



State of North Carolina

General Statutes Commission
9001 Mail Service Center
RALEIGH, NORTH CAROLINA
27699-9001

REPORT TO THE 2005 GENERAL ASSEMBLY OF NORTH CAROLINA, 2006 REGULAR SESSION, ON PUPPY MILLS

BACKGROUND

Section 2 of Session Law 2003-208 (Senate Bill 669, Civil Remedy for Animal Cruelty) authorized the General Statutes Commission (Commission), in consultation with the North Carolina Department of Agriculture and Consumer Services, to study "the need to regulate the unlimited breeding of dogs and cats and the animal cruelty resulting from the operations commonly referred to as 'puppy mills.'" The Commission was further authorized to make an interim report to the 2003 General Assembly, 2004 Regular Session, and to make its final report to the 2005 General Assembly. Session Law 2003-208 became law on June 19, 2003, and is attached as part of Appendix A.

The Commission filed an Interim Report to the 2003 General Assembly of North Carolina, 2004 Regular Session, on Puppy Mills (Interim Report), dated May 31, 2004, attached as Appendix A.

The General Statutes Commission was created by the General Assembly in 1945. The statutory provisions relating to the Commission are found in Article 2 of Chapter 164 of the General Statutes (N.C. Gen. Stat. § 164-12, et seq.).

PROCEEDINGS

As set out more fully in the Interim Report, the Commission began working on this study at its September 3, 2003, meeting. Over the next nine months, the Commission received information, both written and oral, from various individuals and entities. At the Commission's December 5, 2003, meeting, staff reported that a subcommittee of the House Interim Committee on the Prevention and Disposition of Unwanted and Abandoned Companion Animals (House Interim Committee) had begun to examine a proposal to license all dog breeders, which would potentially moot any need for legislation specifically directed at puppy mills. To avoid duplication of effort, the Commission requested its staff to monitor the Committee's work on

that issue. At the Commission's May 7, 2004, meeting, the Commission reviewed and discussed the House Interim Committee's final recommendation, which contained nothing that would address puppy mills. In the Commission's Interim Report, the Commission made no recommendation but noted the following possible areas for further investigation:

- (1) Further examination of the need for State-wide uniformity.
- (2) "Puppy lemon laws," which have been adopted in 17 states.
- (3) Amending the animal cruelty laws to target some practices followed by puppy mills.
- (4) Civil penalties for puppy mills.
- (5) A licensing and inspection program.

Due to a number of factors, including work on other legislative studies, the Commission was not able to resume its consideration of this study until its December 2, 2005, meeting. At that meeting, the Commission reviewed its previous work on this study. The Commission noted that response to the House Interim Committee's proposal for a breeder license had been overwhelmingly negative, to the point that its final recommendation to the General Assembly had omitted the proposal entirely. Accordingly, the Commission concluded that it would not be a good use of its time to look at a State-wide licensing and inspection program or related areas. Although the animal cruelty laws could be amended to include constant repeated breeding of a female dog (or cat) as animal cruelty, the Commission questioned whether such a provision would be effective because of the difficulty of obtaining proof.

A possible puppy lemon law was the remaining item on the list of possible areas for further investigation. Sixteen states have statutory provisions that are commonly referred to "puppy lemon laws." The states are Arizona, Arkansas, California, Connecticut, Delaware, Florida, Maine, Minnesota, Nevada, New Hampshire, New Jersey, New York, Pennsylvania, South Carolina, Vermont, and Virginia. Massachusetts has similar provisions in its administrative code.

All these laws give someone who purchases a pet dog or other companion animal from a specified seller some sort of remedy if the dog was sick at the time of the sale, whether the dog actually displayed symptoms at that time or developed them within a specified short time after the sale. Twelve of the states also provide a separate, longer time for the appearance of problems that are congenital or hereditary. The seller is also usually required to give the purchaser written information about the dog and its medical history. All states allow the purchaser to return the dog and have the purchase price refunded. Most states include limited reimbursement for veterinary fees to treat the illness as part of the purchaser's remedy, even where the purchaser elects to keep the dog. States that include reimbursement for veterinary fees limit the

reimbursement to the price of the dog or a different amount based on the price of the dog, except for Connecticut, which sets a limit of \$200. Most states also allow the purchaser to elect to exchange the sick dog for another dog, if one is available, in lieu of a refund.

These laws differ considerably in detail. For example, the older laws apply only to pet shop sales, apparently because, as reported to the Commission, pet shops used to be the primary sales outlet for puppy mills. Reportedly, puppy mills now sell puppies directly to the public, and newer laws tend to include large-scale or commercial breeders or both. There is, however, no uniformity in defining which breeders are covered by puppy lemon laws.

Some states have additional features in their laws. For example, California, Delaware, New York, and Pennsylvania include a remedy for the seller's failure to deliver promised registration paperwork for a purebred dog.

Hard evidence on the extent of a puppy mill problem in this State is difficult to obtain. In the survey of counties done by the North Carolina Association of County Commissioners in 2003, as more fully reported in the Interim Report, 18 counties reported having puppy mills, while 34 did not, and one did not know whether it had any. The Commission's staff reported that local newspapers frequently carry advertisements for puppies of different breeds at the same telephone number. As described more fully in the Interim Report, this circumstance was previously reported to the Commission as an indication that the seller is a puppy mill. The Attorney General's Consumer Protection Section informed the Commission's staff that the section received 19 complaints about defective dogs during calendar year 2004 and that the section estimates that only about one in ten persons who have a complaint contact it.

The Commission asked its staff to prepare a draft proposal for a puppy lemon law based on other states' laws. It decided, however, that anyone, not just pet shops or large breeders, who sold a sick dog should allow the purchaser to return the dog for a refund or to exchange it, although any reimbursement for veterinary fees should be limited to pet shops and larger breeders.

The Commission reviewed a draft proposal for a puppy lemon law at its January 6, 2006, and March 3, 2006, meetings. In addition, at the January 6, 2006, meeting, the Commission's staff reported that the SPCA of Wake County expressed willingness to see if it could, for a limited time, keep some sort of record of dogs at the Wake County animal shelter that appeared to be from puppy mills.

At the Commission's March 3, 2006, meeting, it concluded that it would not be able to complete work on a legislative proposal in time to circulate the proposal for comments from interested individuals and groups before the deadline for introduction of bills in the 2006 legislative session. The Commission also concluded that it was important to seek such comment before making a final recommendation on a legislative proposal. It decided to continue work on

this proposal and to report its progress to the General Assembly as provided in the Findings and Recommendation.

The Commission's most recent draft of a proposal includes the following features:

- The draft covers only sales of dogs.
- It provides remedies to the purchaser of a dog that is unfit for sale at the time of the sale due to illness or a hereditary or congenital defect or condition. The draft sets out criteria for determining that a dog is "unfit for sale" based on similar criteria in other puppy lemon laws.
- This determination must be made by a veterinarian and documented in writing.
- The determination must be made within 14 days after the purchaser takes possession of the dog unless the problem is congenital or hereditary, in which case the time for diagnosing the problem is extended to one year.
- The term "purchaser" is limited to an individual who purchases a dog without intent to resell.
- Remedies include return of the dog for refund or exchange for another dog, which is available to a purchaser from any seller. If the seller was a pet shop or "covered breeder," the remedy includes reimbursement for veterinarian fees up to the dog's purchase price. A purchaser entitled to this reimbursement may keep the dog and seek only the reimbursement.
- The term "covered breeder" is defined as a breeder that sells directly to a purchaser, excluding a person who breeds and raises on his or her premises no more than three litters in a calendar year. Because a purchaser may have no way of telling how many litters a year a seller breeds, the definition includes a rebuttable presumption that a person with more than 20 dogs at the time of a sale is a covered breeder.
- The purchaser must notify the seller within five days of the veterinarian's determination.
- The seller may have the dog examined by another veterinarian.
- The seller has 10 business days to comply with the purchaser's request for a remedy. After that time, the purchaser may bring a civil action to obtain the remedy. Although most actions are likely to be brought in small claims court, the

draft currently permits the court to award attorney fees to the prevailing party if the other party acted in bad faith.

- The draft provides affirmative defenses for a seller that include the purchaser's failure to take timely action; the failure of a purchaser who returns a purebred dog to return its registration paperwork; the dog's condition being the result of mistreatment by the purchaser or an injury or exposure to infection that occurred after the purchaser took possession of the dog; and the fact that the seller gave the required medical history information about the dog, and it identified the existence or possible development of the condition that affects the dog.
- A pet shop or a covered breeder must give the purchaser in writing basic information about the dog and its medical history. This information must identify any known illness or other medical problem and may identify congenital or hereditary problems the dog has not developed but are known to affect the dog's family or breed. If this information is required, failure to provide it tolls the time limits within which the purchaser must act.
- The draft excludes registered animal shelters, governmental entities, and bona fide nonprofit animal rescue organizations that find adoptive homes for dogs.

During the course of its study, the Commission received substantial written information including individual comments, articles on puppy mills, other state laws, and proposals for legislation. This material and the other records of the Commission relating to this study are available through the Revisor of Statutes, 9001 Mail Service Center, Raleigh, North Carolina 27699-9001, (919) 716-6800.

FINDINGS AND RECOMMENDATION

Puppy mills can be defined as breeding establishments in which the production of puppies is maximized and the overhead costs are minimized as much as possible. The result is twofold: the animals kept for breeding are kept in substandard conditions and given minimal care, and the puppies suffer from poor genetics and poor socialization, commonly do not make good pets, and contribute to the pet overpopulation in animal shelters.

A puppy lemon law is an indirect means of addressing the problem of puppy mills. The remedies provided by a typical puppy lemon law should discourage puppy mills: either damages paid to purchasers will reduce the proprietor's profit margin or the proprietor will improve breeding practices and the dogs' living conditions and medical care to avoid liability. The requirement that the seller provide the purchaser with basic information about the dog and its medical history should help the purchaser make a better-informed choice. A puppy lemon law is self-implementing and does not establish a new regulatory program or require the expenditure of additional public funds. Although a breeder licensing and inspection program would be a direct

and probably more effective way to eliminate puppy mills, such a program would unnecessarily burden reputable breeders, expand State regulation into new areas (which in some cases would include breeders' homes), require extra funds and personnel, and does not appear to be warranted at this time.

The Commission is of the opinion that a puppy lemon law is the most reasonable of the available avenues for curbing puppy mills at the present time. The Commission therefore intends to continue its work on a legislative proposal for a puppy lemon law for this State for possible introduction in the 2007 legislative session.

This the 5th day of May, 2006.

Respectfully submitted,

Charles C. Lewis, Chairman
Charles E. Smith, Vice Chairman

H. Miles Foy
B. Geoffrey Hulse
William A. Reppy
Fletcher L. Hartsell, Jr.
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General Statutes Commission

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**INTERIM
REPORT TO THE
2003 GENERAL ASSEMBLY OF NORTH CAROLINA,
2004 REGULAR SESSION,
ON
PUPPY MILLS**

BACKGROUND

Section 2 of Session Law 2003-208 (Senate Bill 669, Civil Remedy for Animal Cruelty) authorizes the General Statutes Commission (Commission), in consultation with the North Carolina Department of Agriculture and Consumer Services (Department), to study "the need to regulate the unlimited breeding of dogs and cats and the animal cruelty resulting from the operations commonly referred to as 'puppy mills.'" The Commission is further authorized to make an interim report to the 2003 General Assembly, 2004 Regular Session, and to make its final report to the 2005 General Assembly:

Session Law 2003-208 became law on June 19, 2003, and is attached as Appendix A.

The General Statutes Commission was created by the General Assembly in 1945. The statutory provisions relating to the Commission are found in Article 2 of Chapter 164 of the General Statutes (N.C. Gen. Stat. § 164-12, et seq.).

PROCEEDINGS

The General Statutes Commission discussed the study at its September 5, 2003, October 3, 2003, November 7, 2003, December 5, 2003, March 5, 2004, and May 7, 2004, meetings.

During this period, the Commission received input and information from the following representatives of the Department: Dr. Carol Woodlief, Field Veterinarian; Dr. David Marshall, State Veterinarian; Dr. Fred Kirkland, Director of Animal Health Programs; and Mr. David S. McLeod, General Counsel. The Commission also heard from Ann Lore, a former member of the Board of Directors of the SPCA of Wake County, a certified animal rescue volunteer, and a member of the local Australian Shepherd rescue group; O. Morton Congleton, Executive Director of the SPCA of Wake County; and Mondy Lamb, also with the SPCA of Wake County. The Commission also received information from Senator Fern Shubert; Cora Tyson, a former animal cruelty investigator in the Greenville area; Andy Romanet, General Counsel for the North

Carolina League of Municipalities; Dr. Lee Hunter, the State Public Health Veterinarian for the North Carolina Department of Health and Human Services; and The Humane Society of the United States. Patrice Roesler, Director of Intergovernmental Relations for the North Carolina Association of County Commissioners, generously included questions from the Commission on a survey she conducted to assist the House Interim Committee on the Prevention and Disposition of Unwanted and Abandoned Companion Animals (House Interim Committee). The Commission thanks all who assisted in this study.

At the Commission's September 5, 2003, meeting, staff reported the enactment of the study provision. Staff also reported that Co-Speakers James B. Black and Richard T. Morgan established, pursuant to G.S. 120-19.6, the House Interim Committee and that at that point it did not appear that the subjects to be studied by the Committee would overlap the study authorized by Senate Bill 669. The Commission accordingly opened a docket on the study (DN 03- 4).

The Commission noted that the Animal Welfare Act, codified as Article 3 of Chapter 19A of the General Statutes, includes pet shops and dealers who sell to pet shops. The Board of Agriculture is authorized to adopt rules to implement the Animal Welfare Act, and these rules could provide some guidance for possible regulation of puppy mills. The Commission also noted the possibility of expanding the Animal Welfare Act to include puppy mills.

At the Commission's October 3, 2003, meeting, it heard from Dr. David Marshall, State Veterinarian; Dr. Fred Kirkland, Director of Animal Health Programs; Dr. Carol Woodlief, Field Veterinarian; and Mr. David S. McLeod, the Department's General Counsel.

Dr. Woodlief provided information about North Carolina's Animal Welfare Act and summarized the Department of Agriculture's responsibilities under the Act. She confirmed that it currently does not cover private breeders who sell puppies directly to the general public.

The Department's position is that any regulation of private breeders would be more efficient and effective if done by local government, either through zoning or through general police powers to regulate and license businesses. The Department does not currently have the resources to locate and inspect all the private breeding facilities in the State. It also does not have any information on the number of puppy mills in North Carolina. Dr. Marshall referred the Commission to a nongovernmental operation, such as The Humane Society of the United States, for some indication of the number of puppy mills in the State.

At the Commission's November 7, 2003, meeting, staff reported that Patrice Roesler, Director of Intergovernmental Relations for the North Carolina Association of County Commissioners, had agreed to include the following questions in a county survey she planned to conduct to assist the House Interim Committee in obtaining information about county animal shelters and animal control programs, including county euthanasia methods:

- Are you aware of the existence of any puppy mills in your county? If so, please provide an estimate of the number of puppy mills operating in your county.

- Do you believe there is a problem with puppy mills in your county? If so, please explain.
- Would your county like explicit authority to enact ordinances regulating puppy mills?
- Has your county ever used G.S. 14-360 (cruelty to animals), G.S. 19A-1 through G.S. 19A-4 (civil remedy for protection of animals), or G.S. 153A-127 (abuse of animals) in dealing with puppy mills?

Staff also reported that, according to Andy Romanet, General Counsel for the North Carolina League of Municipalities, puppy mills are not a problem for municipalities, municipalities have broad animal control statutes and are able to place restrictions on the number of dogs and cats a person can own, and puppy mills are more likely to occur outside city limits.

Staff further reported contacting Dr. Lee Hunter, the State Public Health Veterinarian for the North Carolina Department of Health and Human Services, who stated that he does not see puppy mills as a public health issue.

The Commission heard from Ann Lore, a former member of the Board of Directors of the SPCA of Wake County, a certified animal rescue volunteer, and a member of the local Australian Shepherd rescue group. She encountered puppy mills when she participated as an emergency animal rescue volunteer in the Greenville area after Hurricane Floyd. Ms. Lore explained that at its most basic, a “puppy mill” is an irresponsible breeding establishment. The females are continuously bred, and no attention is paid to genetics. Partly as a result, it is estimated that about 25% of purebred dogs have genetic defects. The dogs are commonly kept in less than humane living situations, living in small cages that have no protection from the elements and are not cleaned regularly. Dogs in these conditions may eat their own feces. They are generally given inadequate health care, because it is cheaper to dispose of a dog than treat it. As a result, puppies often have very severe illnesses. The puppies are not properly socialized, which can lead to excessive timidity and problems such as fear biting. They are removed too early from the mother, leaving them with immune systems that are immature and thus more susceptible to disease, and also leading to socialization problems. The females are typically destroyed when their fertility declines or they become unhealthy. The puppies often end up in animal shelters because they do not make good pets. Ms. Lore gave some examples of genetic defects produced through irresponsible breeding. Production of puppies with such defects is a disservice to the customer.

Ms. Lore stated that most puppy mills are in rural counties adjacent to urban counties. A puppy mill can be suspected when a seller brings a selection of home-bred puppies to a flea market most weeks in the year, or always has an advertisement in the classified section of the Sunday paper, particularly if the ad is for a number of different breeds at the same telephone number. Sometimes there are separate ads per breed, but there is a common telephone number.

If the ad is for “adorable Pekepoos, Cockapoos, and Miniature Poodles,” one can expect a puppy mill where a male Miniature Poodle is being bred to a number of different small-breed females (e.g. Pekinese, Cocker Spaniel, and other Miniature Poodles). Puppy mills in this State also produce Rottweilers and pit bulls.

She also reported on California’s “puppy lemon law,” which was very popular in that state (California’s law requires those who sell, transfer, or give away three or more litters or 20 or more dogs to make certain disclosures to purchasers, provides for graduated civil penalties when these disclosures are not made, and allows purchasers of sick dogs or dogs that display an inherited health defect to obtain various rescissionary-based remedies from the seller).

At the Commission’s December 5, 2003, meeting, it heard from O. Morton Congleton, Executive Director of the SPCA of Wake County; and Mondy Lamb, also with the SPCA of Wake County. They provided information on the current pet overpopulation problem, types of breeders (including puppy mills), financial and emotional tolls on communities due to pet overpopulation, and identification of reputable dog breeders. Mr. Congleton discussed statistics on dogs and cats that enter animal shelters and the numbers that are returned to their homes, adopted, and euthanized, including statistics from the shelter in Wake County. The biggest contributors to the pet overpopulation problem are “just one litter” breeders and puppy mills.

As described by Mr. Congleton and Ms. Lamb, puppy mills are dirty, dingy places where one or several popular dog breeds are kept in overcrowded conditions, constantly reproducing to provide income for the breeder. They produce ill-tempered puppies that are prone to health problems. These puppies, sold to an uninformed public with no regard to suitability of the home for the puppy, too often end up in animal shelters; Ms. Lamb noted that behavioral problems are the second most common reason for dogs to end up in animal shelters.

The SPCA of Wake County also has humanitarian concerns with puppy mills. Female dogs at such establishments are made to produce litters every cycle (typically, two to three per year) until they are “spent,” beginning when they are as young as six months old. This overbreeding causes nutritional deficiencies and impairs the dog’s immune system. In the judgment of the SPCA of Wake County, these concerns are just as appropriate for legislation and education as issues of adequate food, shelter, and veterinary care.

Mr. Congleton reported that, although the Midwest is currently a haven for puppy mills, North Carolina has them. It is difficult to pinpoint any specific number. Puppies are typically sold through newspaper advertisements but also through pet stores and other venues such as the N.C. State Fairgrounds.

Ms. Lamb described the SPCA of Wake County’s programs aimed at eliminating the pet overpopulation problem. These include mobile spay/neuter clinics (in vans), which can be quite cost effective, and a trap, neuter, release program for feral animals. The organization also has various educational programs and material for the public.

Staff reported that, contrary to earlier expectation, a subcommittee of the House Interim Committee began to examine a proposal to license all dog breeders, which would potentially moot any need for legislation specifically directed at puppy mills. Staff agreed to monitor the Committee's work so that the Commission can avoid duplication of effort.

At the Commission's March 5, 2004, meeting, staff reported on the work of the House Interim Committee.

At the Commission's May 7, 2004, meeting, staff reported on the results of the survey by the North Carolina Association of County Commissioners. Fifty-three counties responded. Of these, 18 reported having puppy mills, while 34 did not and one did not know whether it had any. Reported problems fell into two categories: poor conditions/cruelty to the animals in puppy mills and puppy mills' contribution to the pet population in animal shelters. Twenty-six counties responded that additional legislation was not necessary to deal adequately with puppy mills; fifteen disagreed, and some of these expressed a variety of ideas.

Also at the May 7, 2004, meeting, the Commission reviewed and discussed the final recommendation of the House Interim Committee and concluded that the recommendation does not address puppy mills.

During the course of its study, the Commission received substantial written information including individual comments, articles on puppy mills, other state laws, and proposals for legislation. This material and the other records of the Commission relating to this study are available through the Revisor of Statutes, 9001 Mail Service Center, Raleigh, North Carolina 27699-9001, (919) 716-6800.

FINDINGS AND RECOMMENDATION

Puppy mills can be defined as breeding establishments in which the production of puppies is maximized and the overhead costs are minimized as much as possible. The result is twofold: the animals kept for breeding are kept in substandard conditions and given minimal care, and the puppies suffer from poor genetics and poor socialization, commonly do not make good pets, and contribute to the pet overpopulation in animal shelters:

Possible additional areas for investigation include:

- (1) Further examination of the need for State-wide uniformity.
- (2) "Puppy lemon laws," which have been adopted in several states.
- (3) Amending the animal cruelty laws to target some practices followed by puppy mills.
- (4) Civil penalties for puppy mills.

(5) A licensing and inspection program.

The Commission makes no recommendation at this time.

This the 31st day of May, 2004.

Respectfully submitted,

Charles C. Lewis, Chairman
Charles E. Smith, Vice Chairman

Michael R. Abel
Bill Culpepper
Susan K. Ellis
H. Miles Foy
W. Erwin Fuller, Jr.

Fletcher L. Hartsell, Jr.
William A. Reppy
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Mark Weisburd
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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

SESSION LAW 2003-208
SENATE BILL 669

AN ACT TO AMEND THE LAW REGARDING THE CIVIL REMEDY FOR PROTECTION OF ANIMALS, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION, AND TO AUTHORIZE THE GENERAL STATUTES COMMISSION TO STUDY THE NEED TO REGULATE "PUPPY MILLS".

The General Assembly of North Carolina enacts:

SECTION 1. Article 1 of Chapter 19A of the General Statutes reads as rewritten:

"Article 1.

"Civil Remedy for Protection of Animals.

"§ 19A-1. Definitions.

The following definitions apply in this Article:

- (1) ~~The terms term 'animals' and 'dumb animals' include every useful living creature.~~ includes every living vertebrate in the classes Amphibia, Reptilia, Aves, and Mammalia except human beings.
- (2) ~~The terms 'cruelty' and 'cruel treatment' include every act, omission, or neglect whereby unjustifiable physical pain, suffering, or death is caused or permitted; but these terms shall not be construed to include lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission, lawful activities sponsored by agencies conducting biomedical research or training, lawful activities for sport, the production of livestock or poultry, or the lawful destruction of any animal for the purpose of protecting such livestock or poultry permitted.~~
- (3) ~~The term 'person' has the same meaning as in G.S. 12-3, includes any persons, firm or corporation, including any nonprofit corporation, such as a society for the prevention of cruelty to animals.~~

"§ 19A-1.1. Exemptions.

This Article shall not apply to the following:

- (1) The lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission, except that this Article applies to those birds exempted by the Wildlife Resources Commission from its definition of 'wild birds' pursuant to G.S. 113-129(15a).
- (2) Lawful activities conducted for purposes of biomedical research or training or for purposes of production of livestock, poultry, or aquatic species.
- (3) Lawful activities conducted for the primary purpose of providing food for human or animal consumption.
- (4) Activities conducted for lawful veterinary purposes.
- (5) The lawful destruction of any animal for the purposes of protecting the public, other animals, or the public health.
- (6) Lawful activities for sport.

"§ 19A-2. Purpose.

It shall be the purpose of this Article to provide a civil remedy for the protection and humane treatment of animals in addition to any criminal remedies that are available and it shall be proper in any action to combine causes of action against one or more defendants for the protection of one or more animals. A real party in interest as plaintiff shall be held to include any 'person' ~~as hereinbefore defined even though such person even though the person does not have a possessory or ownership right in an animal~~; a real party in interest as defendant shall include any person who owns or has possession of an animal.

"§ 19A-3. Preliminary injunction.

Upon the filing of a verified complaint in the district court in the county in which cruelty to an animal has allegedly occurred, the judge may, ~~in his discretion~~, as a matter of discretion, issue a preliminary injunction in accordance with the procedures set forth in G.S. 1A-1, Rule 65. Every such preliminary injunction, if the complainant so requests, may give the complainant the right to provide suitable care for the animal. If it appears on the face of the complaint that the condition giving rise to the cruel treatment of an animal requires the animal to be removed from its owner or other person who possesses it, then it shall be proper for the court in the preliminary injunction to allow the complainant to take possession of the animal.

"§ 19A-4. Permanent injunction.

In accordance with G.S. 1A-1, Rule 65, a district court judge in the county in which the original action was brought shall determine the merits of the action by trial without a jury, and upon hearing such evidence as may be presented, shall enter orders as ~~he~~ the court deems appropriate, including a permanent injunction ~~or final determination of the animal's custody~~, and dismissal of the action along with dissolution of any preliminary injunction that had been issued. In addition, if the court finds by a preponderance of the evidence that even if a permanent injunction were issued there would exist a substantial risk that the animal would be subjected to further cruelty if returned to the possession of the defendant, the court may terminate the defendant's ownership and right of possession of the animal and transfer ownership and right of possession to the plaintiff or other appropriate successor owner."

SECTION 2.(a) The General Statutes Commission, in consultation with the Department of Agriculture and Consumer Services, may study the need to regulate the unlimited breeding of dogs and cats and the animal cruelty resulting from the operations commonly referred to as "puppy mills".

SECTION 2.(b) The General Statutes Commission may make an interim report to the 2003 General Assembly, Regular Session 2004, and shall make its final report to the 2005 General Assembly.

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 9th day of June, 2003.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 12:31 p.m. this 19th day of June; 2003