

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 1038

Short Title: Animal Welfare Revisions.

(Public)

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Sponsors: Senator Gulley.

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Referred to: Agriculture/Environment/Natural Resources

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May 4, 1995

A BILL TO BE ENTITLED

1  
2 AN ACT TO CLARIFY JURISDICTIONAL AUTHORITY FOR ENFORCEMENT OF  
3 THE WELFARE AND CONTROL LAWS, TO ESTABLISH THE ANIMAL  
4 WELFARE DIVISION WITHIN THE DEPARTMENT OF AGRICULTURE, TO  
5 CREATE AN ANIMAL WELFARE ACT ENFORCEMENT FUND, TO REDUCE  
6 COSTS OF ANIMAL CONTROL BY REQUIRING CITIES AND COUNTIES TO  
7 CHARGE A LOWER ANIMAL TAX ON PETS THAT HAVE BEEN SPAYED OR  
8 NEUTERED, TO PROVIDE FOR LOCAL PROGRAMS FOR THE SPAYING AND  
9 NEUTERING OF ANIMALS, AND TO ESTABLISH A PET FUND WITHIN THE  
10 NEWLY CREATED ANIMAL WELFARE DIVISION TO PROVIDE  
11 ASSISTANCE TO THOSE PROGRAMS.

12 The General Assembly of North Carolina enacts:

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

14 **"§ 19A-23. Definitions.**

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

17 (1) 'Adequate feed' means the provision at suitable intervals, not to exceed  
18 24 hours, of a quantity of wholesome foodstuff suitable for the species  
19 and age, sufficient to maintain a reasonable level of nutrition in each

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

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

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

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

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

14 (16) 'Sanitize' means to make physically clean and to remove and destroy to  
15 a practical minimum, agents injurious to health."

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

17 **"§ 19A-24. Powers of Board of Agriculture.**

18 The Board of Agriculture may:

19 (1) Establish standards for the care of animals at animal shelters, boarding  
20 kennels, pet shops, and public auctions.

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

23 (3) Require licensees and holders of certificates to keep records of the  
24 ~~purchase and sale identity, confinement, and disposition~~ of animals and to  
25 identify animals at their ~~establishments.~~ establishments on forms  
26 established by the Board in order to standardize that record keeping.

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

29 (5) Require licensees and holders of certificates to submit records  
30 maintained pursuant to this Article to the Board on a periodic basis."

31 Sec. 3. G.S. 19A-25 reads as rewritten:

32 **"§ 19A-25. Employees; investigations; right of entry.**

33 (a) For the enforcement of the provisions of this Article, the Director is authorized,  
34 subject to the approval of the Commissioner to appoint employees as are necessary in  
35 order to carry out and enforce the provisions of this Article, and to assign them  
36 interchangeably with other employees of the Animal Health Division. The Director shall  
37 cause the investigation of all reports of violations of the provisions of this Article, and the  
38 rules adopted pursuant to the provisions hereof; provided further, that if any person shall  
39 deny the Director or his representative admittance to his property, either person shall be  
40 entitled to secure from any superior court judge a court order granting such admittance.

41 (b) Subsection (a) of this section applies to the enforcement of this Article and  
42 rules adopted under it as to animal shelters operated by counties or cities, subject to the  
43 following qualifications:

1           (1) After having inspected such an animal shelter, the role of the Director is  
2 initially advisory, and the Director shall inform the operator of the  
3 animal shelter of violations that have been found and shall suggest  
4 methods of curing those violations. In cases of violations which the  
5 Director finds life-threatening to animals, the county or city shall have  
6 48 hours to make corrections. In all other cases, the county or city shall  
7 have 60 days to make corrections.

8           (2) Only if corrections are not made within the time periods specified in  
9 subdivision (1) of this subsection shall the Director have the authority to  
10 bring a civil action, including an action seeking prohibitory and  
11 mandatory injunctive relief, to enforce provisions of the Animal  
12 Welfare Act and rules adopted under it."

13           Sec. 4. G.S. 19A-36 reads as rewritten:

14 **"§ 19A-36. Penalty for violation of Article by ~~dog warden~~-animal control officer.**

15 ~~Violation-~~The killing of a dog or other pet by any means not consistent with the  
16 definition of euthanasia contained in G.S. 19A-12, except in an emergency, and the  
17 violation of any provision of this Article which relates to the seizing, impoundment, and  
18 custody of an animal by a ~~dog warden~~an animal control officer shall constitute a Class 3  
19 misdemeanor and the person convicted thereof shall be subject to a fine of not less than  
20 fifty dollars (\$50.00)~~one hundred dollars (\$100.00)~~ and not more than ~~one hundred dollars~~  
21 (\$100.00)~~two hundred dollars (\$200.00)~~, and each animal handled in violation shall  
22 constitute a separate offense."

23           Sec. 5. Article 34 of Chapter 106 of the General Statutes is amended by  
24 adding a new Part to read:

25 **"PART 6A. ANIMAL WELFARE ACT ENFORCEMENT FUND.**

26 **"§ 106-363.5. Fund established; money for Animal Welfare Division and grants to**  
27 **local governments through Pet Fund.**

28           (a) The Animal Welfare Act Enforcement Fund is established in the Animal  
29 Welfare Division of the Department of Agriculture. The Department of Agriculture shall  
30 be responsible for receipt and disbursement of all funds in the Animal Welfare Act  
31 Enforcement Fund, as provided in this section.

32           (b) Monies in the Animal Welfare Act Enforcement Fund shall be used annually  
33 for personnel and administrative costs incurred by the Animal Welfare Division of the  
34 Department of Agriculture in enforcing the provision of the Animal Welfare Act.

35           (c) Monies in the Fund in excess of personnel and administrative costs shall be  
36 deposited in the Pet Fund provided for in G.S. 19A-22."

37           Sec. 6. G.S. 19A-38 reads as rewritten:

38 **"§ 19A-38. Use of license fees.**

39 All license fees collected shall be ~~used in enforcing and administering this Article.~~  
40 deposited in the Animal Welfare Act Enforcement Fund established in G.S. 106-363.5."

41           Sec. 7. G.S. 130A-190 reads as rewritten:

42 **"§ 130A-190. Rabies vaccination tags.**

1 (a) A licensed veterinarian or a certified rabies vaccinator who administers rabies  
2 vaccine to a dog or cat shall issue a rabies vaccination tag to the owner of the animal. The  
3 rabies vaccination tag shall show the year issued, a vaccination number, the words 'North  
4 Carolina' or the initials 'N.C.' and the words 'rabies vaccine.' Dogs and cats shall wear  
5 rabies vaccination tags at all times. However, cats may be exempted from wearing the  
6 tags by local ordinance.

7 (b) Rabies vaccination tags, links and rivets may be obtained from the Department.  
8 The Secretary is authorized to establish by rule a fee for the rabies tags, links and rivets.  
9 The fee shall not exceed the actual cost of the rabies tags, links and rivets, plus  
10 transportation ~~costs~~ costs, as determined by the Secretary, except that the Secretary shall  
11 add to the fee for each tag sold the sum of seventy-five cents (75¢).

12 (c) Rabies tags, links, and rivets shall be sold at cost plus seventy-five cents (75¢)  
13 only to licensed veterinarians, public health departments, and clinics with licensed  
14 veterinarians.

15 (d) The seventy-five cent (75¢) portion of the fee for each tag in excess of its cost  
16 collected by the Secretary shall be deposited in the Animal Welfare Act Enforcement  
17 Fund of the Animal Welfare Division created by G.S. 106-363.5."

18 Sec. 8. G.S. 153A-153 reads as rewritten:

19 "**§ 153A-153. Animal tax.**

20 (a) A county may levy an annual license tax on the privilege of keeping dogs and  
21 other pets within the county. However, on and after January 1, 1997, any annual license  
22 tax on the privilege of keeping a dog age six months or older that has not been spayed or  
23 neutered shall be at least four times the annual license tax on the privilege of keeping a  
24 dog that has been spayed or neutered.

25 (b) At least one-third of the proceeds from the annual license tax on the privilege  
26 of keeping a dog, as authorized in subsection (a) of this section, shall be expended in one  
27 or more of the following ways:

28 (1) Operation of a spaying and neutering clinic open to residents of the  
29 county in which the license tax is collected;

30 (2) Operation of a voucher program through which the animal control  
31 officer of the county issues vouchers entitling recipients to reduced rates  
32 for the spaying and neutering of animals by licensed veterinarians  
33 participating in such a program;

34 (3) Contribution to a reduced-cost spay and neuter program operated locally  
35 and serving county residents voluntarily established by the North  
36 Carolina Veterinary Medical Association or its county or area units,  
37 Friends of Animals, Spay U.S.A., or other nonprofit organization, which  
38 program is determined annually by the Animal Welfare Division to  
39 provide substantially the same benefits as would a voucher program  
40 organized by the county under subdivision (2) of this subsection.  
41 Contributions made under this subdivision shall be applied exclusively  
42 to reduce the cost of procedures charged to animal owners residing  
43 within the county; or

1           (4) Transmittal of the funds to the Animal Welfare Division of the  
2           Department of Agriculture for deposit in the Pet Fund administered by  
3           the Division.

4           Veterinarians participating in a voucher system established pursuant to subdivision (2)  
5           of this subsection shall receive no more than eighty percent (80%) of the  
6           average fee charged by veterinarians in that county for spaying and neutering, as  
7           determined by the Animal Welfare Division, for each spaying or neutering procedure  
8           performed. However, a county may by local ordinance provide that to be entitled to the  
9           eighty percent (80%) fee the owner of an animal shall certify that payment of the full fee  
10           would impose financial hardship on the owner. Vouchers to obtain spay and neuter  
11           services at the eighty percent (80%) rate shall be sold at a cost below that fee, based on  
12           available dog tax revenues, to all residents of the county unless the county by local  
13           ordinance provides that vouchers shall be sold at a cost below the eighty percent (80%)  
14           rate only to persons satisfying a needs test set forth in the ordinance.

15           A county clinic established under subdivision (1) of this subsection may be  
16           operated at a government-owned or leased facility or at the premises of a veterinarian  
17           who contracts with the county to operate the clinic. The clinic shall charge fees for spay  
18           and neuter procedures no greater than would be charged under the voucher program  
19           authorized by subdivision (2) of this subsection.

20           (c) An owner of five or more dogs may register annually with the Animal Welfare  
21           Division as a 'registered dog breeder' on forms to be provided by the Division.  
22           Registration shall be made by January 31 of the calendar or fiscal tax year for the  
23           applicable animal tax and be accompanied by payment of an annual twenty-five dollar  
24           (\$25.00) registration fee. These fees shall be deposited in the Pet Fund provided for in  
25           G.S. 19A-22. The animal tax on all dogs owned by a registered dog breeder shall be  
26           calculated as if that owner's dogs were spayed or neutered."

27           Sec. 9. G.S. 160A-212 reads as rewritten:

28           "**§ 160A-212. Animal taxes.**

29           (a) A city shall have power to levy an annual license tax on the privilege of  
30           keeping any domestic animal, including dogs and cats, within the city. However, on and  
31           after January 1, 1997, any annual license tax on the privilege of keeping a dog age six  
32           months or older that has not been spayed or neutered shall be at least four times the  
33           annual license tax on the privilege of keeping a dog that has been spayed or neutered.  
34           This section shall not limit the city's authority to enact ordinances under G.S. 160A-186.

35           (b) At least one-third of the proceeds from the annual license tax on the  
36           privilege of keeping a dog, as authorized in this subsection, shall be expended in one or  
37           more of the following ways:

38           (1) Operation of a spaying and neutering clinic open to residents of the city  
39           in which the license tax is collected;

40           (2) Operation of a voucher program through which the animal control  
41           officer of the city issues vouchers entitling recipients to reduced rates  
42           for the spaying and neutering of animals by licensed veterinarians  
43           participating in such a program;

- 1           (3) Contribution to a reduced-cost spay and neuter program operated locally  
2 and serving city residents voluntarily established by the North Carolina  
3 Veterinary Medical Association or its county or area units, Friends of  
4 Animals, Spay U.S.A., or other nonprofit organization, which program  
5 is determined annually by the Animal Welfare Division to provide  
6 substantially the same benefits as would a voucher program organized  
7 by the city under subdivision (2) of this subsection. Contributions made  
8 under this subdivision shall be applied exclusively to reduce the cost of  
9 procedures charged to animal owners residing within the city; or
- 10           (4) Transmittal of the funds to the Animal Welfare Division of the  
11 Department of Agriculture for deposit in the Pet Fund administered by  
12 the Division.

13           Veterinarians participating in a voucher system established pursuant to subdivision (2)  
14 of this subsection shall receive no more than eighty percent (80%) of the  
15 average fee charged by veterinarians in the city in which the license tax is collected for  
16 spaying and neutering, as determined by the Animal Welfare Division, for each spaying  
17 or neutering procedure performed. However, a city may by local ordinance provide that  
18 to be entitled to the eighty percent (80%) fee the owner of an animal shall certify that  
19 payment of the full fee would impose financial hardship on the owner. Vouchers to  
20 obtain spay and neuter services at the eighty percent (80%) rate shall be sold at a cost  
21 below that fee, based on available dog tax revenues, to all residents of the city unless the  
22 city by local ordinance provides that vouchers shall be sold at a cost below the eighty  
23 percent (80%) rate only to persons satisfying a needs test set forth in the ordinance.

24           A city clinic established under subdivision (1) of this subsection may be  
25 operated at a government-owned or leased facility or at the premises of a veterinarian  
26 who contracts with the city to operate the clinic. The clinic shall charge fees for spay and  
27 neuter procedures no greater than would be charged under the voucher program  
28 authorized by subdivision (2) of this subsection.

29           (c) An owner of five or more dogs may register annually with the Animal Welfare  
30 Division as a 'registered dog breeder' on forms to be provided by the Division.  
31 Registration shall be made by January 31 of the calendar or fiscal tax year for the  
32 applicable animal tax and be accompanied by payment of an annual twenty-five dollar  
33 (\$25.00) registration fee. These fees shall be deposited in the Pet Fund provided for in  
34 G.S. 19A-22. The animal tax on all dogs owned by a registered dog breeder shall be  
35 calculated as if that owner's dogs were spayed or neutered."

36           Sec. 10. G.S. 19A-22 reads as rewritten:

37 **"§ 19A-22. Animal Welfare Section in Animal Health Division of Department of**  
38 **Agriculture created; Director.**

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

1 Effective January 1, 1996, the Animal Welfare Section of the Animal Health Division  
2 of the Department of Agriculture is separated from the Animal Health Division and  
3 established as the Animal Welfare Division of the Department.

4 The Commissioner of Agriculture is hereby authorized to appoint a Director of said  
5 ~~section~~ Division whose duties and authority shall be determined by the Commissioner  
6 subject to the approval of the Board of Agriculture and subject to the provisions of this  
7 Article.

8 (b) There is established within the Animal Welfare Division a Pet Fund to provide  
9 assistance to cities and counties in maintaining spaying and neutering clinics. Monies  
10 from the Pet Fund shall be distributed to cities and counties to fund the spaying and  
11 neutering clinics, voucher programs, or voluntary programs established pursuant to G.S.  
12 153A-153(b) and G.S. 160A-212(b) based upon need as demonstrated to the Director or  
13 to the pet officer appointed in subsection (c) of this section. The Director, or pet officer  
14 if appointed, may authorize a recipient county or city to use a specified portion of funds  
15 received for education concerning the effects of and need for the spaying and neutering of  
16 pets.

17 (c) The Animal Welfare Division may appoint a pet officer whose responsibilities  
18 shall include distribution of funds to city and county neutering clinics, voucher programs,  
19 and voluntary programs established pursuant to G.S. 153A-153(b) and G.S. 160A-212(b),  
20 the approval of voluntary spay and neuter programs pursuant to G.S. 153A-153(b)(3) and  
21 G.S. 160A-212(b)(3), maintenance of records for the clinics and programs, and the  
22 provision of advisory assistance to the clinics and programs. The pet officer shall  
23 provide an annual report to the General Assembly on the activities of the local spaying  
24 and neutering clinics and programs."

25 Sec. 11. G.S. 130A-192 reads as rewritten:

26 "**§ 130A-192. Dogs and cats not wearing required rabies vaccination tags.**

27 (a) The Animal Control Officer shall canvass the county to determine if there are  
28 any dogs or cats not wearing the required rabies vaccination tag. If a dog or cat is found  
29 not wearing the required tag, the Animal Control Officer shall check to see if the owner's  
30 identification can be found on the animal. If the animal is wearing an owner identification  
31 tag, or if the Animal Control Officer otherwise knows who the owner is, the Animal  
32 Control Officer shall notify the owner in writing to have the animal vaccinated against  
33 rabies and to produce the required rabies vaccination certificate to the Animal Control  
34 Officer within three days of the notification. If the animal is not wearing an owner  
35 identification tag and the Animal Control Officer does not otherwise know who the  
36 owner is, the Animal Control Officer may impound the animal. The duration of the  
37 impoundment of these animals and the impoundment of animals described in subsection  
38 (b) of this section shall be established by the county board of commissioners, but the  
39 duration shall not be less than 72 hours. During the impoundment period, the Animal  
40 Control Officer shall make a reasonable effort to locate the owner of the animal. If the  
41 animal is not reclaimed by its owner during the impoundment period, the animal shall be  
42 disposed of in one of the following manners: returned to the owner; adopted as a pet by a  
43 new owner; sold to institutions within this State registered by the United States



1 Department of Agriculture pursuant to the Federal Animal Welfare Act, as amended; or  
2 put to death by a procedure approved by the American Veterinary Medical Association,  
3 the Humane Society of the United States or of the American Humane Association. The  
4 Animal Control Officer shall maintain a record of all animals impounded under this  
5 section which shall include the date of impoundment, the length of impoundment, the  
6 method of disposal of the animal and the name of the person or institution to whom any  
7 animal has been released.

8 (b) The provisions of subsection (a) of this section concerning the duration of  
9 impoundment and method of disposal of animals also apply to animals that are wearing  
10 the required rabies vaccination tag or identification tag when taken into custody by an  
11 animal control officer or an animal shelter, as those terms are defined in G.S. 19A-23,  
12 and to an animal that is voluntarily surrendered by its owner or by one having possession  
13 of the animal to an animal control officer or an animal shelter."

14 Sec. 12. This act becomes effective January 1, 1996.