



SPONSOR: Rep. Mulrooney & Sen. Poore
Reps. Baumbach, Keeley, Mitchell, Paradee, Viola; Sen.
Ennis

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 235

AN ACT TO AMEND TITLES 11 AND 16 OF THE DELAWARE CODE RELATING TO STERILIZATION, LIFE
AND SUSTAINING CARE OF CATS.

1 WHEREAS, sterilization and vaccination programs provide humane methods to limit the number of stray cats,
2 prevent the spread of rabies, and improve the cat's quality of life and are recognized as a beneficial and successful strategy
3 to address the population of unowned cats; and

4 WHEREAS, current state law and programs recognize the importance of sterilizing owned pet cats and unowned
5 free-roaming cats

6 WHEREAS, ear-tipping is a recognized marking to identify cats that have been vaccinated and sterilized

7 WHEREAS, there is a need for improved record keeping to measure the free-roaming cat population; and

8 WHEREAS, numerous Good Samaritans provide care for unowned free-roaming cats without taking custody of
9 the cat;

10 NOW, THEREFORE:

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

12 Section 1. Amend Chapter 5, Subchapter VII, Title 11 of the Delaware Code by making deletions as shown by
13 strike through and insertions as shown by underline as follows and re-designating accordingly:

14 § 1325. Cruelty to animals; class A misdemeanor; class F felony

15 (a) For the purpose of this section, the following words and phrases shall include, but not be limited to, the
16 meanings respectively ascribed to them as follows:

17 (7) "Custody" includes the responsibility for the welfare of an animal subject to one's care and control whether
18 one owns it or not. A person who provides sterilization or care to a free-roaming cat that lacks discernible owner
19 identification is not deemed to have "custody," "care," or "control" of the cat for purposes of this section.

20 (b) A person is guilty of cruelty to animals when the person intentionally or recklessly:

21 (1) Subjects any animal to cruel mistreatment; or

22 (2) Subjects any animal in the person's custody to cruel neglect; or

23 (3) Kills or injures any animal belonging to another person without legal privilege or consent of the owner; or

24 (4) Cruelly or unnecessarily kills or injures any animal ~~whether belonging to the actor or another~~. This section
25 does not apply to the killing of any animal normally or commonly raised as food for human consumption, provided that
26 such killing is not cruel. A person acts unnecessarily if the act is not required to terminate an animal's suffering, to
27 protect the life or property of the actor or another person or if other means of disposing of an animal exist which would
28 not impair the health or well-being of that animal; or,

29 (5) Captures, detains, transports, removes or delivers any animal known to be a pet or owned or unowned
30 companion animal, or any other animal of scientific, environmental, economic or cultural value, under false pretenses
31 to any public or private animal shelter, veterinary clinic or other facility, or otherwise causes the same through acts of
32 deception or misrepresentation of the circumstances and disposition of any such animal.

33 Paragraphs (b)(1), (2) and (4) of this section are inapplicable to accepted veterinary practices and activities carried
34 on for scientific research.

35 Cruelty to animals is a class A misdemeanor, unless the person intentionally kills or causes serious injury to any
36 animal in violation of paragraph (b)(4) of this section or unless the animal is killed or seriously injured as a result of any
37 action prohibited by paragraph (b)(5) of this section, in which case it is a class F felony.

38 Section 2. Amend Chapter 30F, Title 16 of the Delaware Code by making deletions as shown by strikethrough and
39 insertions as shown by underline as follows and re-designating accordingly:

40 § 3001F. Definitions.

41 For purposes of this subchapter:

42 (5) “Free-roaming Cat Program” means a program in which visibly healthy cats admitted to a shelter, not
43 placed for adoption, and lacking discernible owner identification, are sterilized, vaccinated against rabies, ear-tipped,
44 and returned to a safe location where they were found or, if necessary, appropriately relocated. However, no free
45 roaming cat or feral cat may be relocated to public lands managed for wildlife or outdoor recreation activities,
46 including but not limited to lands owned or managed by the Department of Natural Resources and Environmental
47 Control, the Delaware Department of Agriculture, the National Park Service or by U.S. Fish and Wildlife.

48 (6) “Ear-tip” means the removal of approximately a quarter-inch off the tip of a cat’s left ear while the cat is
49 anesthetized to help identify the cat as having been sterilized and vaccinated for rabies.

50 § 3003F. Animal adoption, recovery, and rehabilitation.

51 (a) Animal shelters shall be open to the public after normal business hours, including evenings and weekends, to
52 increase access for the purpose of adoption.

53 (b) Animal shelters shall provide a minimum holding period of 72 hours for animals in their care, to allow
54 reclamation by their owners. If an adoptable animal is not reclaimed, the animal may be transferred to another animal
55 shelter or rescue for adoption, or adopted as a companion in a suitable home. ~~This~~ The holding period required by this
56 subsection shall not apply to owner-surrendered animals, ~~or~~ other cases in which the owner of the animal is known, or cats
57 that are placed into a free-roaming cat program. Wild animals may be disposed of by rehabilitation to their natural habitat.

58 (d) Animal shelters shall establish and maintain a registry of organizations willing to accept animals for the
59 purpose of adoption, including breed specific rescues, or to provide the animals with long-term placements. The registry
60 shall include the types and breeds of animals about which the organization wishes to be contacted. Animal shelters shall
61 have the right to inspect the facilities of any adoption organization taking animals from the shelter.

62 § 3004F. Euthanasia in animal shelters.

63 (a) Any dog, cat or other animal held by or in the custody of an animal shelter and not adopted, transferred to
64 another shelter or animal rescue group, placed into a free-roaming cat program, or reclaimed by the owner within 5 days
65 may be euthanized, provided that no reasonable alternatives are available and the requirements of subsections (b) and (c) of
66 this section are met.

67 (b) Animal shelters shall ensure that the following conditions are met before an animal is euthanized:

68 (5) Organizations on the registry developed pursuant to § 3003F(d) of this title are not willing to accept the
69 animal; ~~and~~

70 (6) A visibly healthy cat whose source of origin can be identified and it can be returned to the field; and

71 ~~(6)(7)~~ (7) The animal care/control manager certifies that the above conditions are met and that such manager has
72 no other reasonable alternative.

73 § 3007F. Record keeping and reporting.

74 Animal shelters shall maintain records regarding the following information:

75 (4) Number reclaimed by owner or free-roaming cat caretaker;

76 (9) Records showing compliance with vaccination requirements; ~~and~~

77 (10) Records regarding medical treatment provided; and

78 (11) Number of cats returned to the field as part of a free-roaming cat program including location and date.

79 The information in paragraph (1) through (7) of this section shall be posted to the shelter's website on a quarterly
80 basis. The information in paragraphs (8), (9), ~~and~~ (10) and (11) of this section shall be made available upon request by
81 appropriate authorities.

82 § 3013F. Definitions.

83 (a) "Abandoned/free-roaming/homeless/stray/unwanted animal" — A cat or dog with no known owner or keeper
84 or not wanted by its owner or keeper or that may be deserted by its owner or keeper.

85 (g) "Feral Cat"-- ~~An offspring of abandoned domestic cats who reverts to a semi-wild state and lives outside in~~
86 ~~family groups called colonies. Feral cats have a temperament of extreme fear and resistance to contact with humans. A cat~~
87 that (i) is born in the wild or is the offspring of an owned or feral cat and which may not be socialized, or (ii) is a formerly
88 owned cat that has been abandoned and is no longer socialized.

89 (h) "Feral cat caretaker" — A person or group of people who provide food and shelter to feral cats, and work or
90 works to reduce colony numbers by working to spay and neuter the animals within their specific colony or colonies.

91 (i) "Keeper" — A person in possession or control of a cat, dog or other animal becomes the keeper of a stray
92 domesticated animal, other than livestock, if the person feeds that animal for at least 3 consecutive days.

93 (h) "Free-roaming cat caretaker" – A person who provides shelter, medical care, or food to one or more feral or
94 free-roaming cats lacking discernible owner identification, and works to reduce colony numbers by working to spay and
95 neuter the animals within their specific colony or colonies. Free-roaming cat caretakers are not owners.

96 (i) "Ear-tip" – The removal of approximately a quarter-inch off the tip of the cat's left ear while the cat is
97 anesthetized.

98 § 3015F. Eligibility; division of Spay/Neuter Fund proceeds.

99 The proceeds of the Spay/Neuter Fund outlined in this subchapter shall be available to those parties qualifying for
100 participation under the following eligibility requisites:

101 (1) An individual may qualify to participate in the program if the individual:

102 e. Presents a Delaware feral cat or a Delaware stray dog or is the owner or keeper or free-roaming cat
103 caretaker of the Delaware cat or Delaware dog being spayed or neutered to a participating veterinarian or clinic.

104 § 3018F Program Administration

105 (a) The administrator shall administer the Program and shall be responsible for:

106 (3) Determining ~~keeper/owner~~ eligibility; and

107 § 3019F. Veterinarian Participation

108 (b) For all cats or and dogs sterilized under this Program, the administrator shall reimburse the veterinarians or
109 business they work for or the 501(c)(3) [26 U.S.C. § 501(c)(3)] organization for services on a monthly basis. The preset fee
110 shall cover the cost of a presurgical medical evaluation; spay/neuter surgery, rabies vaccination and routine postsurgical
111 care required by the servicing veterinarian's postoperative protocol. The ~~keeper/owner~~/caretaker shall be responsible for the

112 payment of any additional fees for procedures mutually agreed upon and administered by the veterinarian that are not
113 covered under this Program.

SYNOPSIS

This bill encourages spaying, neutering, and vaccination in order to limit the number of unwanted cats and protect the public from rabies and other diseases carried by unvaccinated animals. The bill defines “free-roaming cats” and also “free-roaming cat caretakers,” who are one or more persons who may provide food, shelter, or medical treatment for free roaming cats without becoming an “owner” for legal purposes. These cats may be released back into the community with an “ear-tip” to mark them as a vaccinated and spayed/neutered. It also adds free-roaming cats to the list of qualifying factors for participation in the state low-cost spay/neuter fund.