

NORTH CAROLINA GENERAL ASSEMBLY
1977 SESSION

CHAPTER 1217
HOUSE BILL 1021

AN ACT TO SUPPLEMENT THE FEDERAL LABORATORY ANIMAL WELFARE ACT
(P.L. 89-544) AS AMENDED, TO PROVIDE STANDARDS FOR THE CARE OF
ANIMALS IN ANIMAL SHELTERS AND PET SHOPS, AND TO REGULATE
DEALERS.

The General Assembly of North Carolina enacts:

Section 1. This act may be cited as the Animal Welfare Act.

Sec. 2. The purposes of this act are (1) to protect the owners of dogs and cats from the theft of such pets; (2) to prevent the sale or use of stolen pets; (3) to insure that animals, as items of commerce, are provided humane care and treatment by regulating the transportation, sale, purchase, housing, care, handling and treatment of such animals by persons or organizations engaged in transporting, buying, or selling them for such use; (4) to insure that animals confined in pet shops, kennels, animal shelters and auction markets are provided humane care and treatment; (5) to prohibit the sale, trade or adoption of those animals which show physical signs of infection, communicable disease, or congenital abnormalities, unless veterinary care is assured subsequent to sale, trade or adoption.

Sec. 3. There is hereby created within the Animal Health Division of the North Carolina Department of Agriculture, a new section thereof, to be known as the Animal Welfare Section of said division.

The Commissioner of Agriculture is hereby authorized to appoint a director of said section whose duties and authority shall be determined by the commissioner subject to the approval of the Board of Agriculture and subject to the provisions of this act.

Sec. 4. Definitions: For the purposes of this act, the following terms, when used in the act or the rules and regulations or orders made pursuant thereto, shall be construed respectively to mean:

- (a) "Director" means the Director of the Animal Welfare Section of the Animal Health Division of the Department of Agriculture.
- (b) "Person" means any individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or other legal entity.
- (c) "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.
- (d) "Pet shop" means a person or establishment that acquires for the purposes of resale animals bred by others whether as owner, agent, or on consignment, and that sells, trades or offers to sell or trade such animals to the general public at retail or wholesale.
- (e) "Animal" means any domestic dog (*Canis familiaris*), domestic cat (*Felis domestica*).

- (f) "Public auction" means any place or location where dogs or cats are sold at auction to the highest bidder regardless of whether such dogs or cats are offered as individuals, as a group, or by weight.
- (g) "Commissioner" means the Commissioner of Agriculture of the State of North Carolina.
- (h) "Dealer" means any person who sells, exchanges, or donates, or offers to sell, exchange, or donate animals to another dealer, pet shop, or research facility; provided, however, that an individual who breeds and raises on his own premises no more than the offspring of five canine or feline females per year, unless bred and raised specifically for research purposes shall not be considered to be a dealer for the purposes of this act.
- (i) "Research facility" means any place, laboratory, or institution at which scientific tests, experiments, or investigations involving the use of living animals are carried out, conducted, or attempted.
- (j) "Primary enclosure" means any structure used to immediately restrict an animal or animals to a limited amount of space, such as a room, pen, cage compartment or hutch.
- (k) "Housing facility" means any room, building, or area used to contain a primary enclosure or enclosures.
- (l) "Sanitize" means to make physically clean and to remove and destroy to a practical minimum, agents injurious to health.
- (m) "Euthanasia" means the human destruction of an animal accomplished by a method that involves rapid unconsciousness and immediate death or by a method that involves anesthesia, produced by an agent which causes painless loss of consciousness, and death during such loss of consciousness.
- (n) "Ambient temperature" means the temperature surrounding the animal.
- (o) "Adequate feed" means the provision at suitable intervals, not to exceed 24 hours, of a quantity of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition in each animal. Such foodstuff shall be served in a sanitized receptacle, dish, or container.
- (p) "Adequate water" means a constant access to a supply of clean, fresh, potable water provided in a sanitary manner or provided at suitable intervals for the species and not to exceed 24 hours at any interval.

Sec. 5. The Board of Agriculture is hereby authorized and empowered to make such reasonable rules and regulations with regard to animal welfare as may be necessary to carry out the objectives and the intent of this act. Such rules and regulations may include but are not limited to provisions relating to humane transportation to and from registered or licensed premises, records of purchase and sale, identification of animals handled, primary enclosures, housing facilities, sanitation, euthanasia, ambient temperatures, feeding, watering, and veterinary medical care. It may, after public hearing shall have been held and notification of such hearing having been given to all licensees, adopt in whole or in part those portions of 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 89-544, commonly known as the Laboratory Animal Welfare Act, which are consistent with the intent and purpose of this act.

Sec. 6. For the enforcement of the provisions of this act, the director is authorized, subject to the approval of the commissioner to appoint employees as are necessary in order to carry out and enforce the provisions of this act, and to assign them interchangeably with other employees of the Animal Health Division. The director shall cause the investigation of all reports of violations of the provisions of this act, and the rules and regulations adopted pursuant to the provisions hereof; provided further that if any person shall deny the director or his

representative admittance to his property, either person shall be entitled to secure from any superior court judge a court order granting such admittance.

Sec. 7. No person shall operate an animal shelter for more than one year subsequent to the effective date of this act unless a certificate of registration for such animal shelter shall have been granted by the director. Application for such certificate shall be made in the manner provided by the director. No fee shall be required for such application or certificate. Certificates of registration shall be valid for a period of one year or until suspended or revoked and may be renewed for like periods upon application in the manner provided.

Sec. 8. No person shall operate a pet shop as defined in this act for more than six months subsequent to the effective date of this act unless a license to operate such establishment shall have been granted by the director. Application for such license shall be made in the manner provided by the director. The license shall be for the fiscal year and the license fee shall be twenty-five dollars (\$25.00) for each license period or part thereof beginning with the first day of the fiscal year.

Sec. 9. No person shall operate a public auction or a boarding kennel as defined in this act for more than six months subsequent to the effective date of this act unless a license to operate such establishment shall have been granted by the director. Application for such license shall be made in the manner provided by the director. The license period shall be the fiscal year and the license fee shall be twenty-five dollars (\$25.00) for each license period or part thereof beginning with the first day of the fiscal year.

Sec. 10. No person shall be a dealer as defined in this act for more than six months after the effective date of this act unless a license to deal shall have been granted by the director to such person. Application for such license shall be in the manner provided by the director. The license period shall be the fiscal year and the license fee shall be twenty-five dollars (\$25.00) for each license period or part thereof, beginning with the first day of the fiscal year.

Sec. 11. The director may refuse to issue or renew or may suspend or revoke a certificate of registration for any animal shelter or a license for any public auction, kennel, pet shop, or dealer, if after an impartial investigation as provided in this act he determines that any one or more of the following grounds apply:

- (a) material misstatement in the application for the original certificate of registration or license or in the application for any renewal under this act;
- (b) willful disregard or violation of this act or any regulations or rules issued pursuant thereto;
- (c) failure to provide adequate housing facilities and/or primary enclosures for the purposes of this act, or if the feeding, watering, sanitizing and housing practices at the animal shelter, public auction, pet shop, or kennel are not consistent with the intent of this act or with the intent of the rules and regulations which may be promulgated pursuant to the authority of this act;
- (d) allowing one's license under this act to be used by an unlicensed person;
- (e) conviction of any crime an essential element of which is misstatement, fraud, or dishonesty, or conviction of any felony;
- (f) making substantial misrepresentations or false promises of a character likely to influence, persuade, or induce in connection with the business of a public auction, commercial kennel, pet shop, or dealer;
- (g) pursuing a continued course of misrepresentation of or making false promises through advertising, salesmen, agents, or otherwise in connection with the business to be licensed;
- (h) failure to possess the necessary qualifications or to meet the requirements of this act for the issuance or holding of a certificate of registration or license.

The director shall, before refusing to issue or renew and before suspension or revocation of a certificate of registration or a license, give to the applicant or holder thereof a

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

Any person to whom a certificate of registration or a license is denied, suspended, or revoked by the director, may appeal such denial, suspension, or revocation by filing within five days in writing with the director a request for a public hearing before the Board of Agriculture or its designated hearing officer, and such hearing shall be held within 10 days and shall be conducted in accordance with the provisions of Section 13 of this act.

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

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

Sec. 13. Proceedings under this act shall be taken by the Board of Agriculture or its delegated hearing officer when accusation is made in writing and under oath. Upon receiving such accusation, the Board of Agriculture, or its hearing officer, shall serve notice by registered mail or personally of the time and place of the hearing, and a copy of the charges upon the accused at least 15 days before the date of the hearing. The Board of Agriculture, or its hearing officer, for sufficient cause in its discretion, may postpone or continue said hearing from time to time, or if after proper notice no appearance is made by the accused, the board or the hearing officer may enter judgment at the time of hearing as prescribed herein, either by suspending or revoking the license of the accused or dismissing the accusation. Both the Board of Agriculture, or hearing officer, and the accused may have the benefit of counsel and the right to cross-examine witnesses, to take depositions, and to compel attendance of witnesses as in cases by subpoena issued by the director under the seal of the Board of Agriculture, and in the name of the State of North Carolina. The testimony of all witnesses at any hearing before the Board of Agriculture, or hearing officer, shall be under oath or affirmation. The director is authorized to reimburse witnesses for their time and travel, and to award expert witness fees to witnesses so qualified. The record of all hearings and judgments shall be kept by the Secretary of the Board of Agriculture, and in the event of suspension or revocation of certificate of registration or license, the secretary shall within 10 days transmit a certified copy of said judgment to the clerk of the superior court of the county of the residence of the accused or his registered agent, and the clerk shall file said judgment in the judgment docket of said county.

Any person may appeal to the Superior Court of Wake County the denial of a certificate of registration or license, and any holder of a certificate of registration or licensee may appeal to the Superior Court of Wake County the failure to renew any certificate of registration or license or the revocation or suspension of the license issued under the provisions of this act, and such appeals shall be made pursuant to the provisions of Chapter 150A of the General Statutes.

Sec. 14. Operation of a pet shop, kennel, or public auction without a currently valid license shall constitute a misdemeanor subject to a penalty of not less than five dollars (\$5.00) nor more than twenty-five dollars (\$25.00), and each day of operation shall constitute a separate offense.

Sec. 15. Acting as a dealer in animals as defined in this act without a currently valid dealer's license shall constitute a misdemeanor subject to a penalty of not less than five dollars (\$5.00) nor more than twenty-five dollars (\$25.00), or imprisonment for a period not to exceed six months, or both fine and imprisonment. Continued illegal operation after conviction shall constitute a separate offense. Animals found in possession or custody of an unlicensed dealer shall be subject to immediate seizure and impoundment and upon conviction of such unlicensed dealer shall become subject to sale or euthanasia in the discretion of the director.

Sec. 16. Failure of any person licensed or registered under this act to adequately house, feed, and water animals in his possession or custody shall constitute a misdemeanor, and such person shall be subject to a fine of not less than five dollars (\$5.00) per animal or more than a total of one thousand dollars (\$1,000). Such animals shall be subject to seizure and impoundment and upon conviction may be sold or euthanized at the discretion of the director and such failure shall also constitute grounds for revocation of license after public hearing. The director is hereby authorized to disburse State funds in such amount as in his discretion is necessary to provide for the welfare of the animals until either sold or euthanized and any fine levied in connection with this section shall be applied toward reimbursement of such State funds as the director shall have expended.

Sec. 17. Violation of any provision of this act which relates to the seizing, impoundment, and custody of an animal by a dog warden shall constitute a misdemeanor and the person convicted thereof shall be subject to a fine of not less than fifty dollars (\$50.00) and not more than one hundred dollars (\$100.00), and each animal handled in violation shall constitute a separate offense.

Sec. 18. This act shall not apply to a place or establishment which is operated under the immediate supervision of a duly licensed veterinarian as a hospital where animals are harbored, boarded, and cared for incidental to the treatment, prevention, or alleviation of disease processes during the routine practice of the profession of veterinary medicine. This act shall not apply to any dealer, pet shop, public auction, commercial kennel or research facility during the period such dealer or research facility is in the possession of a valid license or registration granted by the Secretary of Agriculture pursuant to the provisions of United States Public Law 89-544. This act shall not apply to any individual who occasionally boards an animal on a noncommercial basis, although such individual may receive nominal sums to cover the cost of such boarding.

Sec. 19. All license fees collected shall be used in enforcing and administering this act.

Sec. 20. If any provision of this act or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Sec. 21. Nothing in this act shall apply to those kennels or establishments operated primarily for the purpose of training hunting dogs.

Sec. 22. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 23. This act shall become effective January 1, 1979.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.