

CHAPTER 418  
FORMERLY  
SENATE BILL NO. 280  
AS AMENDED BY  
SENATE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 3 OF THE DELAWARE CODE RELATING TO ANIMALS HELD IN SHELTER.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE :

Section 1. Amend Chapter 80, Title 3 of the Delaware Code by removing the words “Humane Killing of” in the chapter title.

Section 2. Amend Chapter 80, Title 3 of the Delaware Code by deleting §8001 through §8003 and inserting in lieu thereof the following:

“§8001. Definitions.

For purposes of this Chapter:

- (a) ‘Animal shelter’ means a public or private facility which includes a physical structure that provides temporary or permanent shelter to stray, abandoned, abused, or owner-surrendered animals and that is operated, owned, or maintained by a duly incorporated humane society, animal welfare society, or other nonprofit organization for the purpose of providing for and promoting the welfare, protection, and humane treatment of animals. ‘Animal shelter’ shall not include individuals providing temporary foster care to animals in their home or to animal rescue groups sheltering animals on an individual’s private property.
- (b) ‘Licensed veterinarian’ means a veterinarian licensed to practice veterinary medicine pursuant to Title 24 of the Delaware Code.
- (c) ‘Licensed veterinary technician’ means an individual licensed as a veterinary technician pursuant to Title 24 of the Delaware Code.

§8002. Shelter Care and Treatment.

- (a) Animal shelters shall be advised by a licensed veterinarian and shall adhere to a written veterinary care protocol developed with a licensed veterinarian, which protocol shall include appropriate evaluation and testing of newly impounded animals, disease control and prevention, and adequate veterinary care. The protocol shall be updated as needed.
- (b) Animal shelters shall vaccinate all dogs against Canine distemper Virus, Canine Parvovirus, and Bordetella Bronchoseptica and all cats against Feline Viral Rhinotracheitis, Calicivirus, and the Panleukopenia Virus before or upon entering the shelter or holding facility to reduce the spread of disease. Such vaccinations must be administered as soon as possible and no more than 8 hours after entering the shelter. This provision shall not apply to animals in quarantine for rabies observation or to animals having injuries, illness or temperament that make administration of the vaccinations unsafe.
- (c) An examination of animals entering an animal shelter shall be performed within 72 hours of entry.
- (d) Animal shelters shall ensure that animals requiring veterinary care are seen by a licensed veterinarian within a reasonable amount of time based on the condition of the animal, and that urgent medical care is provided as needed. Animal shelters shall comply with treatment plans developed by a licensed veterinarian for animals at the shelter requiring treatment.
- (e) Animal shelters shall include a designated treatment area and isolation and/or quarantine areas. Animals suspected of carrying a contagious deadly disease will be moved to isolation or quarantine and remain there until they are no longer a threat to susceptible animals.

§8003. Animal Adoption, Recovery, and Rehabilitation.

- (a) Animal shelters shall be open to the public after normal business hours, including evenings and weekends, to increase access for the purpose of adoption.
- (b) Animal shelters shall provide a minimum holding period of 72 hours for animals in their care, to allow reclamation by their owners. If an adoptable animal is not reclaimed, the animal may be transferred to another animal shelter or rescue for adoption, or adopted as a companion in a suitable home. This holding period required by this subsection shall not apply to owner-surrendered animals or other cases in which the owner of the animal is known. Wild animals may be disposed of by rehabilitation to their natural habitat.
- (c) Animal recovery.
  - (i) Animal shelters shall take appropriate action to ensure that all animals brought to the shelter are checked for all currently acceptable methods of identification, including microchips, identification tags, tattoos, and licenses.
  - (ii) Animal shelters shall maintain updated lists of animals reported lost, and attempt to match these lost reports with animals reported found and animals in the shelter, and shall also post all stray animals on the Internet with sufficient detail to allow them to be recognized and claimed by their owners.
  - (iii) If a possible owner is identified, the animal shelter shall make every reasonable attempt to reunite the animal with its owner. Upon the owner’s or caretaker’s initiative of recovery procedures, the animal shelter shall retain custody of the animal for a five day period to allow for completion of the recovery process. The owner or custodian of the animal may be held responsible for reasonable housing and boarding costs once the owner or custodian has been notified of the animal’s location, provided that the owner or custodian has been advised of such costs prior to the costs being incurred.

- (d) Animal shelters shall establish and maintain a registry of organizations willing to accept animals for the purpose of adoption, including breed specific rescues, or to provide the animals with long-term placements. The registry shall include the types and breeds of animals about which the organization wishes to be contacted. Animal shelters shall have the right to inspect the facilities of any adoption organization taking animals from the shelter.
- (e) Animal shelters shall make best efforts to prioritize acceptance of animals from within the State of Delaware before accepting dog or cat intakes from outside of Delaware. Animals accepted from shelters outside the State of Delaware must have a current health certification.”

Section 3. Amend Chapter 80, Title 3 of the Delaware Code by deleting §8006, renumbering §8004 and §8005 as §8005 and §8006 respectively, and by inserting a new §8004 to read as follows:

“§8004. Euthanasia in Animal Shelters.

- (a) Any dog, cat or other animal held by or in the custody of an animal shelter and not adopted, transferred to another shelter or animal rescue group, or reclaimed by the owner within 5 days may be euthanized, provided that no reasonable alternatives are available and the requirements of subsections (b) and (c) are met.
- (b) Animal shelters shall ensure that the following conditions are met before an animal is euthanized:
  - (i) The holding period for the animal required by this chapter is expired;
  - (ii) There are no empty cages, kennels, or other living environments in the shelter that are suitable for the animal;
  - (iii) The animal cannot share a cage or kennel with appropriately sized primary living space with another animal;
  - (iv) A foster home is not available;
  - (v) Organizations on the registry developed pursuant to §8003(d) are not willing to accept the animal; and
  - (vi) The animal care/control manager certifies that the above conditions are met and that he/she has no other reasonable alternative.
- (c) Notwithstanding any other provisions of this chapter to the contrary, an animal may be euthanized immediately if necessary to alleviate undue suffering or to protect shelter staff and/or other sheltered animals from an animal’s severe aggression or contagious deadly health condition. The determination of whether euthanasia is necessary pursuant to this subsection shall be made by a licensed veterinarian or, in cases of extreme emergency occurring after regular business hours in circumstances under which a licensed veterinarian is not available, by other appropriately trained staff.
- (d) Euthanasia Method and Procedure.
  - (i) The Department shall promulgate regulations regarding acceptable methods of euthanasia in animal shelters and regarding sanitation and ventilation of euthanasia areas. The methods included shall be approved or conditionally approved by the most recent AVMA Guidelines on Euthanasia.
  - (ii) Any animal shelter performing euthanasia shall have a current policy and procedure manual regarding euthanasia. The policy and procedure manual shall set forth the shelter’s equipment, process, and the procedures for individual separation of animals.
  - (iii) Notwithstanding the provisions of Title 24, Chapter 33 of the Delaware Code, euthanasia must be performed by:
    - (a) A licensed veterinarian;
    - (b) A nationally certified euthanasia technician; or
    - (c) A person certified by a licensed veterinarian, after passing both a written and practical examination, as proficient to perform euthanasia. Training and certification requirements shall be established by Department regulation in consultation with the Delaware Board of Veterinary Medicine.
  - (iv) If euthanasia is by injection, animals in an animal shelter that are amenable to being controlled shall be lowered to the surface on which they are being held and shall not be permitted to drop or otherwise collapse without support.
  - (v) The trained staff member performing the euthanasia in animal shelters shall remain in attendance between the time procedures to euthanize the animal are commenced and the time death occurs, and shall verify death has occurred using methods to be determined by regulation.
  - (vi) Sodium pentobarbital may be obtained by an animal shelter with required federal and state permits.”

Section 4. Amend the newly designated §8006, Chapter 80, Title 3 of the Delaware Code by deleting the phrase, “Use of decompression chamber to be prohibited;” in the title thereof, and by deleting subsection (a) and redesignating the remaining subsections accordingly.

Section 5. Amend the newly designated §8006(a), Chapter 80, Title 3 of the Delaware Code by deleting the phrase “with this chapter for” and inserting in its place the phrase “with §8004(d) regarding”.

Section 6. Amend the newly designated §8006(b), Chapter 80 of Title 3 of the Delaware Code by inserting the phrase “of §8004(d)” at the end of the first sentence and by deleting the phrase “this chapter” in the second sentence and replacing it with the phrase “§8004(d)”.

Section 7. Amend Chapter 80, Title 3 of the Delaware Code by adding a new §8007 to read as follows:

“§8007. Record Keeping and Reporting.

Animal shelters shall maintain records regarding the following information:

- (a) Intake rate;

- (b) Euthanasia rate including age (infant, juvenile, and adult), by animal;
- (c) Number of adoptions;
- (d) Number reclaimed by owner;
- (e) Number transferred to other agencies for adoption;
- (f) Number of spay/neuters;
- (g) Number of animals in the shelter;
- (h) Records showing the number of animals that died or were lost/stolen;
- (i) Records showing compliance with vaccination requirements; and
- (j) Records regarding medical treatment provided.

The information in subsections (a) through (g) shall be posted to the shelter's website on a quarterly basis. The information in subsections (h), (i) and (j) shall be made available upon request by appropriate authorities."

Section 8. The provisions of Chapter 80, Title 3, §8002(a) and §8004(d)(ii) shall take effect on January 1, 2011.

Approved July 23, 2010