

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51

Chapter 19A.
Protection of Animals.

Article 1.

Civil Remedy for Protection of Animals.

§ 19A-1. Definitions.

The following definitions apply in this Article:

- (1) The term "animals" 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.
- (3) The term "person" has the same meaning as in G.S. 12-3. (1969, c. 831; 1979, c. 808, s. 2; 1995, c. 509, s. 19; 2003-208, s. 1.)

§ 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. (2003-208, s. 1.)

§ 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 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. (1969, c. 831; 1995, c. 509, s. 20; 2003-208, s. 1.)

§ 19A-3. Preliminary injunction; care of animal pending hearing on the merits.

(a) 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, 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 plaintiff so requests, may give the plaintiff 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 plaintiff to take possession of the animal as custodian.

(b) The plaintiff as custodian may employ a veterinarian to provide necessary medical care for the animal without any additional court order. Prior to taking such action, the plaintiff as custodian shall consult with, or attempt to consult with, the defendant in the action, but the plaintiff as custodian may authorize such care without the defendant's consent. Notwithstanding

1 the provisions of this subsection, the plaintiff as custodian may not have an animal euthanized
2 without written consent of the defendant or a court order that authorizes euthanasia upon the
3 court's finding that the animal is suffering due to terminal illness or terminal injury.

4 (c) The plaintiff as custodian may place an animal with a foster care provider. The
5 foster care provider shall return the animal to the plaintiff as custodian on demand. (1969, c.
6 831; 1971, c. 528, s. 10; 1979, c. 808, s. 3; 2003-208, s. 1; 2006-113, s. 1.1.)
7

8 **§ 19A-4. Permanent injunction.**

9 (a) In accordance with G.S. 1A-1, Rule 65, a district court judge in the county in which
10 the original action was brought shall determine the merits of the action by trial without a jury,
11 and upon hearing such evidence as may be presented, shall enter orders as the court deems
12 appropriate, including a permanent injunction and dismissal of the action along with dissolution
13 of any preliminary injunction that had been issued.

14 (b) If the plaintiff prevails, the court in its discretion may include the costs of food,
15 water, shelter, and care, including medical care, provided to the animal, less any amounts
16 deposited by the defendant under G.S. 19A-70, as part of the costs allowed to the plaintiff
17 under G.S. 6-18. In addition, if the court finds by a preponderance of the evidence that even if a
18 permanent injunction were issued there would exist a substantial risk that the animal would be
19 subjected to further cruelty if returned to the possession of the defendant, the court may
20 terminate the defendant's ownership and right of possession of the animal and transfer
21 ownership and right of possession to the plaintiff or other appropriate successor owner. For
22 good cause shown, the court may also enjoin the defendant from acquiring new animals for a
23 specified period of time or limit the number of animals the defendant may own or possess
24 during a specified period of time.

25 (c) If the final judgment entitles the defendant to regain possession of the animal, the
26 custodian shall return the animal, including taking any necessary steps to retrieve the animal
27 from a foster care provider.

28 (d) The court shall consider and may provide for custody and care of the animal until
29 the time to appeal expires or all appeals have been exhausted. (1969, c. 831; 1971, c. 528, s. 10;
30 1979, c. 808, s. 4; 2003-208, s. 1; 2006-113, s. 1.2.)
31

32 **§§ 19A-5 through 19A-9. Reserved for future codification purposes.**

34 Article 2.

35 Protection of Black Bears.

36 **§ 19A-10. Unlawful to buy, sell or enclose (except as provided) black bear.**

37 Except as otherwise provided in applicable statutes, it shall be unlawful for any person to
38 buy or sell black bears or for any person, firm or corporation to possess or keep any black bear
39 (*Ursus americanus*) in any enclosure, pen, cage, or other place or means of captivity except as
40 hereinafter provided. (1975, c. 56, s. 1.)
41

42 **§ 19A-11. Inapplicable to bona fide zoos, etc.**

43 The provisions of this Article shall not apply to bona fide zoos which are operated by
44 federal, State, or local governmental agencies, or to educational institutions in which black
45 bears are kept or exhibited as part of a bona fide course of training or research in the natural
46 sciences, or to black bears held without caging under conditions simulating a natural habitat,
47 the development of which is in accord with plans and specifications developed by the holder
48 and approved by the Wildlife Resources Commission. (1975, c. 56, s. 2.)
49

50 **§ 19A-12. Possession of black bear on July 1, 1975; surrender of bear; modification of** 51 **facilities; forfeiture.**

1 Any person, firm or corporation in possession of a black bear on July 1, 1975, under an
2 existing permit issued by the Wildlife Resources Commission, where the conditions under
3 which such black bear is held are in violation of this Article, may immediately surrender such
4 black bear and such permit to the Wildlife Resources Commission which shall compensate
5 such person, firm or corporation in the amount actually paid for such bear not to exceed the
6 sum of one hundred dollars (\$100.00) for any one bear. In lieu of surrendering such black bear
7 and such permit, any such person, firm or corporation may give immediately written notice to
8 the Wildlife Resources Commission that plans and specifications for facilities to hold such bear
9 without caging under conditions simulating a natural habitat will be submitted to the
10 Commission for approval within 30 days thereafter. In the event such plans and specifications
11 are not submitted within the time thus limited, or they are disapproved by the Commission, or
12 the facilities are not completed in accordance therewith within 60 days after approval by the
13 Commission, continued possession of a black bear by such person, firm or corporation after any
14 of such events shall constitute a violation of the provisions of this Article, and any such black
15 bear shall be forfeited to the Wildlife Resources Commission without compensation. (1975, c.
16 56, s. 3.)

17
18 **§ 19A-13. Violation of Article.**

19 Violation of the provisions of this Article shall constitute a Class 2 misdemeanor. (1975, c.
20 56, s. 4; 1993, c. 539, s. 314; 1994, Ex. Sess., c. 24, s. 14(c).)

21
22 **§ 19A-14. Enforcement of Article.**

23 Law-enforcement officers of the Wildlife Resources Commission and all other peace
24 officers are authorized and empowered to enforce the provisions of this Article. (1975, c. 56, s.
25 5.)

26
27 **§§ 19A-15 through 19A-19. Reserved for future codification purposes.**

28
29 Article 3.
30 Animal Welfare Act.

31 **§ 19A-20. Title of Article.**

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

33
34 **§ 19A-21. Purposes.**

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

44
45 **§ 19A-22. Animal Welfare Section in Animal Health Division of Department of**
46 **Agriculture and Consumer Services created; Director.**

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

50 The Commissioner of Agriculture is hereby authorized to appoint a Director of said section
51 whose duties and authority shall be determined by the Commissioner subject to the approval of

1 the Board of Agriculture and subject to the provisions of this Article. (1977, 2nd Sess., c. 1217,
2 s. 3; 1997-261, s. 1.)

3
4 **§ 19A-23. Definitions.**

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

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

- 1 (13) "Primary enclosure" means any structure used to immediately restrict an
2 animal or animals to a limited amount of space, such as a room, pen, cage
3 compartment or hutch.
4 (14) "Public auction" means any place or location where dogs or cats are sold at
5 auction to the highest bidder regardless of whether such dogs or cats are
6 offered as individuals, as a group, or by weight.
7 (15) "Research facility" means any place, laboratory, or institution at which
8 scientific tests, experiments, or investigations involving the use of living
9 animals are carried out, conducted, or attempted.
10 (16) "Sanitize" means to make physically clean and to remove and destroy to a
11 practical minimum, agents injurious to health. (1977, 2nd Sess., c. 1217, s. 4;
12 1979, c. 734, s. 1; 1987, c. 827, s. 61; 1997-261, s. 2; 2005-276, s. 11.5(a).)
13

14 **§ 19A-24. Powers of Board of Agriculture.**

15 (a) The Board of Agriculture shall:

- 16 (1) Establish standards for the care of animals at animal shelters, boarding
17 kennels, pet shops, and public auctions. A boarding kennel that offers dog
18 day care services and has a ratio of dogs to employees or supervisors, or
19 both employees and supervisors, of not more than 10 to one, shall not as to
20 such services be subject to any regulations that restrict the number of dogs
21 that are permitted within any primary enclosure.
22 (2) Prescribe the manner in which animals may be transported to and from
23 registered or licensed premises.
24 (3) Require licensees and holders of certificates to keep records of the purchase
25 and sale of animals and to identify animals at their establishments.
26 (4) Adopt rules to implement this Article, including federal regulations
27 promulgated under Title 7, Chapter 54, of the United States Code.
28 (5) Adopt rules on the euthanasia of animals in the possession or custody of any
29 person required to obtain a certificate of registration under this Article. An
30 animal shall only be put to death by a method and delivery of method
31 approved by the American Veterinary Medical Association, the Humane
32 Society of the United States, or the American Humane Association. The
33 Department shall establish rules for the euthanasia process using any one or
34 combination of methods and standards prescribed by the three
35 aforementioned organizations. The rules shall address the equipment, the
36 process, and the separation of animals, in addition to the animals' age and
37 condition. If the gas method of euthanasia is approved, rules shall require (i)
38 that only commercially compressed carbon monoxide gas is approved for
39 use, and (ii) that the gas must be delivered in a commercially manufactured
40 chamber that allows for the individual separation of animals. Rules shall also
41 mandate training for any person who participates in the euthanasia process.

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

- 45 (1) Written and practical examinations for persons who perform euthanasia.
46 (2) Issuance of certification to persons who have successfully completed both
47 training and examinations to become a euthanasia technician.
48 (3) Recertification of euthanasia technicians on a periodic basis.
49 (4) Standards and procedures for the approval of persons who conduct training
50 of euthanasia technicians.
51 (5) Approval of materials for use in euthanasia technician training.

- 1 (6) Minimum certification criteria for persons seeking to become euthanasia
2 technicians including, but not limited to: age; previous related experience;
3 criminal record; and other qualifications that are related to an applicant's
4 fitness to perform euthanasia.
- 5 (7) Denial, suspension, or revocation of certification of euthanasia technicians
6 who:
- 7 a. Violate any provision of this Article or rules adopted pursuant to this
8 Article;
- 9 b. Have been convicted of or entered a plea of guilty or nolo contendere
10 to:
- 11 1. Any felony;
- 12 2. Any misdemeanor or infraction involving animal abuse or
13 neglect; or
- 14 3. Any other offense related to animal euthanasia, the duties or
15 responsibilities of a euthanasia technician, or a euthanasia
16 technician's fitness for certification;
- 17 c. Make any false statement, give false information, or omit material
18 information in connection with an application for certification or for
19 renewal or reinstatement of certification as a euthanasia technician;
20 or
- 21 d. Otherwise are or become ineligible for certification.
- 22 (8) Provision of the names of persons who perform euthanasia at animal shelters
23 and for the animal shelter to notify the Department when those persons are
24 no longer affiliated, employed, or serving as a volunteer with the shelter.
- 25 (9) Certified euthanasia technicians to notify the Department when they are no
26 longer employed by or are serving as a volunteer at an animal shelter.
- 27 (10) The duties, responsibilities, and standards of conduct for certified euthanasia
28 technicians.

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

34 (d) Persons seeking certification as euthanasia technicians, or a renewal of such
35 certification, shall provide the Department a fingerprint card in a format acceptable to the
36 Department, a form signed by the person consenting to a criminal record check and the use of
37 the person's fingerprints, and such other identifying information as may be required by the State
38 or national data banks. The Department may deny certification to persons who refuse to
39 provide the fingerprint card or consent to the criminal background check. Fees required by the
40 Department of Justice for conducting the criminal background check shall be collected by the
41 Department and remitted to the Department of Justice along with the fingerprint card and
42 consent form. (1977, 2nd Sess., c. 1217, s. 5; 1987, c. 827, s. 62; 2004-199, s. 12; 2005-276, s.
43 11.5(b); 2005-345, s. 22; 2008-198, s. 2(a); 2010-127, ss. 2, 3.)

44
45 **§ 19A-25. Employees; investigations; right of entry.**

46 For the enforcement of the provisions of this Article, the Director is authorized, subject to
47 the approval of the Commissioner to appoint employees as are necessary in order to carry out
48 and enforce the provisions of this Article, and to assign them interchangeably with other
49 employees of the Animal Health Division. The Director shall cause the investigation of all
50 reports of violations of the provisions of this Article, and the rules adopted pursuant to the
51 provisions hereof; provided further, that if any person shall deny the Director or his

1 representative admittance to his property, either person shall be entitled to secure from any
2 superior court judge a court order granting such admittance. (1977, 2nd Sess., c. 1217, s. 6;
3 1987, c. 827, s. 63.)
4

5 **§ 19A-26. Certificate of registration required for animal shelter.**

6 No person shall operate an animal shelter unless a certificate of registration for such animal
7 shelter shall have been granted by the Director. Application for such certificate shall be made in
8 the manner provided by the Director. No fee shall be required for such application or
9 certificate. Certificates of registration shall be valid for a period of one year or until suspended
10 or revoked and may be renewed for like periods upon application in the manner provided.
11 (1977, 2nd Sess., c. 1217, s. 7; 1987, c. 827, s. 64.)
12

13 **§ 19A-27. License required for operation of pet shop.**

14 No person shall operate a pet shop unless a license to operate such establishment shall have
15 been granted by the Director. Application for such license shall be made in the manner
16 provided by the Director. The license shall be for the fiscal year and the license fee shall be
17 seventy-five dollars (\$75.00) for each license period or part thereof beginning with the first day
18 of the fiscal year. (1977, 2nd Sess., c. 1217, s. 8; 1987, c. 827, s. 65; 1989, c. 544, s. 17;
19 2011-145, s. 31.5(a).)
20

21 **§ 19A-28. License required for public auction or boarding kennel.**

22 No person shall operate a public auction or a boarding kennel unless a license to operate
23 such establishment shall have been granted by the Director. Application for such license shall
24 be made in the manner provided by the Director. The license period shall be the fiscal year and
25 the license fee shall be seventy-five dollars (\$75.00) for each license period or part thereof
26 beginning with the first day of the fiscal year. (1977, 2nd Sess., c. 1217, s. 9; 1987, c. 827, s.
27 65; 1989, c. 544, s. 18; 2011-145, s. 31.5(b).)
28

29 **§ 19A-29. License required for dealer.**

30 No person shall be a dealer unless a license to deal shall have been granted by the Director
31 to such person. Application for such license shall be in the manner provided by the Director.
32 The license period shall be the fiscal year and the license fee shall be seventy-five dollars
33 (\$75.00) for each license period or part thereof, beginning with the first day of the fiscal year.
34 (1977, 2nd Sess., c. 1217, s. 10; 1987, c. 827, s. 66; 1989, c. 544, s. 19; 2011-145, s. 31.5(c).)
35

36 **§ 19A-30. Refusal, suspension or revocation of certificate or license.**

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

- 41 (1) Material misstatement in the application for the original certificate of
42 registration or license or in the application for any renewal under this
43 Article;
- 44 (2) Willful disregard or violation of this Article or any rules issued pursuant
45 thereto;
- 46 (3) Failure to provide adequate housing facilities and/or primary enclosures for
47 the purposes of this Article, or if the feeding, watering, sanitizing and
48 housing practices at the animal shelter, public auction, pet shop, or kennel
49 are not consistent with the intent of this Article or the rules adopted under
50 this Article;
- 51 (4) Allowing one's license under this Article to be used by an unlicensed person;

- 1 (5) Conviction of any crime an essential element of which is misstatement,
2 fraud, or dishonesty, or conviction of any felony;
3 (6) Making substantial misrepresentations or false promises of a character likely
4 to influence, persuade, or induce in connection with the business of a public
5 auction, commercial kennel, pet shop, or dealer;
6 (7) Pursuing a continued course of misrepresentation of or making false
7 promises through advertising, salesmen, agents, or otherwise in connection
8 with the business to be licensed;
9 (8) Failure to possess the necessary qualifications or to meet the requirements of
10 this Article for the issuance or holding of a certificate of registration or
11 license.

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

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

22 Any licensee whose license is revoked under the provisions of this Article shall not be
23 eligible to apply for a new license hereunder until one year has elapsed from the date of the
24 order revoking said license or if an appeal is taken from said order of revocation, one year from
25 the date of the order or final judgment sustaining said revocation. Any person who has been an
26 officer, agent, or employee of a licensee whose license has been revoked or suspended and who
27 is responsible for or participated in the violation upon which the order of suspension or
28 revocation was based, shall not be licensed within the period during which the order of
29 suspension or revocation is in effect. (1977, 2nd Sess., c. 1217, s. 11; 1987, c. 827, s. 67.)
30

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

32 A license is not transferable. When there is a transfer of ownership, management, or
33 operation of a business of a licensee hereunder, the new owner, manager, or operator, as the
34 case may be, whether it be an individual, firm, partnership, corporation, or other entity shall
35 have 10 days from such sale or transfer to secure a new license from the Director to operate
36 said business. A licensee shall promptly notify the Director of any change in the name, address,
37 management, or substantial control of his business or operation. (1977, 2nd Sess., c. 1217, s.
38 12.)
39

40 **§ 19A-32. Procedure for review of Director's decisions.**

41 A denial, suspension, or revocation of a certificate or license under this Article shall be
42 made in accordance with Chapter 150B of the General Statutes. (1977, 2nd Sess., c. 1217, s.
43 13; 1987, c. 827, s. 68.)
44

45 **§ 19A-33. Penalty for operation of pet shop, kennel or auction without license.**

46 Operation of a pet shop, kennel, or public auction without a currently valid license shall
47 constitute a Class 3 misdemeanor subject only to a penalty of not less than five dollars (\$5.00)
48 nor more than twenty-five dollars (\$25.00), and each day of operation shall constitute a
49 separate offense. (1977, 2nd Sess., c. 1217, s. 14; 1993, c. 539, s. 315; 1994, Ex. Sess., c. 24, s.
50 14(c).)
51

1 **§ 19A-34. Penalty for acting as dealer without license; disposition of animals in custody of**
2 **unlicensed dealer.**

3 Acting as a dealer in animals as defined in this Article without a currently valid dealer's
4 license shall constitute a Class 2 misdemeanor. Continued illegal operation after conviction
5 shall constitute a separate offense. Animals found in possession or custody of an unlicensed
6 dealer shall be subject to immediate seizure and impoundment and upon conviction of such
7 unlicensed dealer shall become subject to sale or euthanasia in the discretion of the Director.
8 (1977, 2nd Sess., c. 1217, s. 15; 1993, c. 539, s. 316; 1994, Ex. Sess., c. 24, s. 14(c).)
9

10 **§ 19A-35. Penalty for failure to adequately care for animals; disposition of animals.**

11 Failure of any person licensed or registered under this Article to adequately house, feed,
12 and water animals in his possession or custody shall constitute a Class 3 misdemeanor, and
13 such person shall be subject to a fine of not less than five dollars (\$5.00) per animal or more
14 than a total of one thousand dollars (\$1,000). Such animals shall be subject to seizure and
15 impoundment and upon conviction may be sold or euthanized at the discretion of the Director
16 and such failure shall also constitute grounds for revocation of license after public hearing.
17 (1977, 2nd Sess., c. 1217, s. 16; 1999-408, s. 4.)
18

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

20 Violation of any provision of this Article which relates to the seizing, impoundment, and
21 custody of an animal by a dog warden shall constitute a Class 3 misdemeanor and the person
22 convicted thereof shall be subject to a fine of not less than fifty dollars (\$50.00) and not more
23 than one hundred dollars (\$100.00), and each animal handled in violation shall constitute a
24 separate offense. (1977, 2nd Sess., c. 1217, s. 17; 1993, c. 539, s. 317; 1994, Ex. Sess., c. 24, s.
25 14(c).)
26

27 **§ 19A-37. Application of Article.**

28 This Article shall not apply to a place or establishment which is operated under the
29 immediate supervision of a duly licensed veterinarian as a hospital where animals are harbored,
30 boarded, and cared for incidental to the treatment, prevention, or alleviation of disease
31 processes during the routine practice of the profession of veterinary medicine. This Article shall
32 not apply to any dealer, pet shop, public auction, commercial kennel or research facility during
33 the period such dealer or research facility is in the possession of a valid license or registration
34 granted by the Secretary of Agriculture pursuant to Title 7, Chapter 54, of the United States
35 Code. This Article shall not apply to any individual who occasionally boards an animal on a
36 noncommercial basis, although such individual may receive nominal sums to cover the cost of
37 such boarding. (1977, 2nd Sess., c. 1217, s. 18; 1987, c. 827, s. 69.)
38

39 **§ 19A-38. Use of license fees.**

40 All license fees collected shall be used in enforcing and administering this Article. (1977,
41 2nd Sess., c. 1217, s. 19.)
42

43 **§ 19A-39. Article inapplicable to establishments for training hunting dogs.**

44 Nothing in this Article shall apply to those kennels or establishments operated primarily for
45 the purpose of boarding or training hunting dogs. (1977, 2nd Sess., c. 1217, s. 21; 1979, c. 734,
46 s. 2.)
47

48 **§ 19A-40. Civil Penalties.**

49 The Director may assess a civil penalty of not more than five thousand dollars (\$5,000)
50 against any person who violates a provision of this Article or any rule promulgated thereunder.
51 In determining the amount of the penalty, the Director shall consider the degree and extent of

1 harm caused by the violation. The clear proceeds of civil penalties assessed pursuant to this
2 section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S.
3 115C-457.2. (1995, c. 516, s. 6; 1998-215, s. 3.)
4

5 **§ 19A-41. Legal representation by the Attorney General.**

6 It shall be the duty of the Attorney General to represent the Commissioner of Agriculture
7 and the Department of Agriculture and Consumer Services, or to designate some member of his
8 staff to represent the Commissioner and the Department, in all actions or proceedings in
9 connection with this Article. (2005-276, s. 11.5(c).)
10

11 **§ 19A-42.** Reserved for future codification purposes.
12

13 **§ 19A-43.** Reserved for future codification purposes.
14

15 **§ 19A-44.** Reserved for future codification purposes.
16

17 Article 4.

18 Animal Cruelty Investigators.

19 **§ 19A-45. Appointment of animal cruelty investigators; term of office; removal; badge;
20 oath; bond.**

21 (a) The board of county commissioners is authorized to appoint one or more animal
22 cruelty investigators to serve without any compensation or other employee benefits in his
23 county. In making these appointments, the board may consider persons nominated by any
24 society incorporated under North Carolina law for the prevention of cruelty to animals. Prior to
25 making any such appointment, the board of county commissioners is authorized to enter into an
26 agreement whereby any necessary expenses of caring for seized animals not collectable
27 pursuant to G.S. 19A-47 may be paid by the animal cruelty investigator or by any society
28 incorporated under North Carolina law for the prevention of cruelty to animals that is willing to
29 bear such expense.

30 (b) Animal cruelty investigators shall serve a one-year term subject to removal for
31 cause by the board of county commissioners. Animal cruelty investigators shall, while in the
32 performance of their official duties, wear in plain view a badge of a design approved by the
33 board identifying them as animal cruelty investigators, and provided at no cost to the county.

34 (c) Animal cruelty investigators shall take and subscribe the oath of office required of
35 public officials. The oath shall be filed with the clerk of superior court. Animal cruelty
36 investigators shall not be required to post any bond.

37 (d) Upon approval by the board of county commissioners, the animal cruelty
38 investigator or investigators may be reimbursed for all necessary and actual expenses, to be
39 paid by the county. (1979, c. 808, s. 1.)
40

41 **§ 19A-46. Powers; magistrate's order; execution of order; petition; notice to owner.**

42 (a) Whenever any animal is being cruelly treated as defined in G.S. 19A-1(2), an
43 animal cruelty investigator may file with a magistrate a sworn complaint requesting an order
44 allowing the investigator to provide suitable care for and take immediate custody of the animal.
45 The magistrate shall issue the order only when he finds probable cause to believe that the
46 animal is being cruelly treated and that it is necessary for the investigator to immediately take
47 custody of it. Any magistrate's order issued under this section shall be valid for only 24 hours
48 after its issuance. After he executes the order, the animal cruelty investigator shall return it with
49 a written inventory of the animals seized to the clerk of court in the county where the order was
50 issued.

1 (b) The animal cruelty investigator may request a law-enforcement officer or animal
2 control officer to accompany him to help him seize the animal. An investigator may forcibly
3 enter any premises or vehicle when necessary to execute the order only if he reasonably
4 believes that the premises or vehicle is unoccupied by any person and that the animal is on the
5 premises or in the vehicle. Forcible entry shall be used only when the animal cruelty
6 investigator is accompanied by a law-enforcement officer. In any case, he must give notice of
7 his identity and purpose to anyone who may be present before entering said premises. Forcible
8 entry shall only be used during the daylight hours.

9 (c) When he has taken custody of such an animal, the animal cruelty investigator shall
10 file a complaint pursuant to Article 1 of this Chapter as soon as possible. When he seizes the
11 animal, he shall leave with the owner, if known, or affixed to the premises or vehicle a copy of
12 the magistrate's order and a written notice of a description of the animal, the place where the
13 animal will be taken, the reason for taking the animal, and the investigator's intent to file a
14 complaint in district court requesting custody of the animal pursuant to Article 1 of this
15 Chapter.

16 (d) Notwithstanding the provisions of G.S. 7A-305(c), any person who commences a
17 proceeding under this Article or Article 1 of this Chapter shall not be required to pay any court
18 costs or fees prior to a final judicial determination as provided in G.S. 19A-4, at which time
19 those costs shall be paid pursuant to the provisions of G.S. 6-18.

20 (e) Any judicial order authorizing forcible entry shall be issued by a district court judge.
21 (1979, c. 808, s. 1.)

22 23 **§ 19A-47. Care of seized animals.**

24 The investigator must take any animal he seizes directly to some safe and secure place and
25 provide suitable care for it. The necessary expenses of caring for seized animals, including
26 necessary veterinary care, shall be a charge against the animal's owner and a lien on the animal
27 to be enforced as provided by G.S. 44A-4. (1979, c. 808, s. 1.)

28 29 **§ 19A-48. Interference unlawful.**

30 It shall be a Class 1 misdemeanor, to interfere with an animal cruelty investigator in the
31 performance of his official duties. (1979, c. 808, s. 1; 1993, c. 539, s. 318; 1994, Ex. Sess., c.
32 24, s. 14(c).)

33 34 **§ 19A-49. Educational requirements.**

35 Each animal cruelty investigator at his own expense must attend annually a course of at
36 least six hours instruction offered by the North Carolina Humane Federation or some other
37 agency. The course shall be designed to give the investigator expertise in the investigation of
38 complaints relating to the care and treatment of animals. Failure to attend a course approved by
39 the board of county commissioners shall be cause for removal from office. (1979, c. 808, s. 1.)

40 41 **§§ 19A-50 through 19A-59. Reserved for future codification purposes.**

42 43 **ARTICLE 5.** 44 **Spay/Neuter Program.**

45 **§ 19A-60. Legislative findings.**

46 The General Assembly finds that the uncontrolled breeding of cats and dogs in the State has
47 led to unacceptable numbers of unwanted dogs, puppies and cats and kittens. These unwanted
48 animals become strays and constitute a public nuisance and a public health hazard. The animals
49 themselves suffer privation and death, are impounded, and most are destroyed at great expense
50 to local governments. It is the intention of the General Assembly to provide a voluntary means
51 of funding a spay/neuter program to provide financial assistance to local governments offering

1 low-income persons reduced-cost spay/neuter services for their dogs and cats and to provide a
2 statewide education program on the benefits of spaying and neutering pets. (2000-163, s. 1.)

3
4 **§ 19A-61. Spay/Neuter Program established.**

5 There is established in the Department of Agriculture and Consumer Services a voluntary
6 statewide program to foster the spaying and neutering of dogs and cats for the purpose of
7 reducing the population of unwanted animals in the State. The program shall consist of the
8 following components:

- 9 (1) Education Program. – The Department shall establish a statewide program to
10 educate the public about the benefits of having cats and dogs spayed and
11 neutered. The Department may work cooperatively on the program with the
12 North Carolina School of Veterinary Medicine, other State agencies and
13 departments, county and city health departments and animal control
14 agencies, and statewide and local humane organizations. The Department
15 may employ outside consultants to assist with the education program.
16 (2) Local Spay/Neuter Assistance Program. – The Department shall administer
17 the Spay/Neuter Account established in G.S. 19A-62. Monies deposited in
18 the account shall be available to reimburse eligible counties and cities for the
19 direct costs of spay/neuter surgeries for cats and dogs made available to
20 low-income persons. (2000-163, s. 1; 2010-31, s. 11.4(b).)

21
22 **§ 19A-62. Spay/Neuter Account established.**

23 (a) Creation. – The Spay/Neuter Account is established as a nonreverting special
24 revenue account in the Department of Agriculture and Consumer Services. The Account
25 consists of the following:

- 26 (1) Repealed by Session Laws 2010-31, s. 11.4(c), effective October 1, 2010.
27 (2) Twenty dollars (\$20.00) of the additional fee imposed by G.S. 20-79.7 for an
28 Animal Lovers special license plate.
29 (3) Any other funds available from appropriations by the General Assembly or
30 from contributions and grants from public or private sources.

31 (b) Use. – The revenue in the Account shall be used by the Department of Agriculture
32 and Consumer Services as follows:

- 33 (1) Repealed by Session Laws 2010-31, s. 11.4(c), effective October 1, 2010.
34 (2) Up to twenty percent (20%) may be used to develop and implement the
35 statewide education program component of the Spay/Neuter Program
36 established in G.S. 19A-61(1).
37 (3) Up to twenty percent (20%) of the money in the Account may be used to
38 defray the costs of administering the Spay/Neuter Program established in
39 this Article.
40 (4) Funds remaining after deductions for the education program and
41 administrative expenses shall be distributed quarterly to eligible counties and
42 cities seeking reimbursement for reduced-cost spay/neuter surgeries
43 performed during the previous calendar year. A county or city is ineligible to
44 receive funds under this subdivision unless it requires the owner to show
45 proof of rabies vaccination at the time of the procedure or, if none, require
46 vaccination at the time of the procedure.

47 (c) Report. – In February of each year, the Department must report to the Joint
48 Legislative Commission on Governmental Operations and the Fiscal Research Division. The
49 report must contain information regarding all revenues and expenditures of the Spay/Neuter
50 Account. (2000-163, s. 1; 2007-487, ss. 2, 3; 2008-187, s. 8; 2010-31, s. 11.4(c); 2011-326, s.
51 4.)

1
2 **§ 19A-63. Eligibility for distributions from Spay/Neuter Account.**

3 (a) A county or city is eligible for reimbursement from the Spay/Neuter Account if it
4 meets the following condition:

- 5 (1) The county or city offers one or more of the following programs to
6 low-income persons on a year-round basis for the purpose of reducing the
7 cost of spaying and neutering procedures for dogs and cats:
8 a. A spay/neuter clinic operated by the county or city.
9 b. A spay/neuter clinic operated by a private organization under
10 contract or other arrangement with the county or city.
11 c. A contract or contracts with one or more veterinarians, whether or
12 not located within the county, to provide reduced-cost spaying and
13 neutering procedures.
14 d. Subvention of the spaying and neutering costs incurred by
15 low-income pet owners through the use of vouchers or other
16 procedure that provides a discount of the cost of the spaying or
17 neutering procedure fixed by a participating veterinarian or other
18 provider.
19 e. Subvention of the spaying and neutering costs incurred by persons
20 who adopt a pet from an animal shelter operated by or under contract
21 with the county or city.
22 (2) Reserved for future codification purposes.

23 (b) For purposes of this Article, the term "low-income person" shall mean an individual
24 who qualifies for one or more of the programs of public assistance administered by the
25 Department of Health and Human Services pursuant to Chapter 108A of the General Statutes or
26 whose annual household income is under three hundred percent (300%) of the federal poverty
27 level guidelines published by the United States Department of Health and Human Services.

28 (c) Each county shall make rules or publish guidelines that designate what proof a
29 low-income person must submit to establish that the person qualifies for public assistance
30 under subsection (b) of this section or has an annual household income lower than three
31 hundred percent (300%) of the federal poverty level guidelines published by the United States
32 Department of Health and Human Services. (2000-163, s. 1; 2010-31, s. 11.4(d).)
33

34 **§ 19A-64. Distributions to counties and cities from Spay/Neuter Account.**

35 (a) Reimbursable Costs. – Counties and cities eligible for distributions from the
36 Spay/Neuter Account may receive reimbursement for the direct costs of a spay/neuter surgical
37 procedure for a dog or cat owned by a low-income person as defined in G.S. 19A-63(b).
38 Reimbursable costs shall include anesthesia, medication, and veterinary services. Counties and
39 cities shall not be reimbursed for the administrative costs of providing reduced-cost spay/neuter
40 services or capital expenditures for facilities and equipment associated with the provision of
41 such services.

42 (b) Application. – A county or city eligible for reimbursement of spaying and neutering
43 costs from the Spay/Neuter Account shall apply to the Department of Agriculture and
44 Consumer Services by the last day of January, April, July, and October of each year to receive
45 a distribution from the Account for that quarter. The application shall be submitted in the form
46 required by the Department and shall include an itemized listing of the costs for which
47 reimbursement is sought.

48 (c) Distribution. – The Department shall make payments from the Spay/Neuter Account
49 to eligible counties and cities who have made timely application for reimbursement within 30
50 days of the closing date for receipt of applications for that quarter. In the event that total

1 requests for reimbursement exceed the amounts available in the Spay/Neuter Account for
2 distribution, the monies available will be distributed as follows:

- 3 (1) Fifty percent (50%) of the monies available in the Spay/Neuter Account
4 shall be reserved for reimbursement for eligible applicants within
5 development tier one areas as defined in G.S. 143B-437.08. The remaining
6 fifty percent (50%) of the funds shall be used to fund reimbursement
7 requests from eligible applicants in development tier two and three areas as
8 defined in G.S. 143B-437.08.
- 9 (2) Among the eligible counties and cities in development tier one areas,
10 reimbursement shall be made to each eligible county or city pursuant to rules
11 adopted by the Department.
- 12 (3) Among the eligible counties and cities in development tier two and three
13 areas, reimbursement shall be made to each eligible county or city pursuant
14 to rules adopted by the Department.
- 15 (4) Should funds remain available from the fifty percent (50%) of the
16 Spay/Neuter Account designated for development tier one areas after
17 reimbursement of all claims by eligible applicants in those areas, the
18 remaining funds shall be made available to reimburse eligible applicants in
19 development tier two and three areas. (2000-163, s. 1; 2006-252, s. 2.11;
20 2010-31, s. 11.4(e).)

21
22 **§ 19A-65. Annual Report Required From Every Animal Shelter in Receipt of State or**
23 **Local Funding.**

24 Every county or city animal shelter, or animal shelter operated under contract with a county
25 or city or otherwise in receipt of State or local funding shall prepare an annual report in the
26 form required by the Department of Agriculture and Consumer Services setting forth the
27 numbers, by species, of animals received into the shelter, the number adopted out, the number
28 returned to owner, and the number destroyed. The report shall also contain the total operating
29 expenses of the shelter and the cost per animal handled. The report shall be filed with the
30 Department of Agriculture and Consumer Services by March 1 of each year. A city or county
31 that does not timely file the report required by this section is not eligible to receive
32 reimbursement payments under G.S. 19A-64 during the calendar year in which the report was
33 to be filed. (2000-163, s. 5; 2010-31, s. 11.4(f).)

34
35 **§ 19A-66. Notification of available funding.**

36 Prior to January 1 of each year, the Department of Agriculture and Consumer Services shall
37 notify counties and cities that have, prior to that notification deadline, established eligibility for
38 distribution of funds from the Spay/Neuter Account pursuant to G.S. 19A-63, of the following:

- 39 (1) The amount of funding in the Spay/Neuter Account that the Department will
40 have available for distribution to each county or city receiving notification to
41 pay reimbursement requests submitted by the county or city during the
42 calendar year following the notification deadline; and
- 43 (2) The amount of additional funding, if any, the Department estimates, but does
44 not guarantee, may be available to pay reimbursement requests submitted by
45 the notified county or city to the Department during the calendar year
46 following the notification deadline. (2010-31, s. 11.4(g).)

47
48 **§ 19A-67.** Reserved for future codification purposes.

49
50 **§ 19A-68.** Reserved for future codification purposes.

1 § 19A-69. Reserved for future codification purposes.

2
3 Article 6.

4 Care of Animal Subjected to Illegal Treatment.

5 § 19A-70. Care of animal subjected to illegal treatment.

6 (a) In every arrest under any provision of Article 47 of Chapter 14 of the General
7 Statutes or under G.S. 67-4.3 or upon the commencement of an action under Article 1 of this
8 Chapter by a county or municipality, by a county-approved animal cruelty investigator, by
9 other county or municipal official, or by an organization operating a county or municipal
10 shelter under contract, if an animal shelter takes custody of an animal, the operator of the
11 shelter may file a petition with the court requesting that the defendant be ordered to deposit
12 funds in an amount sufficient to secure payment of all the reasonable expenses expected to be
13 incurred by the animal shelter in caring for and providing for the animal pending the
14 disposition of the litigation. For purposes of this section, "reasonable expenses" includes the
15 cost of providing food, water, shelter, and care, including medical care, for at least 30 days.

16 (b) Upon receipt of a petition, the court shall set a hearing on the petition to determine
17 the need to care for and provide for the animal pending the disposition of the litigation. The
18 hearing shall be conducted no less than 10 and no more than 15 business days after the petition
19 is filed. The operator of the animal shelter shall mail written notice of the hearing and a copy of
20 the petition to the defendant at the address contained in the criminal charges or the complaint or
21 summons by which a civil action was initiated. If the defendant is in a local detention facility at
22 the time the petition is filed, the operator of the animal shelter shall also provide notice to the
23 custodian of the detention facility.

24 (c) The court shall set the amount of funds necessary for 30 days' care after taking into
25 consideration all of the facts and circumstances of the case, including the need to care for and
26 provide for the animal pending the disposition of the litigation, the recommendation of the
27 operator of the animal shelter, the estimated cost of caring for and providing for the animal, and
28 the defendant's ability to pay. If the court determines that the defendant is unable to deposit
29 funds, the court may consider issuing an order under subsection (f) of this section.

30 Any order for funds to be deposited pursuant to this section shall state that if the operator of
31 the animal shelter files an affidavit with the clerk of superior court, at least two business days
32 prior to the expiration of a 30-day period, stating that, to the best of the affiant's knowledge, the
33 case against the defendant has not yet been resolved, the order shall be automatically renewed
34 every 30 days until the case is resolved.

35 (d) If the court orders that funds be deposited, the amount of funds necessary for 30
36 days shall be posted with the clerk of superior court. The defendant shall also deposit the same
37 amount with the clerk of superior court every 30 days thereafter until the litigation is resolved,
38 unless the defendant requests a hearing no less than five business days prior to the expiration of
39 a 30-day period. If the defendant fails to deposit the funds within five business days of the
40 initial hearing, or five business days of the expiration of a 30-day period, the animal is forfeited
41 by operation of law. If funds have been deposited in accordance with this section, the operator
42 of the animal shelter may draw from the funds the actual costs incurred in caring for the animal.

43 In the event of forfeiture, the animal shelter may determine whether the animal is suitable
44 for adoption and whether adoption can be arranged for the animal. The animal may not be
45 adopted by the defendant or by any person residing in the defendant's household. If the adopted
46 animal is a dog used for fighting, the animal shelter shall notify any persons adopting the dog
47 of the liability provisions for owners of dangerous dogs under Article 1A of Chapter 67 of the
48 General Statutes. If no adoption can be arranged after the forfeiture, or the animal is unsuitable
49 for adoption, the shelter shall humanely euthanize the animal.

50 (e) The deposit of funds shall not prevent the animal shelter from disposing of the
51 animal prior to the expiration of the 30-day period covered by the deposit if the court makes a

1 final determination of the charges or claims against the defendant. Upon determination, the
2 defendant is entitled to a refund for any portion of the deposit not incurred as expenses by the
3 animal shelter. A person who is acquitted of all criminal charges or not found to have
4 committed animal cruelty in a civil action under Article 1 of this Chapter is entitled to a refund
5 of the deposit remaining after any draws from the deposit in accordance with subsection (d) of
6 this section.

7 (f) Pursuant to subsection (c) of this section, the court may order a defendant to provide
8 necessary food, water, shelter, and care, including any necessary medical care, for any animal
9 that is the basis of the charges or claims against the defendant without the removal of the
10 animal from the existing location and until the charges or claims against the defendant are
11 adjudicated. If the court issues such an order, the court shall provide for an animal control
12 officer or other law enforcement officer to make regular visits to the location to ensure that the
13 animal is receiving necessary food, water, shelter, and care, including any necessary medical
14 care, and to impound the animal if it is not receiving those necessities. (2005-383, s. 1;
15 2006-113, s. 2.1.)