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

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 235
AS AMENDED BY
HOUSE AMENDMENT NO. 1

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

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

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

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

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

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

NOW, THEREFORE:

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

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

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

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

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

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

(1) Subjects any animal to cruel mistreatment; or

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

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

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

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

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

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

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

§ 3001F. Definitions.

For purposes of this subchapter:

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

(6) Ear-tip" means the removal of approximately a quarter-inch off the tip of a cat's left ear while the cat is anesthetized to help identify the cat as having been sterilized and vaccinated for rabies at the time of ear-tipping.

§ 3003F. 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~~ The 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, or to cats that are returned to field as part of a free roaming cat program. Wild animals may be disposed of by rehabilitation to their natural habitat.

(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.

§ 3004F. 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, placed into a free-roaming cat program, 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) of this section are met.

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

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

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

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

§ 3007F. Record keeping and reporting.

Animal shelters shall maintain records regarding the following information:

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

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

(10) Records regarding medical treatment provided;

(11) Number of cats returned to the field as part of a free-roaming cat program; and

(12) Location and date of return of cats returned to the field as part of a free-roaming cat program.

The information in ~~paragraph~~ paragraphs (1) through (7) and (11) of this section shall be posted to the shelter's website on a quarterly basis. The information in paragraphs ~~(8)~~ (4), (9), ~~and~~ (10) and (12) of this section shall be made available upon request by appropriate authorities.

§ 3013F. Definitions.

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

(g) "Feral Cat"-- ~~An offspring of abandoned domestic cats who reverts to a semi-wild state and lives outside in family groups called colonies. Feral cats have a temperament of extreme fear and resistance to contact with humans.~~ A cat 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 owned cat that has been abandoned and is no longer socialized.

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

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

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

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

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

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

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

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

§ 3018F Program Administration

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

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

§ 3019F. Veterinarian Participation

(b) For all cats or and dogs sterilized under this Program, the administrator shall reimburse the veterinarians or 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 shall cover the cost of a presurgical medical evaluation; spay/neuter surgery, rabies vaccination and routine postsurgical care required by the servicing veterinarian's postoperative protocol. The ~~keeper/~~owner/caretaker shall be responsible for the payment of any additional fees for procedures mutually agreed upon and administered by the veterinarian that are not covered under this Program.