

JAN 23 2009

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# A BILL FOR AN ACT

RELATING TO ANIMALS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The Hawaii Revised Statutes is amended by  
2 adding a new chapter to be appropriately designated and to read  
3 as follows:

4   "CHAPTER

5   COMPANION ANIMAL PROTECTION ACT

6   PART I. GENERAL PROVISIONS

7           § -1 Short title. This chapter shall be known as the  
8 Companion Animal Protection Act.

9           § -2 Findings and purpose. (a) The legislature finds  
10 that:

- 11           (1) Protecting animals is a legitimate and compelling  
12           public interest;
- 13           (2) The destruction of savable animals in shelters is a  
14           needless tragedy that must be brought to an end;
- 15           (3) No animal should be destroyed if the animal can be  
16           placed in a suitable home, if a private sheltering  
17           agency or rescue group is willing to take care and



- 1 custody of the animal for purposes of adoption, or, in  
2 the case of feral cats, if they can be sterilized and  
3 released to their habitats;
- 4 (4) Animals held in shelters deserve proper care and  
5 humane treatment including prompt veterinary care,  
6 adequate nutrition, shelter, exercise, environmental  
7 enrichment, and water;
- 8 (5) Shelters have a duty to make all savable animals  
9 available for adoption for a reasonable period of  
10 time;
- 11 (6) Owners of lost animals should have a reasonable period  
12 of time within which to redeem their animals;
- 13 (7) Shelters should not destroy savable animals at the  
14 request of their owners;
- 15 (8) All efforts should be made to encourage the voluntary  
16 spaying and neutering of animals;
- 17 (9) The State is obligated to taxpayers and community  
18 members to spend tax moneys on programs and services  
19 whose purpose is to save and enhance the lives of  
20 animals;
- 21 (10) When animals are destroyed, it should be done as  
22 humanely and compassionately as possible;



- 1 (11) Taxpayers and community members deserve full and
- 2 complete disclosure about how animal shelters operate;
- 3 (12) Citizens have a right to ensure that agencies follow
- 4 the law;
- 5 (13) Saving the lives of animals, identifying and
- 6 eliminating animal neglect and abuse, and protecting
- 7 public safety are compatible interests; and
- 8 (14) Policies that undermine the public's trust in animal
- 9 shelters should be eliminated.

10 (b) The purpose of this chapter is to ensure that all  
11 public and private sheltering agencies that operate within the  
12 State shall:

- 13 (1) Commit themselves to ending the destruction of savable
- 14 animals in their care and custody;
- 15 (2) Work with other animal adoption organizations to the
- 16 fullest extent to promote the adoption of animals and
- 17 to reduce the rate of destruction;
- 18 (3) Provide every animal in their custody with individual
- 19 consideration and care, regardless of how many animals
- 20 they take in, or whether such animals are healthy,
- 21 unweaned, elderly, sick, injured, traumatized, feral,
- 22 aggressive, or of a particular breed;



- 1           (4) Not ban, bar, limit, or otherwise obstruct the  
2           adoption of any animal based on arbitrary criteria,  
3           such as breed, age, color, or any other criteria  
4           unrelated to the individual animal's medical condition  
5           or temperament.
- 6           (5) Be open to the public for adoption seven days per  
7           week; and
- 8           (6) Implement programs to save lives, including free and  
9           low-cost spaying and neutering services for animals,  
10          including feral cats; a foster-care network for  
11          animals needing special care, including unweaned,  
12          traumatized, sick and injured animals; comprehensive  
13          adoption programs that operate during weekend and  
14          evening hours and include adoption venues other than  
15          the shelter; medical and behavioral rehabilitation  
16          programs; pet-retention programs to solve medical,  
17          environmental, and behavioral problems and keep  
18          animals with their caring and responsible owners; and,  
19          volunteer programs to help socialize animals, promote  
20          adoptions, and assist in the operations of the  
21          shelter.

22          § -3 Definitions. As used in this chapter:



1 "Animal" means any domestic non-human living creature  
2 normally kept as a pet, or a feral animal.

3 "Dangerous dog" means a dog adjudicated to be vicious by a  
4 court of competent jurisdiction.

5 "Feral cat" means a cat that is free-roaming, not  
6 socialized to humans, and not owned.

7 "Feral cat caregiver" means someone who cares for feral  
8 cats and has an interest in protecting the cats, but is not the  
9 owner of those cats.

10 "Healthy animal" is any animal that is not sick or injured.

11 "Impounded animal":

12 (1) Means any animal that enters a public or private  
13 sheltering agency or rescue group regardless of  
14 whether the animal is a stray, owner-relinquished,  
15 seized, taken into protective custody, transferred  
16 from another private or public sheltering agency, or  
17 is an animal that the owner requests be destroyed;

18 (2) Does not include any animal presented to a medical  
19 clinic associated with such agencies for purposes of  
20 preventative or rehabilitative medical care, or  
21 sterilization.



1 "Irremediably suffering animal" means any animal with a  
2 medical condition and a poor or grave prognosis for being able  
3 to live without severe, unremitting pain, as determined by a  
4 veterinarian licensed to practice in this State.

5 "Litter of animals" means two or more animals that are  
6 under twelve weeks of age as determined by a veterinarian  
7 licensed to practice in this State, or by a veterinary  
8 technician or veterinary assistant working under the direction  
9 of a veterinarian licensed to practice in this State.

10 "Non-rehabilitatable animal" means any animal with severe  
11 illness or injury; provided that the prognosis for  
12 rehabilitation is either poor or grave as determined by a  
13 veterinarian licensed to practice in this State.

14 "Private sheltering agency" means a shelter, society for  
15 the prevention of cruelty to animals, humane society, or animal  
16 adoption group, which is designated as a tax exempt organization  
17 under section 501(c)(3) of the Internal Revenue Code of 1986, as  
18 amended, and which:

- 19 (1) Does not receive county funding or have a contract  
20 with the county from which it accepts stray or owner-  
21 relinquished animals;



1 (2) Accepts animals into a physical facility other than a  
2 private residence; and

3 (3) Places into new homes stray animals, owner-  
4 relinquished animals, or animals that have been  
5 removed from a public or private sheltering agency.

6 "Public sheltering agency" means a public animal control  
7 shelter or private shelter, society for the prevention of  
8 cruelty to animals, humane society, or animal adoption group  
9 that receives state or county funding or has a contract, or  
10 both, with the State or any county from which it accepts stray  
11 or owner-relinquished animals.

12 "Rescue group":

13 (1) Means a collaboration of individuals not operated for  
14 a profit, whose primary stated purpose is animal  
15 protection, which places into new homes stray animals,  
16 owner-relinquished animals, or animals that have been  
17 removed from a public or private sheltering agency;

18 (2) Does not include individual rescuers who keep animals  
19 in their own homes but are not part of a larger  
20 collaboration.

21 "Savable animal" means any animal that is either healthy or  
22 treatable, and is not a vicious or dangerous dog.



1 "Stray animal" means any animal that is impounded without a  
2 known owner present at impound.

3 "Treatable animal" is any animal that is sick or injured;  
4 provided that the prognosis for rehabilitation of that illness  
5 or injury, or both, is excellent, good, fair, or guarded as  
6 determined by a veterinarian licensed to practice in this State.

7 "Unweaned animal" means any neonatal animal that, in the  
8 absence of its mother, requires supplemental bottle feeding by  
9 humans in order to survive. In the case of dogs and cats,  
10 unweaned animals are animals that fit the above description and  
11 are from zero to four weeks of age.

12 "Vicious dog" means a dog that exhibits aggression to  
13 people even when the dog is not hungry, in pain, or frightened;  
14 provided that the prognosis for rehabilitation of such  
15 aggression is poor or grave as determined by a trained  
16 behaviorist who is an expert on canine behavior.

17 § -4 Severability. If any provision of this chapter or  
18 the application thereof to any person or circumstance is held  
19 invalid, the invalidity shall not affect other provisions or  
20 applications of this chapter that can be given effect without  
21 the invalid provision or application, and to this end the  
22 provisions of this chapter are severable.





## 1                   PART II. STERILIZATION REQUIREMENTS

2           § -11 Sterilization requirement. (a) Except as  
3 otherwise provided in this section, no public or private  
4 sheltering agency or rescue group shall sell, adopt, or give  
5 away to a new owner any dog, cat, rabbit, or other animal that  
6 has not been spayed or neutered.

7           (b) If a veterinarian licensed to practice in this State  
8 certifies that an animal is too sick or injured to be spayed or  
9 neutered, or that it would otherwise be detrimental to the  
10 health of the animal to be spayed or neutered, the adopter or  
11 purchaser shall pay the public or private sheltering agency or  
12 rescue group a deposit of not less than \$50, and not more than  
13 \$100.

14           This deposit shall be returned if the adopter or purchaser  
15 presents the entity from which the animal was obtained with  
16 proof that the animal has been spayed or neutered within sixty  
17 days of receiving the animal, or presents a signed letter from a  
18 veterinarian licensed to practice in this State, certifying that  
19 the animal has died, including a description of the animal and  
20 most likely cause of death.

21           This deposit shall also be returned upon the expiration the  
22 sixty-day period if the adopter or purchaser presents a signed



1 letter from a veterinarian licensed to practice in this State,  
2 certifying that upon the expiration of the sixty-day period, the  
3 animal remains too sick or injured, or that it would otherwise  
4 be detrimental to the health of the animal, to be spayed or  
5 neutered.

6 (c) The adopter or purchaser of an animal must spay or  
7 neuter that animal within sixty days of adoption, purchase, or  
8 receipt from a public or private sheltering agency, or rescue  
9 group; provided that if a veterinarian licensed to practice in  
10 this State certifies that an animal is too sick or injured to be  
11 spayed or neutered within the time period, or that it would  
12 otherwise be detrimental to the health of the animal to be  
13 spayed or neutered within the time period, the animal shall be  
14 spayed or neutered within thirty days of the veterinarian  
15 certifying that the animal may safely be spayed or neutered.

16 (d) Notwithstanding subsection (b), if a veterinarian  
17 licensed to practice in this State certifies that an animal is  
18 too sick or injured to be spayed or neutered, or that it would  
19 otherwise be detrimental to the health of the animal to be  
20 spayed or neutered, and that the animal is not likely to ever be  
21 healthy enough to be spayed or neutered, no deposit shall be  
22 required.



1 (e) For the purposes of this section, a determination that  
2 a dog or cat is too sick or injured to be spayed or neutered, or  
3 that it would otherwise be detrimental to the health of the  
4 animal, may not be made based solely on the youth of the dog or  
5 cat, so long as the dog or cat is at least eight weeks of age.

6 (f) Notwithstanding the other requirements of this  
7 section, animals may be transferred to organizations listed on  
8 the registry required under section -51 before they have been  
9 spayed or neutered and without a spay or neuter deposit, as long  
10 as the receiving organization represents that it will spay or  
11 neuter all animals before placing them into homes.

12 (g) Any funds from unclaimed deposits made pursuant to  
13 this section shall be expended only for programs to spay or  
14 neuter animals.

15 (h) A licensed veterinarian shall perform all operations  
16 to spay or neuter an animal.

17 (i) All certifications made pursuant to this section shall  
18 be in writing, signed by the director of the agency or by a  
19 veterinarian, and be made available for free public inspection  
20 for not less than three years.

21 (j) This section shall not apply to reptiles, amphibians,  
22 birds, fish, and small animals such as mice and hamsters, where



1 the anesthesia or sterilization procedure is likely to result in  
2 the animal's death.

3 § -12 Penalties. (a) A person is subject to civil  
4 penalties of not less than \$200 or more than \$500 if that person  
5 does any of the following:

6 (1) Falsifies any proof of spaying or neutering submitted  
7 for the purpose of compliance with this chapter;

8 (2) Intentionally issues a check for insufficient funds  
9 for any spaying or neutering deposit required under  
10 this chapter;

11 (3) Falsifies a signed letter from a veterinarian,  
12 submitted for the purpose of compliance with this  
13 chapter, certifying that an animal is too sick or  
14 injured to be spayed or neutered; or

15 (4) Fails to sterilize the animal as required.

16 (b) An action for a penalty proposed under this section  
17 may be commenced in a court of competent jurisdiction by the  
18 administrator of the public or private animal sheltering agency  
19 or rescue group from which the recipient obtained the animal  
20 that is the subject of the violation.



1 (c) All penalties collected under this section shall be  
2 retained by the agency bringing the action under subsection (b)  
3 and shall be used solely for programs to spay or neuter animals.

4 **PART III. FERAL CATS**

5 § -21 **Feral cat caretakers.** (a) Caretakers of feral  
6 cats shall be exempted from any provision of law proscribing the  
7 feeding of stray animals, requiring permits for the feeding of  
8 animals, requiring the confinement of cats, or limiting the  
9 number of animals a person can own, harbor, or have custody of.

10 (b) Nothing in this section shall be construed to limit  
11 the enforcement of a statute having as its effect the prevention  
12 or punishment of animal neglect or cruelty, so long as that  
13 enforcement is based on the conditions of animals, and not based  
14 on the mere fact that a person is feeding feral cats in a public  
15 or private location.

16 § -22 **Traps.** (a) In order to encourage the spaying or  
17 neutering of feral cats and to protect cats, public or private  
18 sheltering agencies or rescue groups shall not lend, rent, or  
19 otherwise provide traps to the public to capture cats, except to  
20 a person for the purpose of catching and reclaiming that  
21 person's wayward cat, to capture injured or sick cats or cats  
22 otherwise in danger, to capture feral kittens for purposes of



1 taming and adoption, or, in the case of feral cats, for purposes  
2 of spaying or neutering, and subsequent re-release.

3 (1) For the purposes of this section, the location of the  
4 cats, without more, does not constitute "otherwise in  
5 danger".

6 (2) A person is subject to civil penalties of not less  
7 than \$200 and not more than \$500 if that person uses a  
8 trap from a public or private sheltering agency or  
9 rescue group for purposes other than those described  
10 above.

11 (b) An action for a penalty proposed under this section  
12 may be commenced in a court of competent jurisdiction by the  
13 administrator of the public or private animal sheltering agency  
14 or rescue group from which the recipient obtained the trap that  
15 is the subject of the violation.

16 (c) All penalties collected under this section shall be  
17 retained by the agency bringing the action under subsection (c)  
18 and shall be used solely for programs to spay or neuter animals.

19 PART IV. HOLDING PERIODS

20 § -31 Holding periods, generally. (a) The required  
21 holding period for a stray animal impounded by any public or



1 private sheltering agency shall be five business days, not  
2 including the day of impoundment; provided that:

3 (1) Stray animals without any form of identification and  
4 without a known owner shall be held for owner  
5 redemption during the first two days of the holding  
6 period, not including the day of impoundment, and  
7 shall be available for owner redemption, transfer, and  
8 adoption for the remainder of the holding period;

9 (2) Stray animals may be adopted into new homes or  
10 transferred to a rescue group or private sheltering  
11 agency for the purpose of adoption after the first two  
12 days of the holding period, not including the day of  
13 impoundment, except as provided in paragraphs (3) to  
14 (9);

15 (3) If a stray animal is impounded with a license tag,  
16 microchip, or other form of identification, or belongs  
17 to a known owner, the animal shall be held for owner  
18 redemption during the first three days of the holding  
19 period, not including the day of impoundment, and  
20 shall be available for owner redemption, transfer, and  
21 adoption for the remainder of the holding period;



- 1 (4) Litters of animals or individual members of a litter  
2 of animals, including the nursing mother, and unweaned  
3 animals may be transferred to a private sheltering  
4 agency or rescue group for the purpose of adoption  
5 immediately after impound;
- 6 (5) Individual members of litters of animals that are at  
7 least six weeks of age, including the mother, may be  
8 adopted immediately upon impound;
- 9 (6) A feral cat caregiver has the same right of redemption  
10 for feral cats as an owner of a pet cat, without  
11 conferring ownership of the cat on the caregiver;
- 12 (7) Irremediably suffering animals shall be euthanized  
13 without delay, upon a determination made in writing  
14 and signed by a veterinarian licensed to practice in  
15 this State. Certification shall be made available for  
16 free public inspection for not less than three years;
- 17 (8) Dogs and cats with confirmed cases of parvovirus or  
18 cats with confirmed cases of panleukopenia may be  
19 euthanized without delay, upon a certification made in  
20 writing and signed by a veterinarian licensed to  
21 practice in this State. Certification shall be made





1 available for free public inspection for no less than  
2 three years;

3 (9) Unweaned animals impounded without their mother may be  
4 destroyed so long as the shelter has exhausted all  
5 efforts to place the animals in foster care, made an  
6 emergency appeal under the requirements of section  
7 -51, and certified that it is unable to provide the  
8 needed care and feeding in its facility.

9 Certification shall also state in clear and definitive  
10 terms why the agency is unable to place the animals in  
11 foster care, which private sheltering agencies and  
12 rescue groups it made an appeal to, and what would be  
13 required in the future in order to provide the needed  
14 care and feeding in foster care or its facility, and  
15 what steps are being taken to do so. Certification  
16 shall be made in writing, signed by the director of  
17 the agency or by a veterinarian, and be made available  
18 for free public inspection for not less than three  
19 years.

20 § -32 Owner-relinquished animals. (a) The required  
21 holding period for an owner-relinquished animal impounded by



1 public or private sheltering agencies shall be the same as that  
2 for stray animals; provided that:

3 (1) Any owner-relinquished animal that is impounded shall  
4 be held for adoption or for transfer to a private  
5 sheltering agency or rescue group for the purpose of  
6 adoption for the entirety of the holding period;

7 (2) Owner-relinquished animals may be adopted into new  
8 homes or transferred to a private sheltering agency or  
9 rescue group for the purpose of adoption at any time  
10 after impoundment.

11 (b) When an animal is surrendered or brought to a shelter  
12 to be destroyed at the owner's request, the animal shall be  
13 subject to the same holding periods and the same requirements  
14 for all owner-relinquished animals, regardless of the owner's  
15 request.

16 § -33 **Seized animals.** An animal seized by an officer of  
17 a public or private sheltering agency under any law having as  
18 its effect the prevention or punishment of animal neglect or  
19 cruelty, seized under statutory provisions regarding dangerous  
20 dogs, or seized under quarantine or disease control regulations,  
21 shall be impounded and held as consistent with the requirements  
22 of those laws; provided that, where any other law permits a



1 holding period, care, or disposition which affords an animal  
2 less protection than the mandates of this chapter, this chapter  
3 shall supersede.

4 **PART V. ANIMAL CARE STANDARDS**

5 **§ -41 Standards.** (a) Except as otherwise provided in  
6 this section, public and private sheltering agencies shall  
7 provide all animals during the entirety of their shelter stay  
8 with the following:

- 9 (1) Fresh food;
- 10 (2) Fresh water;
- 11 (3) Environmental enrichment to promote their  
12 psychological well-being, such as socialization, toys,  
13 and treats; and
- 14 (4) Exercise at least once daily; provided that dogs that  
15 are vicious to people or dangerous dogs may, but are  
16 not required to, be exercised during the holding  
17 period.

18 (b) Notwithstanding subsection (a), public and private  
19 sheltering agencies shall work with a veterinarian licensed to  
20 practice in this State to develop and follow a care protocol,  
21 which is consistent with the goals of this chapter, as defined  
22 in section -2, for animals with special needs such as, but



1 not limited to, nursing mothers, unweaned animals, sick or  
2 injured animals, geriatric animals, or animals needing  
3 therapeutic exercise. This care protocol shall specify any  
4 deviation from the standard requirements of subsection (a) and  
5 the reasons for the deviation.

6 (c) During the entirety of their shelter stay, animals  
7 shall be provided prompt and necessary cleaning of their cages,  
8 kennels, or other living environments no less than two times per  
9 day, to ensure environments that are welcoming to the public,  
10 hygienic for both the public and animals, and to prevent  
11 disease. This cleaning shall be conducted in accordance with a  
12 protocol developed in coordination with a veterinarian licensed  
13 to practice in this State; provided that animals shall be  
14 temporarily removed from their cages, kennels, or other living  
15 environments during the process of cleaning, to prevent them  
16 from being exposed to water from hoses or sprays, cleaning  
17 solutions, detergents, solvents, and chemicals.

18 (d) During the entirety of their shelter stay, all animals  
19 shall be provided with prompt and necessary veterinary care,  
20 including but not limited to preventative vaccinations, cage  
21 rest, fluid therapy, pain management, and antibiotics,  
22 sufficient to alleviate any pain caused by disease or injury, to



1 prevent a condition from worsening, and to allow them to leave  
2 the shelter in reasonable condition, even if the animals are not  
3 candidates for redemption, transfer, or adoption.

4 (e) Public and private sheltering agencies shall work with  
5 a veterinarian licensed to practice in this State to develop and  
6 follow a protocol to prevent the spread of disease, including,  
7 but not limited to, appropriate evaluation and testing of newly  
8 impounded animals, administration of vaccines, proper isolation  
9 and handling of sick animals, and measures to protect those  
10 animals most vulnerable to infection.

11 (e) All protocols in this section shall be in writing,  
12 signed by a veterinarian, and be made available for free public  
13 inspection for not less than three years.

14 PART VI. ADDITIONAL PROGRAMS AND DUTIES

15 § -51 Registry. (a) All public and private sheltering  
16 agencies that destroy animals shall maintain a registry of  
17 organizations willing to accept animals for the purposes of  
18 adoption, as follows:

19 (1) All public or private sheltering agencies, and rescue  
20 groups designated as tax exempt by section 501(c)(3)  
21 of the Internal Revenue Code of 1986, as amended,  
22 shall be immediately placed on this registry upon



1           their request, regardless of the organizations'  
2           geographical location or any other factor except as  
3           described under paragraph (5);

4           (2) The public or private sheltering agency may, but is  
5           not required to, include on the registry any rescue  
6           groups that are not designated as tax exempt under  
7           section 501(c)(3) of the Internal Revenue Code of  
8           1986, as amended;

9           (3) The registry shall include the following information  
10          provided by the registered organization: organization  
11          name, mailing address, telephone number, website and  
12          electronic mail address, emergency contact information  
13          for the organization, the types of animals about which  
14          the organization wishes to be contacted, including  
15          species-type and breed, and whether or not the  
16          organization is willing and able to care for unweaned  
17          animals, sick or injured animals, and feral or  
18          aggressive animals;

19          (4) All public and private sheltering agencies shall seek  
20          organizations to include on the registry;

21          (5) A public or private sheltering agency may refuse to  
22          include an organization on the registry, or delete an



1 organization from the registry, if any of the  
2 organization's current directors or officers have been  
3 convicted in a court of competent jurisdiction of a  
4 violation of any law consisting of cruelty to animals  
5 or neglect of animals, or if the charges are pending  
6 against any of the organization's current directors or  
7 officers, or if the organization or its current  
8 directors or officers are constrained by a court order  
9 or legally binding agreement that prevents the  
10 organization from taking in or keeping animals. An  
11 agency may require an organization to disclose any or  
12 all convictions, charges, and legal impediments  
13 described in this paragraph;

- 14 (6) A public or private sheltering agency may require that  
15 registered organizations provide the following summary  
16 information on no more than a monthly basis: the total  
17 number of animals the organization has taken from the  
18 agency that have been adopted, died, were transferred,  
19 were destroyed, and are still under the organization's  
20 care. This information may be provided in an informal  
21 format, such as via electronic mail;



1 (7) A public or private sheltering agency shall not demand  
2 additional information, other than that described in  
3 this section, as a prerequisite for including an  
4 organization on the registry or for continuing to  
5 maintain that organization on the registry; and

6 (8) All information compiled in compliance with this  
7 section shall be made available for free public  
8 inspection for no less than three years.

9 (b) No public or private sheltering agency may destroy an  
10 animal unless and until the agency has notified, or made a  
11 reasonable attempt to notify, all organizations on the registry  
12 described in subsection (a) that have indicated a willingness to  
13 take an animal of that type; provided that:

14 (1) The notification shall take place at least two  
15 business days prior to the destruction of the animal;

16 (2) At a minimum, the notification shall include calling  
17 the organization's regular and emergency contact  
18 numbers, and sending a message via electronic mail, if  
19 the organization's electronic mail address is  
20 available. Notification is considered complete as to  
21 each individual group when this has been accomplished;





1           (3) No animal may be destroyed if an organization on the  
2 registry is willing and able to take the animal within  
3 two business days after being notified; and

4           (4) No fee may be assessed for animals released to  
5 organizations listed on the registry.

6           (c) No public or private sheltering agency may destroy an  
7 animal unless and until the agency has notified, or made a  
8 reasonable attempt to notify, individual rescuers, rescue groups  
9 that are not designated as a tax exempt under section 501(c)(3)  
10 of the Internal Revenue Code of 1986, as amended, and the public  
11 at large so that they may consider adopting or rescuing the  
12 animal consistent with the agency's normal adoption or transfer  
13 protocols; provided that the notification:

14           (1) Shall take place at least two business days prior to  
15 the destruction of the animal; and

16           (2) Such notification can be accomplished in any  
17 reasonable manner but shall, at a minimum, include  
18 posting a notice in the shelter on the particular  
19 animal's cage or kennel, and on the agency's website  
20 that states: "This animal is to be destroyed on  
21 [date] and [time]."



1 (d) The following exceptions shall apply to the  
2 requirements of subsections (b) and (c):

3 (1) All irremediably suffering animals shall be euthanized  
4 without delay. The determination that an animal is  
5 irremediably suffering shall be in writing, signed by  
6 a veterinarian licensed to practice in this State, and  
7 be made available for free public inspection for no  
8 less than three years;

9 (2) Dogs and cats with confirmed cases of parvovirus or  
10 cats with confirmed cases of panleukopenia may be  
11 euthanized without delay, upon a certification made in  
12 writing and signed by a veterinarian licensed to  
13 practice in this State. The certification shall be  
14 made available for free public inspection for not less  
15 than three years; and

16 (3) Upon the impoundment of unweaned animals without their  
17 mother, all public and private sheltering agencies  
18 which have not placed the animals into foster care or  
19 have not committed to provide supplemental feeding  
20 shall immediately make an emergency appeal to  
21 organizations on the registry that have indicated that  
22 they are willing and able to care for unweaned



1 animals, and give such organizations a reasonable  
2 amount of time to respond to the appeal. Unweaned  
3 animals impounded without their mother may then be  
4 destroyed before the expiration of the two business  
5 days notification period if the requirements of  
6 section -31(a)(9) are met.

7 (e) All public and private sheltering agencies shall  
8 require organizations taking animals under this section to sign  
9 a contract providing that:

10 (1) The animals are being taken for the purposes of  
11 adoption; and

12 (2) All animals taken from the agency will be spayed or  
13 neutered before adoption, unless a licensed  
14 veterinarian certifies that an animal is too sick to  
15 be spayed or neutered, or that it would otherwise be  
16 detrimental to the health of the animal to be spayed  
17 or neutered as required under section -11.

18 § -52 **Identification and notification.** All public and  
19 private sheltering agencies shall take appropriate action to  
20 ensure that all animals are checked for all currently acceptable  
21 methods of identification, including microchips, identification  
22 tags, and licenses. All public and private sheltering agencies



1 shall maintain continuously updated lists of animals reported  
2 lost, and attempt to match these lost reports with animals  
3 reported found and animals in the shelter, and shall also post  
4 all stray animals on the Internet with sufficient detail to  
5 allow them to be recognized and claimed by their owners. If a  
6 possible owner is identified, the agencies shall undertake  
7 reasonable efforts to notify the owner or caretaker of the  
8 whereabouts of the animal and any procedures available for the  
9 lawful recovery of the animal. These efforts shall include, but  
10 are not limited to, notifying the possible owner by telephone,  
11 mail, and personal service to the last known address. Upon the  
12 owner's or caretaker's initiation of recovery procedures, the  
13 agencies shall retain custody of the animal for a reasonable  
14 period of time to allow for completion of the recovery process.  
15 Efforts to locate or contact an owner or caretaker, and  
16 communications with persons claiming to be owners or caretakers,  
17 shall be recorded and be made available for free public  
18 inspection for not less than three years.

19 § -53 Adoption programs. Every public or private  
20 sheltering agency shall have adoption programs which include:



- 1 (1) Adoption programs to place animals into homes and to
- 2 transfer animals to other private sheltering agencies
- 3 or rescue groups for adoption;
- 4 (2) Promotion of animals to the community through means
- 5 such as the local media and the Internet;
- 6 (3) Evening and weekend adoption hours; and
- 7 (4) Community-based adoption events or venues at locations
- 8 other than the shelter.

9 In addition, all public sheltering agencies shall be open  
10 for public adoption seven days per week for a minimum of six  
11 hours per day, except on the following state holidays, when the  
12 shelter may, but is not required to, be open for adoptions: New  
13 Years Day, Thanksgiving Day, and Christmas Day.

14 § -64 **Adoption criteria.** No public or private  
15 sheltering agency shall ban, bar, limit or otherwise obstruct  
16 the adoption of any animal based on arbitrary criteria, such as  
17 breed, age, color, or any other criteria unrelated to the  
18 individual animal's medical condition and temperament.

19 § -65 **Public services.** (a) Every public sheltering  
20 agency shall provide the following public services:

- 21 (1) Low-cost spay or neuter services for animals;



1 (2) Volunteer opportunities for people to assist the  
2 shelter, including fostering animals, socializing  
3 animals, assisting with adoptions, and otherwise  
4 helping in the operations of the shelter; and

5 (3) Programs to assist people in overcoming situations  
6 that may cause them to relinquish or abandon their  
7 animals, including, but not limited to, programs that  
8 address animal behavior problems, medical conditions,  
9 and environmental conditions.

10 (b) Nothing in this section shall prohibit an agency from  
11 adopting reasonable rules to facilitate the orderly operation of  
12 these programs, so long as the rules are designed to meet the  
13 goals of this chapter, as defined in section -2.

14 § -66 Restrictions on use of animals. (a) No person  
15 shall procure or use any living animal from a public or private  
16 sheltering agency or rescue group for medical or biological  
17 teaching, research, or study. No hospital, educational or  
18 commercial institution, laboratory, or animal dealer, whether or  
19 not the dealer is licensed by the United States Department of  
20 Agriculture, shall purchase or accept any living animal from a  
21 public or private sheltering agency, rescue group, commercial  
22 kennel, kennel, peace officer, or animal control officer.



1 (b) No public or private sheltering agency, rescue group,  
2 commercial kennel, kennel, peace officer, or animal control  
3 officer shall sell, adopt, transfer, or give away any living  
4 animal to a person, hospital, educational or commercial  
5 institution, laboratory, or dealer in animals, whether or not  
6 the dealer is licensed by the United States Department of  
7 Agriculture, for purposes of medical or biological teaching,  
8 research, or study.

9 § -67 Destruction of animals; requirements. (a) No  
10 savable animal in a public or private sheltering agency shall be  
11 destroyed simply because the holding period has expired. Before  
12 an animal is destroyed, all of the following conditions shall be  
13 met:

- 14 (1) There are no empty cages, kennels, or other living  
15 environments in the shelter;
- 16 (2) The animal cannot share a cage or kennel with another  
17 animal;
- 18 (3) A foster home is not available;
- 19 (4) Organizations listed on the registry described in  
20 section -51 are not willing to accept the animal;
- 21 (5) The animal is not a feral cat subject to sterilization  
22 and release;



1 (6) All mandates, programs, and services of this chapter  
2 have been met; and

3 (7) The director of the agency certifies that there is no  
4 other alternative.

5 (b) The determination that all conditions of subsection  
6 (a) have been met shall be made in writing, signed by the  
7 director of the agency, and be made available for free public  
8 inspection for not less than three years.

9 § -68 Destruction of animals; procedure. (a) All  
10 animals impounded by a public or private sheltering agency or  
11 rescue group shall be destroyed, only when necessary and  
12 consistent with the requirements of this chapter, by lethal  
13 intravenous injection of sodium pentobarbital, administered by a  
14 licensed veterinarian, except as follows:

15 (1) Intraperitoneal injections may be used only under the  
16 direction of a licensed veterinarian, and only when  
17 intravenous injection is not possible for infant  
18 animals, companion animals other than cats and dogs,  
19 feral cats, or in comatose animals with depressed  
20 vascular function; and

21 (2) Intracardiac injections may be used only when  
22 intravenous injection is not possible for animals that





1 are completely unconscious or comatose, and then only  
2 under the direction of a veterinarian.

3 (b) No animal shall be allowed to witness any other animal  
4 being destroyed or being tranquilized or sedated for the purpose  
5 of being destroyed.

6 (c) Animals shall be sedated or tranquilized as necessary  
7 to minimize their stress or discomfort, or in the case of  
8 vicious animals, to ensure staff safety; provided that  
9 neuromuscular blocking agents shall not be used.

10 (d) Following their injection, animals shall be lowered to  
11 the surface on which they are being held and shall not be  
12 permitted to drop or otherwise collapse without support.

13 (e) An animal may not be left unattended between the time  
14 procedures to destroy the animal are commenced and the time  
15 death occurs, nor may the animal's remains be disposed of until  
16 death is verified.

17 (f) Verification of death shall be confirmed for each  
18 animal in each of the following ways:

19 (1) By lack of heartbeat, verified by a stethoscope;

20 (2) By lack of respiration, verified by observation;

21 (3) By pale, bluish gums and tongue, verified by

22 observation; and



1           (4) By lack of eye response, verified if lid does not  
2           blink when eye is touched and pupil remains dilated  
3           when a light is shined on it.

4           (g) The room in which animals are destroyed shall be  
5           cleaned and regularly disinfected as necessary, but not less  
6           than once per day on days the room is used; provided that the  
7           area where the procedure is performed shall be cleaned and  
8           disinfected between each procedure.

9           (h) The room in which animals are destroyed shall have  
10          adequate ventilation that prevents the accumulation of odors.

11          (i) A veterinarian licensed to practice in this State  
12          shall perform these procedures.

13                                   **PART VII. PUBLIC ACCOUNTABILITY**

14          § -71 **Disclosure requirements.** (a) All public and  
15          private sheltering agencies shall post, in a conspicuous place  
16          where animals are being relinquished by owners, a sign which is  
17          clearly visible and readable from any vantage point in the area,  
18          and at least seventeen inches by twenty-two inches, which has  
19          all of the following information identified by species-type:

20               (1) The number of animals impounded for the prior calendar  
21               year;



1 (2) The number of animals impounded for the prior calendar  
2 year that were adopted;

3 (3) The number of animals impounded for the prior calendar  
4 year that were transferred to other agencies for  
5 adoption;

6 (4) The number of animals impounded for the prior calendar  
7 year that were reclaimed by their owners;

8 (5) The number of animals impounded for the prior calendar  
9 year that died, were lost, and were stolen while under  
10 the direct or constructive care of the agency; and

11 (6) The number of animals impounded for the prior calendar  
12 year that were destroyed by the agency, at the  
13 agency's direction, with the agency's permission, or  
14 by a representative of the agency.

15 (b) All public or private sheltering agencies shall  
16 provide all owners who are relinquishing an animal with accurate  
17 information, in writing, about the likely disposition of their  
18 animal which includes, but is not limited to:

19 (1) If the animal is of a breed or type that is normally  
20 destroyed;

21 (2) If the animal is likely to be destroyed because of  
22 some current, usual, or unusual circumstances, and



1 (3) The information required by subsection (a).

2 (c) Any owner surrendering an animal to a public or  
3 private sheltering agency shall sign a statement on a form  
4 provided by the agency which includes the specific language: "I  
5 understand that the shelter may destroy my pet."

6 If such statements are provided on a form which has  
7 additional information, the owner must initial the statement  
8 where this information appears. If the person refuses to sign  
9 the statement, the shelter, or its agents, shall recite the  
10 statement aloud to the owner and then write: "Refused to sign."

11 The statements shall be kept on file for a period of not  
12 less than three years and be made available for public  
13 inspection.

14 (d) All public and private sheltering agencies shall make  
15 available for free public inspection the care protocol required  
16 under section -41(b), the cleaning protocol required under  
17 section -41(c), and the disease-prevention protocol required  
18 under section -41(e).

19 (e) All public and private sheltering agencies shall  
20 include on their websites and post, in a conspicuous place near  
21 the entrance of the shelter, a list of organizations included on  
22 the registry described in section -51, as well as an



1 invitation for all public or private sheltering agencies and  
2 rescue groups to inquire about being listed on the registry, so  
3 that they may be notified before any animal is destroyed. The  
4 lists shall not include any contact information the registered  
5 organizations do not wish to make public.

6 § -72 Reports. (a) All public or private sheltering  
7 agencies shall provide to the department of agriculture and,  
8 upon request, for free public inspection, a monthly summary by  
9 the tenth day of the month that includes the following  
10 information by species-type:

11 (1) The number of animals impounded during the previous  
12 month;

13 (2) The number of impounded animals sterilized by the  
14 agency or sterilized by contract with participating  
15 outside private veterinarians during the previous  
16 month;

17 (3) The number of animals that were destroyed by the  
18 agency, at the agency's direction, with the agency's  
19 permission, or by a representative of the agency  
20 during the previous month;



1 (4) The number of animals that died, were lost, or were  
2 stolen while in the direct or constructive care of the  
3 agency during the previous month;

4 (5) The number of animals that were returned to their  
5 owners during the previous month;

6 (6) The number of animals that were adopted during the  
7 previous month;

8 (7) The number of animals that were transferred to other  
9 organizations for adoption during the previous month;  
10 and

11 (8) The number of animals impounded into the reporting  
12 agency from outside the county during the previous  
13 month.

14 (b) Every public or private sheltering agency shall  
15 provide an annual summary by January 31 to the department of  
16 agriculture and, upon request, for free public inspection, which  
17 includes the following information by species-type:

18 (1) The number of animals impounded during the previous  
19 calendar year;

20 (2) The number of impounded animals sterilized by the  
21 agency or sterilized by contract with participating



- 1 outside private veterinarians during the previous
- 2 calendar year;
- 3 (3) The number of animals that were destroyed by the
- 4 agency, at the agency's direction, with the agency's
- 5 permission, or by a representative of the agency
- 6 during the previous calendar year;
- 7 (4) The number of animals that died, were lost, or were
- 8 stolen while in the direct or constructive care of the
- 9 agency during the previous calendar year;
- 10 (5) The number of animals that were returned to their
- 11 owners during the previous calendar year;
- 12 (6) The number of animals that were adopted during the
- 13 previous calendar year;
- 14 (7) The number of animals that were transferred to other
- 15 organizations for adoption during the previous
- 16 calendar year; and
- 17 (8) The number of animals impounded into the reporting
- 18 agency from outside the county during the previous
- 19 calendar year.

20 § -73 Dog license revenues. (a) Revenues from dog  
21 licenses, as required under any existing state or county laws,

1 shall be deposited into an account for use by county animal  
2 control agencies as follows:

3 (1) Sixty per cent shall be used exclusively for free and  
4 low-cost spaying or neutering of feral cats and owned  
5 animals under the provision of subsection (b);

6 (2) Forty per cent shall be used exclusively for free and  
7 low-cost medical assistance, including vaccinations,  
8 of feral cats and owned animals under the provision of  
9 subsection (b).

10 (b) Dog license funds shall be used to provide low-cost  
11 spaying, neutering, and medical care for animals if the owner or  
12 feral cat caretaker meets income guidelines set by the shelter  
13 or county except as follows:

14 (1) Dog license funds shall be used to provide free  
15 spaying and neutering for animals if the owner is on  
16 public assistance or is eligible for any type of  
17 county, state, or federal aid of the kind that is  
18 normally given to individuals based on lack of  
19 sufficient income;

20 (2) Dog license funds shall be used to provide low-cost  
21 medical care, including vaccinations, for animals if  
22 the owner is on public assistance or is eligible for





1           any type of county, state, or federal aid of the kind  
2           that is normally given to individuals based on lack of  
3           sufficient income;

4           (3) Dog license funds shall be used to provide free  
5           spaying or neutering and vaccinations against rabies  
6           for feral cats, regardless of the feral cat  
7           caretaker's income.

8           (c) The services in subsection (b) shall be performed  
9           under the direction of a veterinarian licensed to practice in  
10          this State.

11          (d) Dog license funds shall not be deducted from the  
12          budget of any county animal control agency.

13          § -74 Standing. (a) Any resident of the State may  
14          compel a public or private sheltering agency or rescue group to  
15          follow the mandates of this chapter through a lawsuit asking a  
16          court of competent jurisdiction to grant declaratory and  
17          injunctive relief including, but not limited to restraining  
18          orders, preliminary injunctions, injunctions, writs of mandamus  
19          and prohibition, and other appropriate remedies at law.

20          (b) Any public or private sheltering agency or rescue  
21          group may compel a public or private sheltering agency to follow  
22          the mandates of this chapter through a lawsuit asking a court of



1 competent jurisdiction to grant declaratory and injunctive  
2 relief including, but not limited to restraining orders,  
3 preliminary injunctions, injunctions, writs of mandamus and  
4 prohibition, and other appropriate remedies at law.

5 § -75 Limitation on rulemaking. Notwithstanding any law  
6 to the contrary, it shall be unlawful for any rule, ordinance,  
7 or policy to require the licensing of cats, the confinement of  
8 cats, limit the number of animals a household can own or care  
9 for, prohibit or require permits for the feeding of stray  
10 domestic animals, or prohibit the adoption of specific breeds of  
11 dogs.

12 Nothing in this section shall be construed to limit the  
13 enforcement of a law having as its effect the prevention or  
14 punishment of animal neglect or cruelty, so long as the  
15 enforcement is based on the conditions of animals or the  
16 environment, and not based on the mere fact that a household has  
17 a certain number of animals, a person is feeding stray domestic  
18 animals, or that a dog is of a particular breed."

19 SECTION 2. This Act does not affect rights and duties that  
20 matured, penalties that were incurred, and proceedings that were  
21 begun, before its effective date.

22

# S.B. NO. 233

1 SECTION 3. This Act shall take effect upon its approval.

2

INTRODUCED BY: Mike Hubbard



**Report Title:**  
Animal Welfare

**Description:**  
Establishes the Companion Animal Protection Act.

