** shall mean any structure used to immediately restrict an animal to a limited amount of space, such as a room, tank, pen, cage, compartment or hutch. (19-81-41.)

**Section 41-6-3.**  
Exemptions.

All dogs which are housed in a kennel, as defined in Section 41-5-1 of Article 5, Kennels, and all establishments which are exempted by virtue of Section 41-5-1 of Article 5, Kennels, shall be exempt from the provisions of this Article. (19-81-41.)

**Section 41-6-4.**  
Permit to operate required.

It shall be unlawful for any person to operate a pet shop or act as a dealer in companion animals in the County who does not possess a valid permit issued by the Administrative Authority. Only a person who complies with the requirements of this Article shall be entitled to receive or retain such permit. The permit fee for a pet shop or premises of a dealer shall be fifty dollars (\$50.00) per year or part thereof. The permit shall be issued by the Administrative Authority upon payment of the permit fee. Application for the permit shall be submitted annually by January 1 of each year and a new permit obtained by January 31 of each year. The fee for a permit shall not be prorated, and the permit shall not be transferable. Such a permit shall be posted in a conspicuous place on the premises. (19-81-41.)

**Section 41-6-5.**  
Issuance of permit.

(a) Any person desiring to operate a pet shop or act as a dealer in companion animals shall make written application for a permit on forms provided by the Administrative Authority. Such application shall include the name and address of the owner, the location of the proposed shop or premises of a dealer and type of animals proposed for sale, an emergency telephone number where the owner/manager may be reached and the signature of the applicant.

(b) Prior to approval of an application for a permit, the Administrative Authority shall inspect the proposed pet shop or premises of the dealer to determine compliance with the requirements of this Article.

(c) The Administrative Authority shall issue a permit to the applicant if its inspection reveals that the proposed pet shop or premises of the dealer complies with the requirements of this Article. (19-81-41.)

**Section 41-6-6.**  
Enforcement.

(a) **Penalty.** A person violating this section shall be guilty of a Class 3 misdemeanor and shall be subject to the penalties as provided in Section 1-1-14.

(b) **Violation.** It shall be unlawful for any person, firm, corporation or association to violate any provisions of this Article.

(c) It is further provided that nothing in this Article shall preclude compliance with the provisions of Article 3, Sale and Distribution of Pet Turtles, of this Chapter, nor with the Zoning Chapter of the Fairfax County Code. (19-81-41.)

**Section 41-6-7.**  
Approval of plans  
by Administrative  
Authority.

When a pet shop or the premises of a dealer is hereafter constructed or extensively remodeled or when an existing structure is converted for use as a pet shop, properly prepared plans and specifications for such construction, remodeling or alteration, showing all details as to layout, entrances, partitions, window openings, ventilation, animal enclosures, storerooms, grooming areas, toilets, water supply, waste connections, sanitary equipment and other such details as may be required may be submitted to the Administrative Authority for approval before such work is begun to ensure compliance with the provisions of this Chapter. (19-81-41.)

**Section 41-6-8.**  
Suspension or  
revocation of  
permits.

(a) **Suspension of Permit.** In addition to the provisions of Section 41-6-6, whenever the Administrative Authority finds a violation of this Article, including but not limited to unsanitary conditions, inhumane treatment of animals, or other conditions in the operation of a pet shop or the premises of a dealer which constitutes a substantial hazard to health, safety, or well-being of the animals or to the public health, the Administrative Authority may, without warning, notice or hearing, issue a written notice to the permit holder or operator citing such conditions, specifying the corrective action to be taken, and qualifying the time period within which such action shall be taken. If deemed necessary, such order shall state that the permit is immediately suspended and the sale of animals is to be immediately discontinued. Any person to whom such an order is issued shall comply immediately therewith, but upon written petition to the Administrative Authority shall be afforded a hearing within five (5) working days.

(b) **Reinstatement of Suspended Permits.** Any person whose permit has been suspended may, at any time, make application for a reinspection for the purpose of reinstatement of the permit. Within five (5) working days following receipt of a written request, including a statement signed by the applicant that in his opinion the conditions causing suspension of the permit have been corrected, the Administrative Authority shall make a reinspection. If the applicant is complying with the requirements of this Article, the permit shall be reinstated.

(c) **Revocation of Permits.** For serious or flagrant violations of any of the requirements of this Article, or for interference with the Administrative Authority in the performance of his duties, the permit may be revoked after an opportunity for a hearing has been provided by the Administrative Authority. Prior to such action, the Administrative Authority shall notify the permit holder in writing, stating the reasons for which the permit is subject to revocation and advising service of such notice unless a request for a hearing is filed with the Administrative Authority, by the permit holder, within a five-day period from service of notice, in which case the permit will be revoked. An owner whose permit has been revoked may reapply for a permit two (2) years or more after the date of revocation. (19-81-41).

**Section 41-6-9.**  
Failure of pet shop operator or dealer to provide adequate care, etc.

It shall be unlawful for persons who operate a pet shop or act as a dealer as defined in this Article to fail to adequately house, feed, water, exercise or care for animals in its possession or custody as provided for in this Article. Dogs and cats must be exercised outside the primary cage at least once daily. Such animals shall be subject to immediate seizure and impoundment and upon conviction of the person, the animals may be sold or humanely euthanized as provided by Section 29-213.19 of the Code of Virginia. Such failure shall also constitute grounds for revocation of the pet shop permit provided for in 41-6-8 (c). Any funds that result from such sale shall be used first to pay the cost of the County of Fairfax for the impoundment and disposition of the animals, and any funds remaining shall be paid to the owner, if known. In the event that the owner is not found, the remaining funds shall be paid in to the State Literary Fund. (19-81-41.)

**Section 41-6-10.**  
Access to establishments.

The Administrative Authority, after proper identification, shall be permitted to enter at any reasonable time or under emergency conditions any pet shop or premises of a dealer within the County for the purpose of making inspections to determine compliance with this Article. The Administrative Authority shall be permitted to examine the records of the pet shop or dealer to obtain pertinent information pertaining to purchases, sales, name and address of persons employed. When permission is refused or cannot be obtained, inspections may be conducted upon obtaining a lawfully authorized warrant or compulsory process. (19-81-41.)

**Section 41-6-11.**  
Housing facilities.

(a) Buildings or leasehold shall be structurally sound and maintained in good repair so as to ensure protection of animals from injury.

(b) The floors, walls and ceiling shall be kept clean and in good repair.

(c) Floor and wall areas which are continuously subjected to splash and moisture shall have washable surfaces and be easily cleanable.

(d) The building shall be provided with a safe heating apparatus capable of sufficiently heating the animal housing facilities when necessary to protect the animals from cold, and to provide for their health and comfort. The ambient temperature shall be consistent with the generally accepted requirements of the species. Temperature of rooms where birds are housed shall be maintained at a temperature adequate for the species but no less than 65 degrees F. (18 degrees Celsius).

(e) Housing for animals shall be adequately ventilated to provide for the health and comfort of animals at all times. The maximum ambient temperature for animals shall be 85 degrees F (29.4C). Ventilation shall be deemed adequate only if auxiliary ventilation, such as exhaust fans, vents, and air conditioning is provided. Animals shall be provided with fresh air; and the animal housing facility shall be ventilated to minimize drafts, odors and moisture condensation.

(f) The pet shop facility or premises of a dealer shall have adequate natural or artificial light. Such lighting shall provide uniformly distributed illumination of sufficient intensity to permit routine inspection and cleaning. Primary enclosures shall be so placed as to protect the animals from excessive illumination. (19-81-41).

**Section 41-6-12.**  
Food, bedding and refrigerator.

Food supplies and bedding materials shall be stored and adequately protected against infestation and contamination which would render the food unfit for consumption or bedding unclean. Refrigeration adequate to prevent spoilage shall be provided for perishable food, and when necessary, for medication. (19-81-41.)

**Section 41-6-13.**  
Waste disposal.

Provisions shall be made for the removal and disposal of animal and food waste, bedding, dead animals and debris. All garbage and rubbish containing animals or food waste, bedding or dead animals shall, prior to disposal, be kept in leadproof, nonabsorbent containers which shall be kept covered with tight-fitting lids when not in continuous use. All other rubbish shall be disposed of in an approved manner. All garbage and rubbish shall be disposed of with sufficient frequency and in such manner as to prevent a nuisance. (19-81-41.)

**Section 41-6-14.**  
Drainage.

A suitable method shall be provided to rapidly eliminate excess water from the indoor housing facilities. (19-81-41.)

**Section 41-6-15.**  
Sewage disposal.

All sewage shall be disposed of in a public sewage system, or in the absence thereof, in a manner approved by the Administrative Authority. (19-81-41.)

**Section 41-6-16.** All plumbing fixtures and appurtenances must be maintained in good working condition. (19-81-41.)  
Plumbing.

**Section 41-6-17.** Effective measures shall be taken to protect against the entrance into the pet shop and the breeding or presence on the premises of vermin. (19-81-41.)  
Vermin control.

**Section 41-6-18.** Facilities, such as toilet facilities and hand basins including soap and disposable towels shall be provided and be conveniently accessible to employees. An adequate two compartment sink supplied with hot and cold water for washing and sanitizing the equipment shall be provided. Such facilities shall be kept in a clean condition and in good repair. (19.81-41.)  
Washrooms, sinks, etc.

**Section 41-6-19.** Living and sleeping quarters and places where food and drink for human consumption are served or stored shall be completely separated from the physical facilities housing animals. Storage of animal food shall be separated from the animal bathing and grooming areas.  
Grooming facilities.

Birds shall not be housed in the same area where food for humans is handled, stored, processed or served, unless such birds are kept in a separate enclosure which is vented to outside air; screening shall not be considered a complete enclosures. (19-81-41.)

**Section 41-6-20.** Facilities used in connection with the grooming and/or bathing of animals, such as grooming tables, bathing tubs, and grooming tools, etc., shall be kept clean. Grooming tables shall be cleaned and sanitized between use. Tubs and sinks used to bathe animals shall be fitted with properly installed hair traps and interceptors as required by the Plumbing Code. (19-81-41.)  
Grooming facilities.

**Section 41-6-21.** (a) A primary enclosure shall be provided for each animal; and two (2) or more animals of the same species may be housed together if the enclosure meets the criteria set forth herein for that animal.  
Primary enclosure.

(b) Primary enclosures shall be structurally sound and maintained in good repair to protect animals. They shall be constructed and maintained so as to enable the animals to remain dry and clean when appropriate for the species. Walls and floors shall be impervious to urine and other moisture.

(c) The floors of the primary enclosure shall be constructed so as to protect the animals' feet and legs from injury. Primary enclosures for animals, except cats, may have wire or grid flooring provided that the gauge of the wire or grid material is of adequate size to support the animal(s) and to prevent sagging under the weight of the animal and provided that the mesh openings are of a suitable size for the age and species of the animal. Wire or grid flooring for animals (quadrupeds), except cats,

shall have mesh openings of such size as to prevent the animals' feet from passing through the openings. Cages for dogs with wire flooring shall have at least twenty-five percent (25%) of the floor area covered with a solid, impervious material. Primary enclosures for cats shall have solid floors.

(d) Each primary enclosure shall be constructed and maintained so as to provide sufficient space to allow each animal to turn about freely and to easily stand, sit or lie in a comfortable position. The minimum height of an enclosure for a dog shall be the height of the dog at the top of the head plus six (6) inches, and the minimum length of the enclosure for a dog will be the length of the dog from the tip of the nose to base of the tail plus at least six (6) inches. Containing a dog by means of tying or chaining shall not be permitted, except that a dog may be restrained when grooming if the chain is placed or attached to a well-fitted collar.

(e) A primary enclosure for a cat shall have a litter pan, made from nonabsorbent material, or disposable pans containing sufficient clean litter to contain the excreta. Primary enclosures housing more than one (1) cat shall provide an elevated solid resting surface or surfaces, which shall be of adequate size to comfortably hold the occupants.

(f) All cages and enclosures used for holding birds shall be of metal or nonabsorbent construction, readily cleanable, and elevated at a distance of not less than twelve (12) inches from the floor; except that full flight cages may be less than twelve (12) inches from the floor if the cage or enclosure is located so it is not subject to drafts or sudden changes in ambient temperature. Excreta shall be removed from the cages at least daily and disinfected at least weekly. Each bird cage shall contain an adequate number of perches for every bird confined therein; except that perches will not be required in cages housing species of ground-dwelling birds, or other species where the use of perches would be detrimental to the birds' well-being.

(g) Housing facilities and primary enclosures for fish, reptiles, amphibians, small rodents and insects shall be kept clean so as to reduce disease hazards and odors. Housing facilities and primary enclosures for all other animals, including but not limited to dogs and cats, shall be cleaned a minimum of once each twenty-four-hour period and more frequently as may be necessary to reduce disease hazards, odors and discomfort of the animals.

(h) Primary enclosures for dogs and cats shall be sanitized at intervals not to exceed forty-eight (48) hours or as often as necessary to prevent contamination of animals

contained therein, or spread of disease. Sanitizing shall be by washing the surfaces with a detergent solution followed by the application of a safe and effective disinfectant.

(i) For purposes of health and sanitation, fish tanks or aquariums shall be equipped with an efficient filtration system. The water temperature in a fish tank or aquarium shall be maintained at a constant level appropriate for the fish contained therein, except that certain species of pond-swelling fish may be kept in fish bowls which do not have filtration systems provided that the water is changed with such frequency that it does not become deleterious to the well-being of the fish. Each fish tank containing warm-water fish shall be maintained at a temperature appropriate for the species.

(j) Cages or tanks in which turtles of the amphibious type are confined must contain an amount of water sufficient for each turtle to drink and moisten itself. The floor area of tanks in which turtles are confined must contain a dry area sufficient for each turtle therein; except that certain species of turtles, such as marine species, which normally would not require a dry area for its well being will not be required to have a dry area provided for them. (19-81-41.)

**Section 41-6-22.**  
**Nutrition.**

All animals shall be supplied with sufficient, wholesome food and water, free from contamination, and which food and water shall be of sufficient quantity and nutritive value to meet the normal daily requirements for the condition and size of each animal and to assure the proper health of each animal.

(a) **Water.** Fresh, potable water shall be available at all times unless veterinary orders indicate to the contrary.

(b) **Food.** Animals other than certain reptiles shall be fed at least once each twenty-four (24) hours, including Sundays and holidays except as otherwise might be prescribed by a licensed veterinarian. Reptiles shall be fed in accordance with the customary feeding habits of the species. Puppies and kittens under four (4) months of age shall have food continuously available or be fed at least three (3) times in each twenty-four-hour period. An adequate supply of fresh food shall be available to birds and small rodents at all times, unless veterinarian instructions are to the contrary.

(c) **Food and water receptacles.** Each feeding pan shall be durable and shall be sanitized daily. Self-feeders may be used for the feeding of dry food provided they are durable and are cleaned and sanitized regularly to prevent molding or caking of food. If disposable food receptacles are used, they must be discarded after each feeding. Water



vessels shall be designed to provide and dispense adequate quantities of water for the particular species and shall be placed in such a way to prevent spillage, and shall be cleaned and sanitized at least once each day, except that sipper-tube type water bottles, if used, shall be kept clean and sanitized regularly, kept free of dirt, debris and algae, and shall be cleaned and sanitized prior to an animal(s) being placed in a primary enclosure. (19-81-41.)

**Section 41-6-23.** (a) It shall be the obligation of every operator or dealer Health of animals. to assure that the health condition of each animal shall be observed daily.

The health condition of each animal shall be observed daily by a person competent to recognize and evaluate general symptoms of sick or diseased animals, including but not limited to listlessness, unthriftiness, loss of condition, rough hair coat, loss of weight, failure to eat or decreased appetite, diarrhea, eye or nasal discharge, labored or distressed breathing, conjunctivitis, prostration, skin lesions or loss of hair, elevated body temperature, pulse rate, respiration rate.

Any animal that is suspected, believed or known to be sick, diseased, injured, lame or blind shall be provided with immediate and adequate veterinary care; or such animal may be disposed of by humane euthanasia as performed, or instructed by an individual licensed to practice veterinary medicine in the Commonwealth of Virginia.

The method of humane euthanasia must be as approved by the Virginia State Veterinarian except that small rodents, birds, reptiles, fish and amphibians may be euthanized by a method recommended by the Humane Society of the United States.

(b) **Immunizations.** Dogs shall be properly immunized for distemper, hepatitis and leptospirosis as in appropriate with the age of the animal. Cats shall be immunized for feline distemper (panleukopenia, pneumonitis and rhino-trachetis as is appropriate with the age of the animal. A written record of such immunizations shall be provided to the purchaser at the time of sale.

(c) The pet shop should provide the purchaser of an animal with written instruction on the care and feeding of the animal purchased.

(d) Any animal that is suspected, believed or known to have, or to exhibit symptoms of having, an infection, disease or illness, or exhibits symptoms of clinical illness due to malnutrition or parasitism shall not be sold or transferred unless the purchaser is provided written information stating when the animal had the illness, nature of treatment and by whom.

(e) Any animal which infectious agent shall be isolated in a manner to prevent spread of the disease to healthy animals at all times.

(f) Dogs and cats under eight (8) weeks of age shall not be displayed or offered for sale.

(g) Any animal which is under quarantine or treatment for a communicable disease shall be separated from other animals susceptible to such disease in such a manner as to minimize dissemination of such disease.

(h) Birds which appear to manifest clinical evidence of disease, including but not limited to diarrhea, nasal discharge, depression, dry or brittle feathers, shall be immediately separated from healthy birds by means of separate cages. Whenever the Administrative Authority determines that psittacosis exists in any bird housing facility or establishment handling such birds, the Administrative Authority is empowered to proceed to abate, correct and end such public health menaces.

(i) The Administrative Authority may order quarantine on the premises or housing facilities in which animals are known to be exposed or exhibit symptoms of having infectious and contagious diseases.

Quarantine shall be removed when, at the discretion of the Administrative Authority, the disease conditions for which quarantined are not longer evident and the apparent health of the animals indicates absence of contagious disease: (19-81-41.)

**Section 41-6-24.**

An effective program for the control of insects, exotoparasites, and avian and mammalian pests shall be established and maintained whenever necessary to maintain adequate health standards. (19-81-41.)

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The only change is to Section 41-6-23 (f) - Change 7 weeks to 8 weeks.

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APPENDIX L

LD1838665

LEGJDS

1 RDF 1/13/92 Price C LEGISLATIVE PROPOSALS

2 SENATE BILL NO. .... HOUSE BILL NO. ....

3 A BILL to amend and reenact §§ 3.1-735,3.1-796.66, 3.1-796.68 through  
4 3.1-796.73, 3.1-796.75, 3.1-796.78 through 3.1-796.82,  
5 3.1-796.107, 3.1-796.121, 3.1-796.128, 18.2-403.1, 18.2-403.2,  
6 and 18.2-403.3 of the Code of Virginia and to amend the Code of  
7 Virginia by adding sections numbered 3.1-796.69:1, 3.1-796.71:1,  
8 3.1-796.78:1, 3.1-796.78:2, 3.1-796.78:3, 3.1-796.80:1, and  
9 3.1-796.81:1, relating to companion animal laws and consumer  
10 protections; penalties.

11

12 Be it enacted by the General Assembly of Virginia:

13 1. That §§ 3.1-735, 3.1-796.66, 3.1-796.68 through 3.1-796.73,  
14 3.1-796.75, 3.1-796.78 through 3.1-796.82, 3.1-796.107, 3.1-796.121,  
15 3.1-796.128, 18.2-403.1, 18.2-403.2, and 18.2-403.3 of the Code of  
16 Virginia are amended and reenacted and that the Code of Virginia is  
17 amended by adding sections numbered 3.1-796.69:1, 3.1-796.71:1,  
18 3.1-796.78:1, 3.1-796.78:2, 3.1-796.78:3, 3.1-796.80:1, and  
19 3.1-796.81:1 as follows:

20 § 3.1-735. Certificate of health required for importation of  
21 certain pet animals or poultry; examination, etc., where imported  
22 without certificate; exceptions.--No person shall import into this  
23 Commonwealth any pet animal, including but not limited to, dogs, cats,  
24 monkeys, or other animals, ferae naturae, wild or tame under  
25 domestication or in custody, or any poultry not intended for  
26 commercial use which by its nature is fit for use only as a pet, not  
27 including psittacine birds under domestication or in custody, unless-  
28 and-until such animal or poultry is accompanied by a certificate of

1 health made by a properly qualified veterinarian. Such certificate  
2 shall be under oath on an official interstate health certificate  
3 issued by the state of origin, shall be dated no ~~later~~-more than ten  
4 days before shipment, and shall contain such evidence of proof of the  
5 health of the animal or poultry as the Board, by regulation, may  
6 require. In lieu of the foregoing the Board may in its discretion  
7 place such reasonable restrictions and requirements on such psittacine  
8 birds after arrival within the Commonwealth of Virginia as it may deem  
9 advisable to establish such proof of health.

10 Any such animal or poultry, which may be imported into this  
11 Commonwealth without such certificate, may be examined immediately by  
12 the State Veterinarian or by a licensed veterinarian, designated by  
13 him, and the examination cost ~~thereof~~-may be charged to the owner or  
14 the person in possession of such animal or poultry. If, in the opinion  
15 of the veterinarian, there is danger from contagion or infection, such  
16 animal or poultry may be placed in close quarantine at the expense of  
17 the owner until all danger of infection or contagion has passed ~~+~~-l  
18 whereupon the animal or poultry shall be released upon the order of  
19 such veterinarian.

20 The provisions of this section shall not apply to any animal or  
21 poultry as herein defined passing directly through the Commonwealth to  
22 another state in interstate commerce, or when such animal or poultry  
23 is kept properly under control by the owner or custodian of such  
24 animal or poultry when passing through this Commonwealth to another  
25 state; ~~nor shall they apply to~~ any such animal or poultry brought into  
26 this Commonwealth by a resident of this Commonwealth or by a resident  
27 of another state who intends to make his residence in this  
28 Commonwealth except if brought into the Commonwealth with the intent

1 of offering it for public sale, trade, or promotional incentive ; or  
2 to any animal brought into this Commonwealth temporarily for the  
3 purpose of hunting or legal exhibition within this State-state .

4 § 3.1-796.66. Definitions.--The following words as used in thi  
5 chapter shall have the following meanings:

6 "Abandon" means to desert, forsake, or absolutely give up an  
7 animal without having secured another owner or custodian for the  
8 animal or by failing to provide the elements of basic care as set  
9 forth in § 3.1-796.68 for a period of five consecutive days.

10 "Adequate feed" means the-provision, at-suitable-intervals, at-  
11 least-once-daily, of-quantities-of-wholesome-feedstuff-suitable-for-  
12 the-species-and-age, sufficient-to-maintain-a-reasonable-level-of-  
13 nutrition-in-each-animal-access to and the provision of palatable  
14 food which is free of contamination; is of sufficient quantity and  
15 nutritive value to maintain each animal in good health; is accessibl  
16 to each animal; is prepared so as to permit ease of consumption for  
17 the age, species, condition, size and type of each animal; is provid  
18 in a clean and sanitary manner; is placed so as to minimize  
19 contamination by excrement and pests; and is provided at suitable  
20 intervals for the species, age, and condition of the animal, but at  
21 least once daily, except as prescribed by a veterinarian or as  
22 dictated by naturally occurring states of hibernation or fasting .  
23 normal for the species.

24 "Adequate shelter" means provision of and access to shelter tha  
25 is suitable for the species, age, condition, size, and type of each  
26 animal; provides adequate space for each animal; is safe and protect  
27 each animal from injury, rain, sleet, snow, hail, wind, direct  
28 sunlight, the adverse effects of heat or cold, physical suffering, a

1 impairment of health; is properly lighted; is properly cleaned;  
2 enables each animal to be clean and dry, except when detrimental to  
3 the species; and, for dogs and cats, provides a solid-surface resting  
4 platform, pad, floormat, or similar device that can be maintained in a  
5 sanitary manner. Under this chapter, shelters whose wire, grid, or  
6 slat floors (i) permit the animals' feet to pass through the openings,  
7 (ii) sag under the animals' weight, or (iii) otherwise do not protect  
8 the animals' feet or toes from injury are not adequate shelter.

9 "Adequate space" means sufficient space to allow each animal to  
10 (i) easily stand, sit, lie, turn about, and make all other normal body  
11 movements in a comfortable, normal position for the animal and (ii)  
12 interact safely with other animals in the enclosure. When an animal  
13 is tethered, "adequate space" means a tether that permits the above  
14 actions and is appropriate to the age and size of the animal; is  
15 attached to the animal by a properly applied collar, halter, or  
16 harness configured so as to protect the animal from injury and prevent  
17 the animal or tether from becoming entangled with other objects or  
18 animals, or from extending over an object or edge that could result in  
19 the strangulation or injury of the animal; and is at least three times  
20 the length of the animal, as measured from the tip of its nose to the  
21 base of its tail, except when the animal is being walked on a leash or  
22 is attached by a tether to a lead line. When freedom of movement  
23 would endanger the animal, temporarily and appropriately restricting  
24 movement of the animal according to professionally accepted standards  
25 for the species is considered provision of adequate space.

26 "Adequate water" means a-constant-provision of and access to a-  
27 supply-of-clean, fresh, potable water of a drinkable temperature which  
28 is provided in a sanitary-suitable manner or-provided-, in

1 sufficient volume, and at suitable intervals and-in-a-suitable-manner-  
2 for-the-species-at-least-once-daily-at-any-interval-, but at least  
3 once every twelve hours for a period of at least one hour, to maintain  
4 normal hydration for the age, species, condition, size and type of  
5 each animal, except as prescribed by a veterinarian or as dictated by  
6 naturally occurring states of hibernation or fasting normal for the  
7 species; and is provided in clean, durable, nontippable receptacles  
8 which are accessible to each animal and are placed so as to minimize  
9 contamination of the water by excrement and pests .

10 "Adequate-shelter"-means-shelter-that-may-reasonably-be-expected-  
11 to-protect-the-animal-from-physical-suffering-or-impairment-of-health-  
12 due-to-exposure-to-the-elements-or-adverse-weather---

13 "Agricultural animals" means buffaloes, cattle, horses, llamas,  
14 swine, sheep, goats, and poultry.

15 "Ambient temperature" means the temperature surrounding the  
16 animal.

17 "Animal" means domestic-animals,-including-both-agricultural-and-  
18 companion-animals,-if-not-specified-otherwise-any nonhuman vertebrate  
19 species . For the purposes of § 3.1-796.98, animal means any animal-  
20 species susceptible to rabies.

21 "Animal shelter" means a facility which is used to house or  
22 contain animals and which is owned, operated, or maintained by a duly  
23 incorporated humane society, animal welfare society, society for the  
24 prevention of cruelty to animals, or other nonprofit organization  
25 devoted to the welfare, protection, and humane treatment of animals.

26 "Animal warden" means any person employed, contracted, or  
27 appointed by the Commonwealth or any political subdivision for the  
28 purpose of aiding in the enforcement of this law or any other law or

1 ordinance relating to the licensing of dogs, control of dogs and cats,  
 2 cruelty to animals, or seizure and impoundment of companion animals  
 3 and includes any state or municipal police officer, animal control  
 4 officer, sheriff, constable, or other employee whose duties in whole  
 5 or in part include assignments which involve seizure or taking into  
 6 custody of any dog or other animal.

7 "Board" means the Board of Agriculture and Consumer Services.

8 "~~Boarding kennel-establishment~~" means a place or establishment  
 9 other than a pound or animal shelter where companion animals not owned  
 10 by the proprietor are sheltered, fed, and watered in exchange for a  
 11 fee ~~, but shall not include training or show kennels.~~

12 "Care" or "adequate care" means the responsible practice of good  
 13 animal husbandry, handling, production, management, confinement,  
 14 feeding, watering, protection, shelter, transportation, treatment,  
 15 and, when necessary, euthanasia, appropriate for the age, species,  
 16 condition, size and type of the animal and the provision of veterinary  
 17 care when needed to prevent suffering or impairment of health.

18 "Collar" means a well-fitted device, appropriate to the age and  
 19 size of the animal, attached to the animal's neck in such a way as to  
 20 prevent trauma or injury to the animal.

21 "~~Companion animals-animal~~" means ~~domestic and feral dogs,~~  
 22 ~~domestic and feral cats, monkeys, guinea pigs, hamsters, rabbits,~~  
 23 ~~exotic animals, and exotic and native birds.~~ Game any animal under  
 24 the care, custody, or ownership of a person or any animal which is  
 25 bought, sold, traded, or bartered by any person. Agricultural  
 26 animals, or game or wildlife species, shall not be considered  
 27 companion animals for the purposes of this chapter.

28 "Consumer" means any ~~natural person~~ purchasing ~~from a pet dealer~~



1 ~~a dog or cat described as being registered with any an~~ animal  
2 ~~pedigree organization or~~ hiring another person as temporary custodian  
3 of the consumer's animal . For purposes of Article 3 of this chapter  
4 and Chapter 17 (§ 59.1-196 et seq.) of Title 59.1, consumer includes  
5 dealers and pet shops.

6 "Dealer" means any person who in the regular course of business  
7 for compensation or profit buys, sells, transfers, exchanges, or  
8 barter companion animals. "Regular course of business," as used in  
9 the preceding sentence, means (i) advertising for sale, exchange, or  
10 barter companion animals on more than seven days per year or holding  
11 oneself out as a dealer of companion animals on more than seven days  
12 per year; (ii) offering for sale, exchange, or barter a combined total  
13 of more than fifteen companion animals per year; and (iii) within one  
14 year offering for sale, exchange, or barter companion animals whose  
15 combined value totals \$500 or more. A published listing, used for  
16 purposes of information other than offering companion animals for  
17 sale, exchange, or barter, shall not constitute "advertising" or  
18 "holding oneself out as a dealer." Any person who ~~transfers-~~  
19 transports companion animals in the regular course of business as a  
20 common carrier shall not be considered a dealer.

21 "Enclosure" means a structure used to house or restrict animals  
22 from running at large.

23 "Euthanasia" means the humane destruction of an animal  
24 accomplished by a method that involves instantaneous unconsciousness  
25 and immediate death or by a method that involves anesthesia, produced  
26 by an agent which causes painless loss of consciousness, and death  
27 during such loss of consciousness.

28 "Exercise" or "adequate exercise" means the opportunity for the

1 animal to move sufficiently to maintain normal muscle tone and mass  
2 for the age, species, size, and condition of the animal.

3 "Exhibitor" means any person who has animals for or on public  
4 display.

5 ~~"Exotic-birds"--means-any-bird-that-is-not-a-species-native-to-the~~  
6 ~~United-States.--~~

7 "Housing facility" means any room, building, or area used to  
8 contain a primary enclosure or enclosures.

9 "Humane" means any action taken in consideration of and with the  
10 intent to enhance the animal's health, comfort and well-being.

11 "Humane society" means any chartered, nonprofit organization  
12 incorporated under the laws of this Commonwealth and organized for the  
13 purpose of preventing cruelty to animals and promoting humane care and  
14 treatment of animals.

15 "Investigator" or "approved humane investigator" means a person  
16 employed or approved by the State Veterinarian to determine whether  
17 there has been a violation of this chapter.

18 "Kennel" means any establishment in which three or more canines,  
19 felines, or hybrids of either are kept for the purpose of breeding,  
20 hunting, training, renting, buying, boarding, selling, or showing.

21 "Livestock" includes cattle, horses, sheep, goats, swine, and  
22 enclosed domesticated rabbits or hares.

23 "Local ordinance" means any law, rule, regulation, or ordinance  
24 promulgated by the governing body of any county, city, or town.

25 "Other officer" includes all other persons employed or elected by  
26 the people of Virginia, or by any municipality, county, or  
27 incorporated town thereof, whose duty it is to preserve the peace, to  
28 make arrests, or to enforce the law.

1 "Owner" means any person who: (i) has a right of property in an  
2 animal, (ii) keeps or harbors an animal, (iii) has an animal in his  
3 care, or (iv) acts as a custodian of an animal.

4 "Person" means any individual, partnership, firm, joint-stock  
5 company, corporation, association, trust, estate, or other legal  
6 entity.

7 ~~"Pet-dealer"-means-any-person-engaging-in-the-ordinary-course-of-~~  
8 ~~business-in-the-sale-to-the-public-for-profit-of-cats-or-dogs-~~  
9 ~~described-as-being-registered-or-capable-of-being-registered-with-any-~~  
10 ~~animal-pedigree-organization.--~~

11 "Pet shop" means an establishment where companion animals are  
12 bought, sold, exchanged, or offered for sale or exchange to the  
13 general public. Pet shops do not include dealer premises that are  
14 located on the dealer's residential premises.

15 "Poultry" includes all domestic fowl and game birds raised in  
16 captivity.

17 "Pound" means a facility operated by the Commonwealth, or any  
18 political subdivision, for the purpose of impounding or harboring  
19 seized, stray, homeless, abandoned, or unwanted animals; or a facility  
20 operated for the same purpose under a contract with any county, city,  
21 town, or incorporated society for the prevention of cruelty to  
22 animals.

23 "Primary enclosure" means any structure used to immediately  
24 restrict an animal or animals to a limited amount of space, such as a  
25 room, pen, cage, compartment, or hutch. For tethered animals, the  
26 term includes the shelter and the area within reach of the tether.

27 "Properly cleaned" means that carcasses, debris, food waste and  
28 excrement are removed from the primary enclosure with sufficient

1 frequency to ensure all animals the freedom to avoid contact with the  
2 above-mentioned contaminants; the primary enclosure is sanitized with  
3 sufficient frequency to minimize odors and the hazards of disease; and  
4 the primary enclosure is cleaned so as to prevent the animals confined  
5 therein from being directly sprayed with the stream of water, wetted  
6 involuntarily, and directly exposed to hazardous chemicals or  
7 disinfectants.

8 "Properly lighted" means sufficient illumination to permit  
9 routine inspections, maintenance, cleaning, and housekeeping of the  
10 shelter, and observation of the animal; to provide regular diurnal  
11 lighting cycles of either natural or artificial light, uniformly  
12 diffused throughout the animal facilities; and to promote the  
13 well-being of the animals.

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

17 "Sanitize" means to make physically clean and to remove and  
18 destroy, to a practical minimum, agents injurious to health.

19 "State Veterinarian" means the veterinarian employed by the  
20 Commissioner of Agriculture and Consumer Services as provided in §  
21 3.1-723.

22 "Treasurer" includes the treasurer and his assistants of each  
23 county or city or other officer designated by law to collect taxes in  
24 such county or city.

25 "Treatment" or "adequate treatment" means the responsible  
26 handling or transportation of animals in the person's ownership,  
27 custody or charge, appropriate for the age, species, condition, size  
28 and type of the animal.

1 "Weaned" means that an animal is capable of and physiologically  
 2 accustomed to ingestion of solid food and has ingested solid food,  
 3 without nursing, for a period of at least five days.

4 § 3.1-796.68. Care of animals by owner; penalty.-- A. Each  
 5 owner shall ~~have the duty to provide~~ for each of his companion animal  
 6  ~~, pursuant to regulations adopted by the Board :~~

7 1. Adequate feed ~~and adequate ;~~

8 2. Adequate water;

9 ~~2--~~ 3. Adequate shelter that is properly cleaned ;

10 ~~3--~~ 4. Adequate space in the primary enclosure for the  
 11 particular type of animal depending upon its age, size, species, and  
 12 weight;

13 ~~4--Veterinary care when needed and to prevent suffering; and~~

14 5. Adequate exercise;

15 ~~5--Humane~~ 6. Adequate care and , treatment , and  
 16 transportation; and

17 7. Veterinary care when needed or to prevent suffering or disea:  
 18 transmission .

19 The provisions of this section shall also apply to every animal  
 20 shelter, pound, dealer, pet shop, exhibitor, kennel, and boarding  
 21 ~~kennel with respect to animals contained therein establishment .~~

22 B. Game and wildlife species shall be cared for in accordance  
 23 with regulations promulgated by the Board of Game and Inland Fisheri  
 24 by January 1, 1994.

25 C. Violation of this section is a Class 4 misdemeanor.

26 § 3.1-796.69. Transporting animals; requirements; penalty.--No  
 27 owner, railroad or other common carrier when transporting any animal  
 28 shall allow that animal to be confined in any type of conveyance mor

1 than twenty-four consecutive hours without being exercised, properly  
2 rested, fed and watered as necessary for that particular type and  
3 species of animal. A reasonable extension of this time shall be  
4 permitted when an accident, storm or other act of God causes a delay.  
5 Adequate space in the primary enclosure within any type of conveyance  
6 shall be provided each animal depending upon the particular type and  
7 species of animal. No person shall import into the Commonwealth, nor  
8 export from the Commonwealth, for the purpose of sale or offering for  
9 sale any dog or cat under the age of eight weeks without its dam.  
10 Violation of this section shall be punishable as a Class 1  
11 misdemeanor.

12 § 3.1-796.69:1. Dealer and pet shop registration; application;  
13 fee; penalties.--A. All dealers and pet shops shall, on or before  
14 January 1 of each year, register with the State Veterinarian as an  
15 in-state dealer or pet shop. The registration fee shall be \$50 for  
16 dealers and \$100 for pet shops. All fees collected under this section  
17 shall be remitted to the Division of Animal Health for the  
18 administration of this chapter. All registration certificates shall  
19 expire at midnight on December 31 of the year for which the  
20 certificate was issued. The application form and registration  
21 certificate shall be obtained from and approved by the State  
22 Veterinarian.

23 B. The State Veterinarian may deny the dealer's or pet shop's  
24 application for registration, or suspend or revoke his registration,  
25 when the State Veterinarian has determined that the dealer or pet shop  
26 has violated any of the provisions of this chapter.

27 C. After September 30, 1992, a dealer or pet shop that operates  
28 in the Commonwealth without having first obtained a dealer or pet shop

1 registration certificate shall be guilty of a Class 1 misdemeanor.

2 § 3.1-796.70. Sale, etc., of unweaned or certain immature  
 3 animals prohibited; penalty.--No person shall sell, raffle, or offer  
 4 for sale as pets or novelties, in quantities of less than six, or  
 5 offer or give as a prize, premium, or advertising device any living  
 6 baby-chicks, ducklings, or other fowl under two months old in  
 7 quantities of less than six or any unweaned mammalian companion  
 8 animal. Dealers may offer immature or unweaned mammalian companion  
 9 animals for sale as pets or novelties with the requirement that  
 10 prospective owners take possession of the animals only after fowl  
 11 reach two months of age and mammalian companion animals have been  
 12 weaned. Violation of this section ~~shall be punishable upon~~  
 13 ~~conviction as is~~ a Class 3 misdemeanor.

14 § 3.1-796.71. Failure of dealer or pet shop to provide adequate  
 15 care, etc.; penalty.--Any ~~pet-dealer who~~ or pet shop ~~which~~ that fails  
 16 to adequately house, feed, water, exercise ~~and or~~ care for animals in  
 17 his or its possession or custody as provided for under this chapter  
 18 shall be guilty of a Class 3 misdemeanor. Such animals shall be  
 19 subject to seizure and impoundment, and upon conviction of such person  
 20 the animals may be sold ~~or~~,  euthanized , or disposed of as provided  
 21 by § 3.1-796.96 for licensed, tagged, or tattooed animals . Such  
 22 failure shall also constitute grounds for revocation of permit or  
 23 certificate of registration after public hearing. Any funds that  
 24 result from such sale shall be used first to pay the costs of the  
 25 local jurisdiction for the impoundment and disposition of the animals  
 26 and any funds remaining shall be paid to the owner, if known. ~~In the~~  
 27 ~~event that~~ If the owner is not found, the remaining funds shall be  
 28 paid into the Literary Fund.

1       § 3.1-796.71:1. Dealer and pet shop procedures for receiving  
2 animals.--A. Dealers and pet shops shall:

3       1. Pick up animals from the delivery area within four hours of  
4 their arrival.

5       2. Ensure that incoming animals required to have veterinary  
6 inspection certificates are accompanied by the valid certificate.

7       3. Isolate incoming animals until the animals have been examined  
8 for illness.

9       B. Any animal with a contagious or infectious disease or other  
10 unhealthy condition shall be isolated from healthy animals until the  
11 animal is determined to be free from contagion or infection.

12       C. In no case shall a dealer or pet shop expose an animal with a  
13 known infectious or contagious disease to healthy animals kept in the  
14 dealer's or pet shop's animal holding facility until the animal is no  
15 longer in an infectious or contagious condition, nor shall an animal  
16 with an infectious or contagious disease or with a known hereditary or  
17 congenital defect adverse to the health of the animal be returned to  
18 the supplier. Care for these animals shall be in accordance with §  
19 3.1-796.68.

20       D. Violations of this section are Class 3 misdemeanors.

21       § 3.1-796.72. Misrepresentation of animal's breed or condition;  
22 penalties.--No person shall misrepresent the breed or physical  
23 condition of any animal at the animal's sale, trade, delivery, or  
24 other method of transfer. For the purpose of this section ,  
25 misrepresentation of an animal's condition shall include selling,  
26 trading, delivering or otherwise transferring an animal to another  
27 person with the knowledge that the animal has an infection,  
28 communicable disease, parasitic infestation, abnormality or other



1 physical defect that is not made known to the person receiving the  
 2 animal. Violation of this section shall ~~be~~ is punishable as a Class  
 3 3 misdemeanor.

4 § 3.1-796.73. Abandonment of animal; penalty.--No person shall  
 5 abandon any animal. ~~Abandonment-for-the-purposes-of-this-section-is-~~  
 6 ~~defined-as-deserting,-forsaking,-or-intending-to-absolutely-give-up-a~~  
 7 ~~animal-without-securing-another-owner-or-without-providing-the-~~  
 8 ~~necessities-set-out-in-§-3.1-796.68.--~~Violation of this section shall  
 9 ~~be-punishable-as-is~~ is a Class 3 misdemeanor. Nothing in this section  
 10 shall be construed to mean the release of an animal by its owner to a  
 11 animal shelter, pound, or humane society establishment.

12 § 3.1-796.75. Procedure for animals left unclaimed with  
 13 veterinarian or boarding establishment after public notice; lien;  
 14 sale.--Any animal not claimed by its owner from a licensed  
 15 veterinarian or boarding ~~kenne~~ establishment within fourteen days  
 16 after a letter of notice has been sent to the owner, by the  
 17 veterinarian or boarding ~~kenne~~ establishment, may be sold by the  
 18 veterinarian or boarding ~~kenne~~ establishment. The animal may be  
 19 sold at public or private sale for fair compensation to a person  
 20 capable of providing care consistent with this chapter. Any expense  
 21 incurred by the veterinarian or boarding ~~kenne~~ establishment becomes  
 22 a lien on the animal and the proceeds of the sale shall first  
 23 discharge this lien. Any balance of the proceeds shall be paid ~~over-~~  
 24 to the owner. If the owner cannot be found within the next ensuing  
 25 thirty days, the balance shall be paid to the state treasury. If no  
 26 purchaser is found, the animal may be offered for adoption or  
 27 euthanized.

28 Article 3.

1            Sale-of-Dogs-and-Cats-by-Dealers-Consumer Remedies .

2            § 3.1-796.78. Sale without animal history certificate violation  
3 of Consumer Protection Act; contents of certificate; penalty.-- A.

4 It shall be a violation of the Virginia Consumer Protection Act (§  
5 59.1-196 et seq.) and punishable as a Class 3 misdemeanor for any  
6 dealer or pet shop to sell a dog or cat within the Commonwealth  
7 ~~stating, promising or representing that the animal is registered or~~  
8 ~~capable of being registered with any animal pedigree registry~~  
9 ~~organization~~, without providing the consumer with a pet-dealer's-an  
10 animal history certificate at the time the consumer takes possession  
11 of the dog or cat. The pet-dealer's-animal history certificate shall  
12 be signed by the pet-dealer or pet shop, its agent or employee, and  
13 shall contain the following information:

14            1. The animal's species, breed, sex, age, color, and , if known,  
15 birth date;

16            2. ~~The name and address of the person from whom the pet-dealer~~  
17 ~~purchased the animal;~~ For animals registered or capable of being  
18 registered, the names and addresses of the original breeder, all other  
19 persons who have owned or transferred the animal, and the dealer or  
20 pet shop selling the animal to the consumer;

21            3. ~~The breeder's name and address;~~ the dates that each of the  
22 persons specified in this subdivision received, owned, and transferred  
23 the animal; and

24            4. ~~The~~ the name and registration number of the animal's sire  
25 and dam , and the name and address of the animal pedigree registry  
26 organization ;

27            5. ~~3. If the animal has been so examined, the date~~ The dates  
28 on which the animal has been was examined by a licensed veterinarian

1 7--i the name and, address , and telephone number of such  
2 veterinarian 7--i and a-brief statement-of-statements made by the  
3 veterinarian indicating any findings made-regarding the animal at  
4 each examination;

5 6---4. A statement of all vaccinations administered to the  
6 animal, including the identity-type, manufacturer, and-quantity ,  
7 and dates of administration of the vaccine; and the name and, ,  
8 address , and telephone number of the person or licensed veterinarian  
9 administering or supervising the vaccinations ---; and

10 5. A statement that, to the best of the dealer's, his agent's, or  
11 the pet shop's agent's knowledge, the animal has no contagious or  
12 infectious diseases or congenital or hereditary defects, ear mites, or  
13 internal parasites, including coccidiosis.

14 ~~The-information-contained-in-the-pet-dealer's-animal-history-~~  
15 ~~certificate-required-herein-shall-be-informative-only,-and-the-pet-~~  
16 ~~dealer-shall-not-be-responsible-in-any-manner-for-the-accuracy-of-such~~  
17 ~~information-unless-he-knows-or-has-reason-to-know-that-such-~~  
18 ~~information-is-erroneous---~~

19 B. If a consumer desires to purchase a dog or cat with an  
20 obvious defect known to the consumer and as indicated by the  
21 certificate, the consumer and the dealer or pet shop shall sign an  
22 agreement that the consumer understands the nature of the defect and,  
23 with reference to the particular defect in the particular animal, that  
24 he waives the rights granted by § 3.1-796.80. However, the consumer  
25 has three business days after receiving the animal to reverse his  
26 decision to purchase a defective animal and return the animal to the  
27 dealer or pet shop for a refund of the purchase price of the animal  
28 plus sales tax or to receive an animal of his choice of equivalent

1 value.

2 C. A copy of the pet-dealer's animal history certificate and, if  
3 applicable, the consumer waiver, signed by the consumer shall be  
4 maintained by the pet-dealer or pet shop for a period of one year  
5 following the date of sale and shall be exhibited promptly on request  
6 for inspection by any animal warden, court-appointed humane  
7 investigator, law-enforcement officer, or Division of Animal Health  
8 official .

9 D. Animal wardens, law-enforcement officers, and attorneys for  
10 the Commonwealth shall enforce the provisions of this article.

11 § 3.1-796.78:1. Inoculation requirements for dogs and cats  
12 imported into Virginia.--A. Any dog eight weeks old or older imported  
13 into the Commonwealth for delivery to a dealer or pet shop shall be  
14 currently vaccinated, or have been vaccinated no less than seven days  
15 and no more than fourteen days before entry into the Commonwealth,  
16 against canine distemper, leptospirosis, bordetella, parainfluenza,  
17 infectious canine hepatitis, and canine parvovirus. Any dog four  
18 months old or older imported into the Commonwealth shall also be  
19 currently vaccinated for rabies by a veterinarian licensed in the  
20 state of origin.

21 B. Any cat eight weeks old or older imported into the  
22 Commonwealth for delivery to a dealer or pet shop shall be currently  
23 vaccinated, or have been vaccinated no less than seven days and no  
24 more than fourteen days before entry into the Commonwealth, against  
25 feline panleukopenia, feline viral rhinotracheitis and feline  
26 calicivirus. Any cat four months old or older imported into the  
27 Commonwealth shall also be currently vaccinated for rabies by a  
28 veterinarian licensed in the state of origin.

1        C. Notwithstanding the vaccination requirements specified by  
2 this section, any animal sold or offered for sale by a dealer shall  
3 also be vaccinated against or treated for any other disease as  
4 required by regulations issued by the Board or as prescribed or  
5 directed by the State Veterinarian.

6        § 3.1-796.78:2. Inoculation, etc., requirements for dogs and  
7 cats sold by a dealer to a pet shop or other consumer.--A. Prior to  
8 sale or delivery of a dog under four months of age by a dealer to a  
9 pet shop or other consumer, the dog shall be dewormed for ascarids and  
10 other internal parasites, as determined by a licensed veterinarian, at  
11 six to eight weeks of age and as otherwise directed by the  
12 veterinarian and shall be vaccinated at six to eight weeks of age and  
13 every three to four weeks thereafter until the dog is sixteen weeks of  
14 age, against canine distemper, leptospirosis, infectious canine  
15 hepatitis, canine parainfluenza, bordetella and canine parvovirus.  
16 Prior to sale of a dog four months old or older, by a dealer to a pet  
17 shop or other consumer, the dog shall be currently vaccinated against  
18 rabies by a licensed veterinarian and shall be current in its  
19 vaccinations for canine hepatitis, leptospirosis, infectious canine  
20 parainfluenza, bordetella and canine parvovirus.

21        B. Prior to sale or delivery of a cat under four months of age by  
22 a dealer to a pet shop or other consumer, the cat shall be dewormed  
23 for ascarids and any other parasites, as determined by a licensed  
24 veterinarian, at six to eight weeks of age and as otherwise directed  
25 by the veterinarian and shall be vaccinated at six to eight weeks of  
26 age and every three to four weeks thereafter until the cat is sixteen  
27 weeks old against feline panleukopenia, feline viral rhinotracheitis  
28 and feline calicivirus. Prior to sale of a cat four months old or

1 older by a dealer to a pet shop or other consumer, the cat shall be  
2 currently vaccinated against rabies by a licensed veterinarian and  
3 shall be current in its vaccinations for feline panleukopenia, feline  
4 viral rhinotracheitis and feline calicivirus.

5 C. Notwithstanding the vaccination and deworming requirements  
6 specified in this section, any animal sold or offered for sale by a  
7 dealer shall also be vaccinated against or treated for any other  
8 disease as required by regulations issued by the Board or as  
9 prescribed or directed by the State Veterinarian.

10 § 3.1-796.78:3. Certificates of veterinary inspection for dogs  
11 or cats imported into the Commonwealth.--Each dog or cat imported into  
12 the Commonwealth for delivery to a dealer or pet shop shall be  
13 accompanied by a certificate of veterinary inspection issued by a  
14 veterinarian licensed in the state of origin. The certificate shall  
15 indicate:

16 1. That the animal is free of clinical signs of infectious or  
17 contagious disease or hereditary or congenital defects on the date of  
18 examination, such examination to be made not more than ten days prior  
19 to the date of transport from the state of origin;

20 2. The dates of examination; expiration and administration dates  
21 of vaccinations and deworming medications administered; and the name,  
22 address, telephone number and signature of the licensed veterinarian  
23 issuing the certificate of veterinary inspection;

24 3. The species, breed, sex, age, color, any distinguishing  
25 markings or identification, and the birth date, if known, of the  
26 animal; and

27 4. The name and address of the owner of the animal and of the  
28 dealer or pet shop in Virginia to whom the animal is being delivered.

1 A copy of the certificate of veterinary inspection shall be sent  
 2 to the State Veterinarian for filing. A copy shall also be kept on  
 3 file by the dealer or pet shop in Virginia for at least one year after  
 4 the sale of the animal and shall be exhibited promptly on request for  
 5 inspection by any animal warden, court-appointed humane investigator,  
 6 law-enforcement officer, or Division of Animal Health official.

7 § 3.1-796.79. Inclusion of false or misleading statements in  
 8 certificate violation of Consumer Protection Act; penalty.--It shall  
 9 be a violation of the Virginia Consumer Protection Act (§ 59.1-196 et  
 10 seq.) , and shall be punishable as a Class 1 misdemeanor, for a pet-  
 11 dealer or pet shop to include in the pet-dealer's-animal history  
 12 certificate provided for in § 3.1-796.78 any false or misleading  
 13 statement regarding the information to be contained therein or to  
 14 falsify an importation certificate of veterinary inspection as  
 15 required by § 3.1-796.78:3 .

16 § 3.1-796.80. Consumer remedies for receipt of diseased animal;  
 17 illness subsequent to sale; certification by veterinarian; penalty.--  
 18 A. If ~~at any time (i)~~ within ~~ten~~-fourteen days following receipt  
 19 of an animal ~~described as being registered or capable of being~~  
 20 ~~registered with any animal pedigree organization and subject to this~~  
 21 ~~chapter~~ by a consumer from a dealer or pet shop , a licensed  
 22 veterinarian certifies ~~such the~~ animal to be unfit for purchase due  
 23 to illness ~~or a congenital defect deleterious to the health of the~~  
 24 ~~animal or the presence of~~ symptoms of a contagious or infectious  
 25 disease or (ii) within one year following a consumer's receipt of an  
 26 animal from a dealer or pet shop, a licensed veterinarian certifies  
 27 the animal to be unfit for purchase due to a congenital or hereditary  
 28 defect , upon presentation of such certificate by the consumer to the

1 dealer or pet shop the pet-dealer or pet shop shall afford the  
2 consumer the right to choose one of the following options:

3 1. ~~The right to return~~ Return the animal and receive from the  
4 dealer or pet shop (i) a refund of the purchase price including sales  
5 tax and (ii) reimbursement, not to exceed the cost of the animal, for  
6 veterinary diagnostic and treatment costs related to the condition  
7 that rendered the animal unfit for purchase ; ex-

8 2. ~~The right to return~~ Return the animal ~~and to~~, choose and  
9 receive an exchange animal of equivalent value from the dealer ~~7-~~  
10 ~~subject to the choice of the consumer, --~~ or pet shop, and receive from  
11 the dealer or pet shop reimbursement, not to exceed the cost of the  
12 animal, for veterinary diagnostic and treatment costs related to the  
13 condition that rendered the animal unfit for purchase; or

14 3. Retain the animal and receive from the dealer or pet shop  
15 reimbursement, not to exceed one and one-half times the costs of the  
16 animal, for the veterinary diagnostic and treatment costs related to  
17 the condition that rendered the animal unfit for purchase.

18 ~~The refund or reimbursement required by this section shall be~~  
19 ~~made by the pet dealer not later than ten business days following~~  
20 ~~receipt of a signed veterinary certification as hereinafter provided.~~

21 If the consumer chooses an equivalent animal and one is not  
22 available, the dealer or pet shop shall supply to the consumer, within  
23 ten months after return of the original animal to the dealer or pet  
24 shop, an equivalent animal satisfactory to the consumer or shall make  
25 to the consumer all monetary reimbursements required under this  
26 section.

27 All monetary reimbursements required to be paid by the dealer or  
28 pet shop to the consumer shall be paid in full to the consumer not



1 later than fourteen business days following receipt of a signed  
2 veterinary certification.

3 B. To obtain the remedies provided for in this section, the  
4 consumer shall present the veterinary certificate to the dealer or pet  
5 shop not later than three business days after the consumer receives  
6 the certificate. The certificate shall contain the following  
7 information:

8 1. The name and address of the owner;

9 2. The dates of veterinary examination;

10 3. The species, breed, color, sex, age, and any identifying  
11 markings of the animal;

12 4. A description of the veterinarian's finding and treatment;

13 5. A statement that the veterinarian certifies the animal to be  
14 unfit for purchase;

15 6. If the animal is dead, a statement that the animal died or had  
16 to be euthanized because of a condition, illness, or defect that  
17 rendered the animal unfit for purchase; and

18 7. The name, address, and signature of the certifying  
19 veterinarian and the date of the certification.

20 In addition, if the consumer has purchased an animal registered  
21 or capable of registration, he shall return to the dealer or pet shop  
22 all documents previously provided to the consumer for the purpose of  
23 registering the animal. This paragraph shall not apply if the  
24 consumer signs a written statement certifying that the documents have  
25 been inadvertently lost or destroyed.

26 C. A veterinary finding of intestinal parasites shall not be  
27 grounds for declaring an animal unfit for purchase unless the animal  
28 is clinically ill due to such condition. An animal may not be found

1 unfit for purchase on account of an injury sustained or an illness  
2 contracted subsequent to the consumer's taking possession of the  
3 animal.

4 D. If the dealer or pet shop has reason to disagree with the  
5 veterinary opinion obtained by the consumer pursuant to this section,  
6 the dealer or pet shop may, within three business days after receiving  
7 the certification, obtain the written opinion of a second  
8 veterinarian, mutually agreed upon in writing, by the consumer and  
9 dealer or pet shop. The cost of obtaining such opinion shall be borne  
10 by the dealer or pet shop.

11 If the consumer and dealer or pet shop cannot agree on a second  
12 veterinarian within the three-business-day period, the veterinary  
13 certification initially obtained by the consumer shall be final. If  
14 the second veterinary opinion conflicts with the first and the issue  
15 of the animal's fitness for purchase cannot be resolved to the  
16 consumer's satisfaction, the consumer and the dealer or pet shop  
17 shall, within three business days after receiving the second  
18 veterinary opinion, seek a third veterinary opinion from a  
19 veterinarian mutually agreed upon, in writing, whose decision shall be  
20 final. The consumer and the dealer or pet shop shall bear equally the  
21 cost of obtaining the third opinion.

22 Costs for obtaining second and third veterinary opinions shall be  
23 in addition to, and not be used to reduce, reimbursements specified in  
24 subsection A.

25 E. Veterinarians shall not be liable for opinions rendered  
26 pursuant to this section.

27 F. Nothing in this section shall require a consumer to return ar  
28 animal that has died or been euthanized as a result of the condition

1 that rendered it unfit for purchase before the consumer can exercise  
2 the options granted under this section.

3 G. Violation of any provision of this section by a dealer or pet  
4 shop shall be punishable as a Class 1 misdemeanor.

5 § 3.1-796.80:1. Boarding establishments; veterinary care  
6 requirements; consumer notification.--A. When an animal is boarded at  
7 a boarding establishment, the boarding establishment shall be  
8 responsible for providing the animal care requirements for each animal  
9 as specified in § 3.1-796.68.

10 B. If an animal becomes ill or injured while in the custody of  
11 the boarding establishment, the boarding establishment shall provide  
12 the animal veterinary treatment for the illness or injury. The  
13 boarding establishment shall bear the expense of such treatment,  
14 unless the consumer and the boarding establishment have agreed in  
15 writing, at the time of intake or before, that the consumer shall bear  
16 the costs. Notwithstanding the agreement, the boarding establishment  
17 shall pay for veterinary treatment of any injury that the animal  
18 sustains while at the establishment if the injury resulted from the  
19 establishment's failure, whether accidental or intentional, to provide  
20 the care required by § 3.1-796.68; however, boarding establishments  
21 shall not be required to bear the cost of veterinary treatment for  
22 injuries resulting from the animal's self-mutilation.

23 C. If an animal is seized from a boarding establishment because  
24 of the establishment's failure to provide adequate food, water,  
25 shelter, exercise, and care as defined in § 3.1-796.66 and required by  
26 § 3.1-796.68 or because of any other violation of this chapter, the  
27 animal shall be returned to the rightful owner as soon as possible or,  
28 if the owner refuses to reclaim the animal, be impounded and

1 disposition made pursuant to § 3.1-796.115.

2 D. Violation of this section by a boarding establishment is a  
 3 Class 1 misdemeanor.

4 § 3.1-796.81. Written notice of consumer remedies required to be  
 5 supplied by dealers and pet shops.-- A. A pet-dealer or pet shop  
 6 shall give the notice hereinafter set forth in writing to a consumer  
 7 prior to the delivery of a dog or cat animal to the consumer .  
 8 Such notice shall be embodied in either a written contract, the pet-  
 9 dealer's animal history certificate or a separate document and shall  
 10 state in ten-point ~~bald-face~~ bold-faced type the following:

11 NOTICE

12 The sale of certain ~~dogs and cats described as being registered~~  
 13 ~~or capable of being registered with any animal pedigree organization~~  
 14 companion animals is subject to ~~the provisions of Article 3~~ (§  
 15 3.1-796.78 et seq.) of Chapter 27.4 of Title 3.1 and the Virginia  
 16 Consumer Protection Act (§ 59.1-196 et seq.). ~~In the event that~~ If a  
 17 licensed veterinarian certifies your animal to be unfit for purchase  
 18 within ten-fourteen days , or within one year for congenital or  
 19 heredity conditions, following receipt of your animal, you may choose:  
 20 (i) to return your animal and receive a refund of the purchase price ,  
 21 ex-plus sales tax and reimbursement, up to the cost of the animal,  
 22 for veterinary diagnostic and treatment costs incurred in determining  
 23 the animal unfit for purchase; (ii) to return the animal and receive  
 24 an exchange animal of your choice of equivalent value and receive  
 25 reimbursement, up to the cost of the animal, for veterinary costs  
 26 incurred in determining the animal unfit for purchase; or (iii) to  
 27 keep the animal and receive reimbursement, up to one and one-half  
 28 times the cost of the animal, for veterinary costs incurred in

1 determining the animal unfit for purchase .

2 If you have signed a waiver of consumer remedies granted under §  
3 3.1-796.78 and later reverse your decision to purchase a defective  
4 animal, you have three business days after receiving the animal to  
5 return the animal and either receive a refund of the purchase price of  
6 the animal, plus sales tax, or receive an animal of equivalent value  
7 of your choice.

8 In order to exercise these rights you must present a written  
9 veterinary certification that the animal is unfit for purchase to the  
10 pet-dealer or pet shop within three business days after receiving such  
11 certification.

12 If the pet-dealer or pet shop has promised to register your  
13 animal or to provide the papers necessary therefor and fails to do so  
14 within 120 days following the date of contract, you are entitled to  
15 return the animal and receive a refund of the purchase price or to  
16 retain the animal and receive a refund of an amount not ~~to exceed~~  
17 fifty-less than seventy-five percent of the purchase price ,  
18 including sales tax .

19 B. In addition, the dealer or pet shop shall display the  
20 following notice, in ten-point bold-faced type, on a sign placed in a  
21 publicly conspicuous location and manner at the dealer's or pet shop's  
22 place of sale:

23 PUBLIC NOTICE

24 THE SALE OF COMPANION ANIMALS BY A DEALER OR PET SHOP IS SUBJECT  
25 TO ARTICLE 3 (§ 3.1-796.78 et seq.) OF CHAPTER 27.4 OF TITLE 3.1  
26 AND THE CONSUMER PROTECTION ACT (§ 59.1-196 et seq.) OF THE  
27 VIRGINIA CODE. YOU HAVE SPECIFIC REMEDIES IN TRANSACTIONS  
28 INVOLVING COMPANION ANIMALS FROM THIS OR ANY OTHER DEALER OR PET

1       SHOP IN VIRGINIA. A COPY IS AVAILABLE IMMEDIATELY UPON REQUEST  
2       AND IS TO BE PRESENTED TO YOU AT THE TIME OF SALE IN THE FORM OF  
3       AN ANIMAL HISTORY CERTIFICATE OR SEPARATE DOCUMENT. IF YOU HAVE  
4       A COMPLAINT, YOU MAY CONTACT YOUR LOCAL LAW-ENFORCEMENT OFFICIAL  
5       OR THE VIRGINIA DIVISION OF CONSUMER AFFAIRS, RICHMOND, VIRGINIA  
6       (804-786-2043).

7       C. Failure to display, or to provide the consumer with, the  
8       written notice as required by this section is punishable as a Class 3  
9       misdemeanor.

10       § 3.1-796.81:1. Written notice of consumer remedies required to  
11       be supplied by boarding establishments.--A. A boarding establishment  
12       shall give the notice hereinafter set forth in writing to a consumer  
13       prior to the consumer's delivery of the animal to the boarding  
14       establishment. Such notice shall be embodied in a written document  
15       and shall state in ten-point bold-faced type the following:

16                   NOTICE

17       The boarding of animals is subject to Article 3 (§ 3.1-796.78 et  
18       seq.) of Chapter 27.4 of Title 3.1 of the Virginia Code. If your  
19       animal becomes ill or injured while in the custody of the boarding  
20       establishment, the boarding establishment shall provide the animal  
21       veterinary treatment for the illness or injury. The boarding  
22       establishment shall bear the cost of such treatment, unless the  
23       consumer and the boarding establishment have agreed in writing, at the  
24       time of intake, that the consumer shall bear the cost.  
25       Notwithstanding the agreement, the boarding establishment shall bear  
26       the expenses of veterinary treatment for any injury the animal  
27       sustains while at the boarding establishment if the injury resulted  
28       from the establishment's failure, whether accidental or intentional,

1 to provide the care required by § 3.1-796.68; however, boarding  
 2 establishments shall not be required to bear the cost of veterinary  
 3 treatment for injuries resulting from the animal's self-mutilation.

4 B. In addition, the boarding establishment shall display the  
 5 following notice, in ten-point bold-faced type, on a sign placed in a  
 6 conspicuous location and manner at the boarding establishment's intake  
 7 area:

8 PUBLIC NOTICE

9 THE BOARDING OF ANIMALS BY A BOARDING ESTABLISHMENT IS SUBJECT TO  
 10 ARTICLE 3 (§ 3.1-796.78 et seq.) OF CHAPTER 27.4 OF TITLE 3.1 OF  
 11 THE VIRGINIA CODE. YOU HAVE SPECIFIC REMEDIES WHEN BOARDING  
 12 ANIMALS IN THIS OR ANY OTHER BOARDING ESTABLISHMENT IN VIRGINIA.  
 13 A COPY IS AVAILABLE IMMEDIATELY UPON REQUEST AND IS TO BE  
 14 PRESENTED TO YOU AT THE TIME OF INTAKE IN THE FORM OF A WRITTEN  
 15 DOCUMENT. IF YOU HAVE A COMPLAINT, YOU MAY CONTACT YOUR LOCAL  
 16 LAW-ENFORCEMENT OFFICIAL OR THE VIRGINIA DIVISION OF CONSUMER  
 17 AFFAIRS, RICHMOND, VIRGINIA (804-786-2043).

18 C. Failure to display or provide the consumer with the written  
 19 notice as required by this section is punishable as a Class 3  
 20 misdemeanor.

21 § 3.1-796.82. Failure of dealer or pet shop to effect  
 22 registration after promise; violation of Consumer Protection Act;  
 23 remedies; veterinary certification; finding of intestinal parasites;  
 24 illness subsequent to sale; penalty.-- A---It shall be a violation of  
 25 the Virginia Consumer Protection Act (§ 59.1-196 et seq.) for a pet-  
 26 dealer or pet shop to state, promise, or represent that a ~~dog-or-eat-~~  
 27 companion animal is registered or capable of being registered with any  
 28 animal pedigree registry organization if the ~~pet-dealer shall-then-~~

1 ~~fail~~-or pet shop fails to either effect such registration or provide  
 2 the consumer with the documents necessary therefor within 120 days  
 3 following the date of sale of such animal. ~~In-the-event-that-If~~ a  
 4 ~~pet-dealer~~ or pet shop fails to effect registration or to provide the  
 5 necessary documents therefor within 120 days following the date of  
 6 ~~sale~~-the consumer's receipt of the animal , the dealer or pet shop  
 7 shall afford the consumer ~~shall-be-entitled-the right~~ to choose one  
 8 of the following options:

9 1. ~~To-return~~-Return the animal and ~~to-receive~~ from the dealer  
 10 or pet shop a refund of the purchase price plus sales tax; or

11 2. ~~To-retain~~-Retain the animal and ~~to-receive~~ from the dealer  
 12 or pet shop a refund of ~~an-amount-not-to-exceed-fifty-not less than~~  
 13 seventy-five percent of the purchase price and sales tax.

14 ~~B-The-veterinary-certification-and-statement-required-herein-~~  
 15 ~~shall-be-presented-to-the-pet-dealer-not-later-than-three-business-~~  
 16 ~~days-following-receipt-thereof-by-the-consumer-and-shall-contain-the-~~  
 17 ~~following-information---~~

18 1-~~The-name-of-the-owner~~,-

19 2-~~The-date-or-dates-of-the-examination~~,-

20 3-~~The-breed,-color,-sex,-and-age-of-the-animal~~,-

21 4-~~A-description-of-the-veterinarian's-findings~~,-

22 5-~~A-statement-that-the-veterinarian-certifies-the-animal-to-be-~~  
 23 ~~unfit-for-purchase,-and-~~

24 6-~~The-name-and-address-of-the-certifying-veterinarian-and-the-~~  
 25 ~~date-of-the-certification~~,-

26 ~~C-A-veterinary-finding-of-intestinal-parasites-shall-not-be-~~  
 27 ~~grounds-for-declaring-the-animal-unfit-for-purchase-unless-the-animal-~~  
 28 ~~is-clinically-ill-due-to-such-condition,-An-animal-may-not-be-found-~~



1 ~~unfit-for-purchase-on-account-of-an-injury-sustained-or-illness-~~  
 2 ~~contracted-subsequent-to-the-consumer-taking-possession-thereof---~~

3 Failure of the dealer or pet shop (i) at the times of purchase  
 4 and receipt of the animal to fully inform the consumer of his rights  
 5 and options under this section or (ii) within fourteen business days  
 6 after the consumer informs the dealer or pet shop verbally or in  
 7 writing of the option chosen, to fully refund to the consumer the  
 8 amount to which the consumer is entitled according to his choice of  
 9 options as provided under this section, shall be punishable as a Class  
 10 1 misdemeanor.

11 § 3.1-796.107. Complaint of suspected violation;  
 12 investigation.--A. Upon receiving a complaint of a suspected  
 13 violation of this chapter, any ~~law-enforcement-official-or-approved-~~  
 14 animal warden, court-appointed humane investigator , Division of  
 15 Animal Health compliance officer, or other law-enforcement official  
 16 may, for the purpose of investigating the allegations of the  
 17 complaint, enter upon any business premises , including any place  
 18 where animals or animal records are housed or kept, of any pet-shop-or  
 19 pet-dealer in-companion-animals-, pet shop, or boarding establishment  
 20 . Upon obtaining a warrant as provided for in § 3.1-796.113, the  
 21 law-enforcement officer , compliance officer, animal warden, or  
 22 court-appointed humane investigator may enter upon any other premises  
 23 where the animal or animals described in the complaint are housed or  
 24 kept. Attorneys for the Commonwealth and law-enforcement officials  
 25 shall provide such assistance as may be required in the conduct of  
 26 such investigations.

27 B. If the investigation discloses that a violation of §  
 28 3.1-796.68 has occurred, the ~~investigator~~-investigating official

1 shall notify the owner or custodian of the complaint and of what  
2 action is necessary to comply with this chapter.

3 § 3.1-796.121. Disposal of dead companion animals.--The owner of  
4 any ~~dog~~-companion animal which has died from disease or other cause  
5 shall forthwith cremate or bury the same. If, after notice, any owner  
6 fails to do so, the animal warden or other officer shall bury or  
7 cremate the ~~dog~~-companion animal, and he may recover on behalf of  
8 the local jurisdiction from the owner his cost for this service.

9 3.1-796.128. Unlawful acts; penalties.--A. The following shall be  
10 unlawful acts and constitute Class 4 misdemeanors:

11 1. License application. -- For any person to make a false  
12 statement in order to secure a dog license to which he is not  
13 entitled.

14 2. License tax. -- For any dog owner to fail to pay the license  
15 tax required by this chapter before February 1 for the year in which  
16 it is due. In addition, the court may order confiscation and the  
17 proper disposition of the dog.

18 3. Leash ordinance. -- For any dog owner to allow a dog to run at  
19 large in violation of an ordinance passed pursuant to § 3.1-796.95.

20 4. Rabies regulations. -- For any person to fail to obey an  
21 ordinance passed pursuant to §§ 3.1-796.98 and 3.1-796.100.

22 5. Dead ~~dogs~~-companion animals. -- For any owner to fail to  
23 dispose of the body of his ~~dog~~-companion animal in violation of §  
24 3.1-796.121.

25 6. Diseased dogs. -- For the owner of any dog with a contagious  
26 or infectious disease to permit such dog to stray from his premises if  
27 such disease is known to the owner.

28 7. Concealing a dog. -- For any person to conceal or harbor any

1 dog on which the license tax has not been paid.

2 8. Removing collar and tag. -- For any person, except the owner  
3 or custodian, to remove a legally acquired license tag from a dog  
4 without the permission of the owner or custodian.

5 9. Other violations. -- Any other violation of this chapter for  
6 which specific penalty if not provided.

7 B. For any person to present a false claim or to receive any  
8 money on a false claim under the provisions of § 3.1-796.118 shall  
9 constitute a Class 1 misdemeanor.

10 § 18.2-403.1. Offenses involving animals--Class 1  
11 misdemeanors.--The following unlawful acts and offenses against  
12 animals shall constitute and be punished as a Class 1 misdemeanor:

13 1. Violation of § 3.1-796.122 pertaining to cruelty to animals.

14 2. Violation of § 3.1-796.69 pertaining to transporting animals  
15 under certain conditions.

16 3. Making a false claim or receiving money on a false claim  
17 under § 3.1-796.118 pertaining to compensation for livestock and  
18 poultry killed by dogs.

19 4. Violation of § 3.1-796.69:1 pertaining to dealer and pet shop  
20 registration.

21 5. Violation of § 3.1-796.79 pertaining to inclusion of false or  
22 misleading statements in animal history and veterinary inspection  
23 certificate.

24 6. Violation of § 3.1-796.80 pertaining to consumer remedies for  
25 receipt of diseased animal.

26 7. Violation of § 3.1-796.80:1 pertaining to boarding  
27 establishments.

28 8. Violation of § 3.1-796.82 pertaining to failure of dealer or

1 pet shop to effect registration after promise.

2 § 18.2-403.2. Same--Class 3 misdemeanors.--The following unlawful  
3 acts and offenses against animals shall constitute and be punished as  
4 a Class 3 misdemeanor:

5 1. Violation of § 3.1-796.71 pertaining to the failure of a  
6 shopkeeper or pet dealer to provide adequate care to animals.

7 2. Violation of § 3.1-796.72 pertaining to the misrepresentation  
8 of an animal's condition by the shopkeeper or pet dealer.

9 3. Violation of §§ 3.1-796.73 and 3.1-796.122 pertaining to the  
10 abandonment of animals.

11 4. Violation of § 3.1-796.70 pertaining to the sale of baby  
12 fowl.

13 5. Violation of § 3.1-796.125 pertaining to fighting cocks, dogs  
14 and other animals.

15 6. Violation of § 3.1-796.123 pertaining to soring horses.

16 7. Violation of § 3.1-796.71:1 pertaining to dealer and pet shop  
17 procedures for receiving animals.

18 8. Violation of § 3.1-796.78 pertaining to sale without animal  
19 history certificate.

20 9. Violation of § 3.1-796.81 pertaining to written notice of  
21 consumer remedies required to be supplied by dealers and pet shops.

22 10. Violation of § 3.1-796.81:1 pertaining to notice of consumer  
23 remedies required to be supplied by boarding establishments.

24 § 18.2-403.3. Same--Class 4 misdemeanors.--The following  
25 unlawful acts and offenses against animals shall constitute and be  
26 punished as a Class 4 misdemeanor:

27 1. Violation of § 3.1-796.111 pertaining to interference of  
28 agents charged with preventing cruelty to animals.

1 2. Violation of § 3.1-796.126 pertaining to shooting pigeons.

2 3. Violation of § 3.1-796.121 pertaining to disposing of the  
3 body of a dead ~~dog~~companion animal .

4 4. Violation of ordinances passed pursuant to §§ 3.1-796.98 and  
5 3.1-796.100 pertaining to rabid dogs and preventing the spread of  
6 rabies and the running at large of vicious dogs.

7 5. Violation of an ordinance passes pursuant to § 3.1-796.95  
8 requiring dogs to be on a leash.

9 6. Failure by any person to secure and exhibit the permits  
10 required by § 29.1-422 pertaining to field trails, night trails and  
11 foxhounds.

12 7. Diseased dogs. - For the owner of any dog with a contagious  
13 or infectious disease to permit such dog to stray from his premises if  
14 such disease is known to the owner.

15 8. License application. - For any person to make a false  
16 statement in order to secure a dog license to which he is not  
17 entitled.

18 9. License tax. - For any dog owner to fail to pay the license  
19 tax required by § 3.1-796.88 before February 1 for the year in which  
20 it is due. In addition, the court may order confiscation and the  
21 proper disposition of the dog.

22 10. Concealing a dog. - For any person to conceal or harbor any  
23 dog on which the license tax has not been paid.

24 11. Removing collar and tag. - For any person, except the owner  
25 or custodian, to remove a legally acquired license tag from a dog  
26 without the permission of the owner or custodian.

27 12. Violation of § 3.1-796.68 pertaining to care of animals by  
28 owner.

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