

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S

1

SENATE BILL 669

Short Title: Civil Remedy for Animal Cruelty.

(Public)

Sponsors: Senator Hartsell.

Referred to: Judiciary I.

April 2, 2003

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE LAW REGARDING THE CIVIL REMEDY FOR
3 PROTECTION OF ANIMALS, AS RECOMMENDED BY THE GENERAL
4 STATUTES COMMISSION.

5 The General Assembly of North Carolina enacts:

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

8 "Article 1.

9 "Civil Remedy for Protection of Animals.

10 **"§ 19A-1. Definitions.**

11 The following definitions apply in this Article:

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

27 **"§ 19A-1.1. Prohibition.**

28 No person shall engage in cruelty to or cruel treatment of any animal.

29 **"§ 19A-1.2. Exemptions.**

1 This Article shall not apply to the following activities conducted in compliance with
2 commonly accepted practices:

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

16 **"§ 19A-2. Purpose.**

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

25 **"§ 19A-3. ~~Preliminary injunction. Temporary restraining order.~~**

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

36 **"§ 19A-3.1. Preliminary injunction.**

37 If the court finds, after a hearing pursuant to G.S. 1A-1, Rule 65, that the cruelty or
38 cruel treatment alleged would not immediately be terminated by issuance of a
39 preliminary injunction that leaves the animal in possession of the defendant, the court
40 may issue a preliminary injunction transferring possession and custody of the animal to
41 the plaintiff or to a third party.

42 **"§ 19A-4. Permanent injunction.**

43 In accordance with G.S. 1A-1, Rule 65, a district court judge in the county in which
44 the original action was brought shall determine the merits of the action by trial without a

1 jury, and upon hearing such evidence as may be presented, shall enter orders as ~~he~~ the
2 court deems appropriate, including a permanent injunction ~~or final determination of the~~
3 ~~animal's custody.~~ and dismissal of the action along with dissolution of any temporary
4 injunction that had been issued. In addition, if the court finds by a preponderance of the
5 evidence that even if a permanent injunction were issued there would exist a substantial
6 risk that the animal would be subjected to further cruelty if returned to the possession of
7 the defendant, the court may terminate the defendant's ownership and right of
8 possession of the animal and transfer ownership and right of possession to the plaintiff
9 or other appropriate successor owner."

10 **SECTION 2.** This act is effective when it becomes law.