

LAWS OF DELAWARE
VOLUME 84
CHAPTER 181
152nd GENERAL ASSEMBLY
FORMERLY
SENATE BILL NO. 109

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO IMPOUNDMENT OF ANIMALS.

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

Section 1. Amend § 3035F, Title 16 of the Delaware Code by making deletions as show by strike through and insertions as shown by underline as follows:

§ 3035F. Impoundment.

(a) Any trained and certified animal welfare officer working for the Office of Animal Welfare or the Department of Agriculture, or any law-enforcement officer as defined in § 222 of Title 11, may, in instances of alleged acts of animal cruelty or animal fighting and as provided for by the laws of Delaware relating to seizure of property, impound in an appropriate shelter, animal rescue or, if required, in an appropriate veterinarian facility, any animal subjected to cruel mistreatment or cruel neglect. Should the owner or custodian of an animal not be available at or near the premises where the animal is located, upon taking an animal under this section the agent shall leave in an appropriate place written notice to the animal's owner or custodian of such action. The officer shall take all reasonable action to insure that owners or custodians of an animal, impounded under this section, shall have received notice of such action as soon as possible and no later than 24 hours after the impoundment.

(b) An animal impounded under this section shall not remain in the custody of the State longer than 48 hours and shall be returned to its owner or custodian unless a complaint is filed within the 48-hour period in the appropriate court under the animal cruelty laws against the owner or custodian, except that upon good cause shown a court may permit a reasonable extension of the 48-hour period not to exceed 30 days. When a complaint is filed in the appropriate court, the impounded animal shall remain in the custody of the State pending the outcome of the action. If the owner or custodian is found to be in violation of the animal cruelty laws the court shall make a final determination as to the disposition of the animal. Should the complaint be withdrawn, prior to a court hearing, the animal shall be immediately made available to its owner or custodian.

(c) Upon a determination that probable cause exists to believe that the animal cruelty or animal fighting laws have been violated by the owner or custodian of any impounded animal, the State or its agent shall have the right to recover the costs of holding and caring for any animal impounded under this section from the owner or custodian of the animal. Upon impoundment, the State shall submit a detailed billing to the owner or custodian of the animal, listing the monthly costs of boarding, evaluation, veterinary and other costs associated with care. Notwithstanding any provision of this section or any other law to the contrary, failure of the animal's owner or custodian to pay these costs within ~~30~~ 15 days of delivery of a detailed monthly billing will result in ownership of the animal reverting to the State and the State may determine the final disposition of said animal. The provisions of this subsection shall be applicable notwithstanding the final disposition of the criminal charges.

(d) An owner or custodian of an animal impounded under this section who is found guilty of cruelty to the animal, and the court orders the animal returned to such owner or custodian, shall, prior to taking the animal, reimburse the State or its agent its regular standard fees charged for the care of animals while in the State's custody plus any veterinary fees incurred for the animal during the period of impoundment. Failure of the animal's owner or custodian to pay such fees within 5 days after a finding of guilty will result in ownership of the animal reverting to the State. The State may then dispose of the animal in accord with its procedures for such disposition.

(e) Should an animal which has been impounded under this section expire while in the custody of the State, the animal shall, as soon as possible, be turned over to the State Veterinarian at the Department of Agriculture. The State Veterinarian shall take whatever action necessary, including necropsy if required, to determine cause of the animal's death and shall record such cause. The cause of death shall, if requested, be furnished to the animal's owner and to the court handling the complaint relative to the animal. Disposition of the animal's remains shall be coordinated with the animal's owner and, provided a complaint has been filed, with the court handling the complaint.

Approved August 24, 2023