

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE BILL 669
Judiciary I Committee Substitute Adopted 4/29/03
House Committee Substitute Favorable 5/27/03

Short Title: Civil Remedy for Animal Cruelty.

(Public)

Sponsors:

Referred to:

April 2, 2003

A BILL TO BE ENTITLED

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

The General Assembly of North Carolina enacts:

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

"Article 1.

"Civil Remedy for Protection of Animals.

"§ 19A-1. Definitions.

The following definitions apply in this Article:

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

"§ 19A-1.1. Exemptions.

This Article shall not apply to the following:

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

"§ 19A-2. Purpose.

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

"§ 19A-3. Preliminary injunction.

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

"§ 19A-4. Permanent injunction.

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

1 possession of the animal and transfer ownership and right of possession to the plaintiff
2 or other appropriate successor owner."

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

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

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