

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE DRS65226-LL-3 (10/31)

Short Title: Animal Welfare Act/Sales at Flea Markets.

(Public)

Sponsors: Senator Hoyle.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE PROTECTION OF THE ANIMAL WELFARE ACT TO
ANIMALS SOLD AT FLEA MARKETS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 19A-21 reads as rewritten:

"§ 19A-21. Purposes.

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

SECTION 2. G.S. 19A-23 is amended by adding two new subdivisions to read:

"(9a) "Flea market booth" means a location, other than a permanent retail store, where space is leased from another for the purpose of selling animals to the general public.

"(9b) "Flea marker vendor" means a merchant, other than a merchant with an established retail store, who transports an inventory of animals to a flea market and who offers the animals for sale at that location."

SECTION 3. G.S. 19A-24 reads as rewritten:

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

The Board of Agriculture shall:

- 1 (1) Establish standards for the care of animals at animal shelters, boarding
2 kennels, flea markets, pet shops, and public auctions. A boarding
3 kennel that offers dog day care services and has a ratio of dogs to
4 employees or supervisors, or both employees and supervisors, of not
5 more than 10 to one, shall not as to such services be subject to any
6 regulations that restrict the number of dogs that are permitted within
7 any primary enclosure.

8 ..."

9 **SECTION 4.** Chapter 19A of the General Statutes is amended by adding a
10 new section to read:

11 **"§ 19A-29A. License required for flea market booth.**

12 No person shall operate as a flea market vendor unless a license to operate as a flea
13 market vendor has been granted by the Director. Application for such license shall be
14 made in the manner provided by the Director. The license shall be for the fiscal year and
15 the license fee shall be fifty dollars (\$50.00) for each license period or part thereof
16 beginning with the first day of the fiscal year."

17 **SECTION 5.** G.S. 19A-30 reads as rewritten:

18 **"§ 19A-30. Refusal, suspension or revocation of certificate or license.**

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

- 23 (1) Material misstatement in the application for the original certificate of
24 registration or license or in the application for any renewal under this
25 Article;
- 26 (2) Willful disregard or violation of this Article or any rules issued
27 pursuant thereto;
- 28 (3) Failure to provide adequate housing facilities and/or primary
29 enclosures for the purposes of this Article, or if the feeding, watering,
30 sanitizing and housing practices at the animal shelter, public auction,
31 pet shop, flea market booth, or kennel are not consistent with the intent
32 of this Article or the rules adopted under this Article;
- 33 (4) Allowing one's license under this Article to be used by an unlicensed
34 person;
- 35 (5) Conviction of any crime an essential element of which is misstatement,
36 fraud, or dishonesty, or conviction of any felony;
- 37 (6) Making substantial misrepresentations or false promises of a character
38 likely to influence, persuade, or induce in connection with the business
39 of a public auction, commercial kennel, pet shop, flea market booth,
40 or dealer;
- 41 (7) Pursuing a continued course of misrepresentation of or making false
42 promises through advertising, salesmen, agents, or otherwise in
43 connection with the business to be licensed;

1 (8) Failure to possess the necessary qualifications or to meet the
2 requirements of this Article for the issuance or holding of a certificate
3 of registration or license.

4 The Director shall, before refusing to issue or renew and before suspension or
5 revocation of a certificate of registration or a license, give to the applicant or holder
6 thereof a written notice containing a statement indicating in what respects the applicant
7 or holder has failed to satisfy the requirements for the holding of a certificate of
8 registration or a license. If a certificate of registration or a license is suspended or
9 revoked under the provisions hereof, the holder shall have five days from such
10 suspension or revocation to surrender all certificates of registration or licenses issued
11 thereunder to the Director or his authorized representative.

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

15 Any licensee whose license is revoked under the provisions of this Article shall not
16 be eligible to apply for a new license hereunder until one year has elapsed from the date
17 of the order revoking said license or if an appeal is taken from said order of revocation,
18 one year from the date of the order or final judgment sustaining said revocation. Any
19 person who has been an officer, agent, or employee of a licensee whose license has been
20 revoked or suspended and who is responsible for or participated in the violation upon
21 which the order of suspension or revocation was based, shall not be licensed within the
22 period during which the order of suspension or revocation is in effect."

23 **SECTION 6.** G.S. 19A-33 reads as rewritten:

24 "**§ 19A-33. Penalty for operation of pet shop, kennel or auction without license.**

25 Operation of a pet shop, kennel, flea market booth, or public auction without a
26 currently valid license shall constitute a Class 3 misdemeanor subject only to a penalty
27 of not less than five dollars (\$5.00) nor more than twenty-five dollars (\$25.00), and each
28 day of operation shall constitute a separate offense."

29 **SECTION 7.** G.S. 19A-37 reads as rewritten:

30 "**§ 19A-37. Application of Article.**

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

42 **SECTION 8.** This act becomes effective October 1, 2007, and applies to acts
43 committed on or after that date.