SPONSOR: Rep. K. Williams & Sen. Walsh
Reps. Baumbach, Carson, Heffernan, Parker Selby; Sens. Hansen, Hocker, Hoffner, Sturgeon, Townsend

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 190
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLES 16 AND 21 OF THE DELAWARE CODE RELATING TO ANIMAL POPULATION CONTROL PROGRAMS.

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

Section 1. Amend Subchapter II, Chapter 30F, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Subchapter II. Animal Population Control Program and Spay/Neuter Fund

§ 3010F. Short title.

This subchapter shall be known and may be cited as the "Animal Population Control Program."

§ 3011F. ~~Findings.~~ [Repealed].

~~The General Assembly for the State of Delaware hereby finds that:~~

~~(1) During 2002, of the 22,165 dogs and cats which were received at Delaware's primary animal facilities, of those received:~~

~~a. Two thousand four hundred and nine (11%) were returned to their owners/guardians; while~~

~~b. Seven thousand two hundred and ninety (33%) were adopted; and~~

~~c. Twelve thousand six hundred and fifty-nine (57%) were euthanized.~~

~~(2) During 2003, of the 24,510 dogs and cats which were received at Delaware's primary animal facilities, of those received:~~

~~a. Two thousand one hundred and eighty-six animals (9%) were returned to their owners/guardians; while~~

~~b. Seven thousand one hundred and twenty-five animals (29%) were adopted; and~~

~~c. Thirteen thousand six hundred and fifty-three animals (56%) were euthanized.~~

~~(3) During 2004, of the 21,254 dogs and cats which were received at Delaware's primary animal facilities, of those received:~~

~~a. Two thousand one hundred and ninety-three animals (10.3%) were returned to their owners/guardians; while~~

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~~b. Five thousand five hundred animals (25.8%) were adopted; and~~

~~c. Thirteen thousand and sixty-seven animals (61.4%) were euthanized.~~

~~(4) During 2005, of the 21,062 dogs and cats which were received at Delaware's primary animal facilities or those received:~~

~~a. Two thousand two hundred and ninety-nine animals (10.9%) were returned to their owners/guardians; while~~

~~b. Five thousand eight hundred and thirty-seven animals (27.7%) were adopted; and~~

~~c. Thirteen thousand five hundred and eighty three animals (64.4%) were euthanized.~~

~~(5) As Delaware's human population growth rate increases so too will the population growth rate of the dog and cat populations, the intake at animal facilities and the consequent disposition rates associated therewith.~~

~~(6) Controlling the dog and cat population would have a significant benefit to the public health and safety in the following manner:~~

~~a. Reducing nuisance complaints regarding homeless dogs and cats;~~

~~b. Reducing the number of homeless dogs and cats seeking to mate;~~

~~c. Reducing the number of dog and cat bite cases involving children;~~

~~d. Minimizing opportunities for rabies transmission;~~

~~e. Decreasing the number of automobile accidents caused by stray dogs and cats; and~~

~~f. Reducing cruelty to animals opportunities by addressing and decreasing the presence of unwanted/nuisance populations.~~

~~(7) This subchapter recognizes the economic hardships associated with animal population control, the problems associated with homeless animals, and the societal impacts associated with failing to address these problems and establishes a program focused upon addressing dog and cat population control by providing a means by which population control and rabies vaccinations may be financed.~~

§ 3012F. Purpose.

The purpose of the ~~spay/neuter program~~ Animal Population Control Program ~~is to assist low-income residents and low-income communities.~~ is to decrease the number of stray and unwanted cats and dogs. The ~~Animal Population Control~~ Program's goals include a reduction in the following:

(1) Population growth among stray and unwanted cats and ~~dogs; and~~ dogs.

(2) Stray and unwanted cats and dogs entering animal ~~shelters; and~~ shelters.

(3) Cat and dog euthanasia ~~rates; and~~ rates.

(4) Animal-inflicted injuries to humans ~~(e.g., bites); and~~ (e.g., bites).

(5) Threats to public health and safety (e.g., from rabies and vehicular accidents).

§ 3013F. Definitions.

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

~~(b) "Administrator" — Department of Health and Social Services.~~

~~(c) "Animal control agency" — Any state, county or municipally authorized animal control agency.~~

~~(d) "Animal shelter" — A public or private facility which includes a physical structure that provides temporary or permanent shelter to stray, abandoned, abused, or owner-surrendered animals.~~

~~(e) "Cat" — A member of the genus and species known as felis catus.~~

~~(f) "Dog" — A member of the genus and species known as canis familiaris.~~

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

~~(h) "Feral cat" — A cat that:~~

~~(1) Is born in the wild or is the offspring of an owned or feral cat and which may not be socialized, or~~

~~(2) Is a formerly-owned cat that has been abandoned and is no longer socialized.~~

~~(i) [Repealed.]~~

~~(j) "Free-roaming cat caretaker" — A person who provides shelter, medical care, or food to 1 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.~~

~~(k) [Repealed.]~~

~~(l) "Owner" — Any person, firm, partnership, association or corporation owning, keeping or harboring a cat, dog or other animal.~~

~~(m) "Program" — The mandatory pre-adoption sterilization and rabies inoculation program established by and set forth in this subchapter for cats and dogs.~~

~~(n) "Spay/neuter" — To sterilize a female animal by removing the ovaries or to castrate a male animal by removing the testicles or by FDA-approved pharmaceutical sterilization.~~

As used in this subchapter:

(1) "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.

(2) “Cat” means a member of the genus and species known as felis catus.

(3) “Committee” means the Spay/Neuter Advisory Committee.

(4) “Department” means the Department of Health and Social Services.

(5) “Dog” means a member of the genus and species known as canis familiaris.

(6) “Feral cat” means a cat that is either of the following:

a. Is born in the wild or is the offspring of an owned or feral cat and which may not be socialized.

b. Is a formerly owned cat that has been abandoned and is no longer socialized.

(7) “Free roaming cat caretaker” means a person who provides shelter, medical care, or food to 1 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.

(8) “Intake” means the number of live animals for which an animal shelter assumes custody and are admitted for temporary shelter and care. Intake includes all animals admitted to the shelter, foster care, or a satellite location.

(9) “Owner” means any person, firm, partnership, association, or corporation owning, keeping, or harboring a cat, dog or other animal.

(10) “Program” means the Animal Population Control Program established by and set forth in this subchapter for cats and dogs.

(11) “Spay/neuter” means to sterilize a female animal by removing the ovaries or to castrate a male animal by removing the testicles or by FDA-approved pharmaceutical sterilization.

§ 3014F. Funding.

(a) A Spay/Neuter Fund ~~shall be~~ is established for the purpose of funding the ~~Animal Population Control~~ Program.

(b) All moneys received by the ~~administrator~~ Department in accordance with the authority provided by this subchapter shall be deposited into a separate, ~~nonlapsing~~ non-lapsing account and shall be dedicated for use by the Department ~~administrator exclusively~~ for veterinarian reimbursement and administration costs associated with the Program ~~and set forth in this subchapter~~ and other expenses that achieve the purpose of the Program.

(c) All interest earnings shall be credited to the assets of the Fund and shall become part of the Fund.

(d) Any balance remaining in the Fund at the end of any fiscal year shall be carried forward for the next fiscal year for this Program.

(e) The Fund shall be created from a combination of the following:

(1) ~~On June 29, 2006, $250,000, subject to appropriation, shall be deposited in the account for use during fiscal year 2007.~~ Annual registration fees on pet food distributed to the Fund under §1706 of Title 3.

(2) ~~In addition to the foregoing, a~~ A $3.00 surcharge shall be added to each rabies ~~shot~~ inoculation administered to cats and dogs in ~~Delaware on or after September 1, 2006~~ Delaware. This surcharge does not apply to stray, abandoned, abused, or owner-surrendered animals admitted for intake to an animal shelter for temporary shelter and care. It ~~shall be~~ is the responsibility of the veterinarian administering the inoculation to collect ~~said funds~~ the surcharge and forward same on a monthly basis, together with all applicable rabies inoculation verifications and other forms to the ~~administrator.~~ Department.

(3) ~~The surcharge shall be deposited in the Fund's account and shall become part of the Fund's corpus.~~ Proceeds from the Animal Welfare License Plate fees distributed to the Fund under § 2139F of Title 21.

(4) ~~The funding stream established in this section shall be evaluated on or before December 30, 2007, to assess the measurable impacts as set forth in § 3021F of this title and to determine the potential necessity for an extension of subsidized funding compared to the ability of the fund's corpus, as set forth below, to generate sufficient on-going revenues to provide a self-sustaining funding mechanism.~~ Any other money from any other source accepted for the benefit of the Fund.

(f) ~~Soliciting and accepting funds from public or private sources:~~

~~(1) The administrator is authorized to solicit and accept donations, grants, gifts, and bequests of money, property or personal services from individuals and/or organizations including, but not limited to, private foundations or alliances, nonpublic agencies, institutions, organizations or businesses. All funds generated shall be retained by the administrator in order to defray costs associated with the Animal Population Control Program and any volunteer and community service activities and events of the Animal Population Control Program. Funds received will not be used for employee salaries or benefits. All funds received are subject to audit by the Office of Management and Budget, and employees of the administrator or the Animal Population Control Program, if any, are bound by § 5806 of Title 29 when engaging in fundraising activities.~~

~~(2) Any misnomer shall not defeat or annul any gift, grant, devise or bequest to the administrator if it sufficiently appears by the will, conveyance or other writing that the party making the same intended to pass and convey thereby to the administrator, the property, estate or interest therein expressed or described.~~

~~(3) Any property, real or personal, acquired by the administrator on behalf of the Animal Population Control Program may be used solely for purposes related to the goals of the Animal Population Control Program or, at the discretion of the administrator, sold at public auction to raise funds to support the Animal Population Control Program.~~

~~(4) All money donated or bequeathed to the administrator or otherwise received hereunder shall be deposited with the Secretary of Finance and shall be appropriated semi-annually to the administrator for purposes of the Animal~~

~~Population Control Program.~~ All revenue shall be deposited in the Fund's account and shall become part of the Fund's corpus.

§ 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:~~ individual meets all of the following:

a. Is 18 years of age or ~~older;~~ older.

b. Is a resident of the ~~State;~~ State.

c. Establishes proof of being a recipient of benefits from 1 of the following programs:

1. Food ~~Stamps;~~ Stamps.

2. General ~~Assistance;~~ Assistance.

3. Delaware Medical ~~Assistance;~~ Assistance.

4. Social Security Disability (SSD), including an individual who was receiving Social Security Disability benefits at the time the individual reached full retirement age but whose benefits have since been converted to regular retirement benefits by the Social Security ~~Administration;~~ Administration.

5. SSI (Supplemental Security ~~Income);~~ Income).

6. Temporary Assistance for Needy Families ~~(TANF);~~ (TANF).

7. WIC ~~[Women, Infants and Children];~~ (Special Supplemental Nutrition Program for Women, Infants, and Children).

8. Veteran's Administration Disability Compensation (only if veteran has a disability rating of 50% or ~~higher); and~~ higher).

~~d. [Repealed.]~~

~~e. Presents a Delaware feral cat or a Delaware stray dog or is~~

d. Is the owner or free-roaming cat caretaker of ~~the~~ a Delaware cat or Delaware dog being spayed or neutered ~~to~~ at a participating veterinarian or clinic.

(2) ~~A corporation may qualify to participate in the Program if it:~~ A non-profit organization may apply for competitive grants from the Program if it meets all of the following:

a. Is registered and in good standing as a Delaware corporation with the Delaware Secretary of State, Division of ~~Corporations;~~ Corporations.

b. States in its corporate purpose clause or in its mission statement that its activities are devoted to animal rescue, animal welfare, or the humane treatment of ~~animals;~~ animals.

c. Applies these funds to animals who have their origin in ~~Delaware; and~~ Delaware.

d. Is exempt from federal taxation in accordance with Internal Revenue Code § 501(c)(3) [26 U.S.C. § 501(c)(3)].

(3) ~~The first 2 years' fiscal allotment shall be divided by the administrator as follows:~~

~~a. Approximately 75% of the funding shall be dedicated to subsidizing the cost of sterilizing domesticated animals owned by those participants qualifying under the terms set forth in paragraph (1) of this section.~~

~~b. Approximately 25% of the funding shall be dedicated to subsidizing the cost of sterilizing those abandoned, free-roaming, homeless, stray, or unwanted animals located in communities by participants qualifying under paragraph (2) of this section.~~

~~c. An individual seeking a low-income subsidy in accordance with paragraph (1) of this section shall be limited to 3 such procedures per fiscal year and shall be ineligible to seek additional funding by participating in the Program under the terms set forth in paragraph (2) of this section.~~

~~d. Division by the Administrator of the program's fiscal allotment and the numerical spay and neuter procedures established above shall be reevaluated by the Administrator after the first 2 years of operations and thereafter as necessary to assure the program's continued viability.~~ The Department shall determine the Program's fiscal allotment and numerical spay and neuter procedures according to available funds and in a way that best accomplishes the goals of the Program and reaches targeted pet populations.

~~e. [Repealed.]~~

§ 3016F. Preadoption spay/neuter mandate.

(a) ~~Effective on June 29, 2006, it shall be mandatory for all cats and/or~~ Except as provided in subsection (b) of this section, cats and dogs ~~of reproductive age to~~ must be spayed or neutered and inoculated for ~~rabies~~ rabies, or have a valid exemption from vaccination under § 8204 of Title 3, prior to adoption from any of the following:

(1) A private animal welfare or rescue ~~agency/group or organization;~~ agency, group, or organization.

(2) Any adoption clinic endorsed, operated, managed, or sponsored by an animal welfare or rescue agency, organizations, commercial enterprises or private parties or combination ~~thereof; or~~ thereof.

(3) An animal shelter as defined herein.

(b) ~~Exceptions to the preadoption spay/neuter and rabies inoculation mandate shall be limited to the following:~~ Following a medical examination, if a veterinarian determines that an animal cannot safely or humanely undergo a spay/neuter procedure, the animal shall be exempt from the spay/neuter requirement.

~~(1) An animal which, following a medical examination by an accredited veterinarian, is found to be in a state of health which would preclude the safe and humane implementation of a spay/neuter procedure or rabies inoculation; or~~

~~(2) A dog or cat under the age of 6 months provided that:~~

~~a. The adopter shall post a deposit of $75; and~~

~~b. In the absence of an exemption as provided in paragraph (b)(1) of this section above, said deposit shall be held by the adopting agency until such time as:~~

~~1. Said deposit is rebated to the adopter upon proof that the spay/neuter procedures has been completed within 5 months of the date of adoption; and~~

~~2. The animal has received a rabies inoculation in accordance with the existing laws governing rabies inoculations and such inoculation was not postponed beyond the seventh month of age; or~~

~~3. The deposit is disbursed subject to and in accordance with the procedures elaborated in § 3017F(c) of this title below.~~

§ 3017F. Enforcement, violations and penalties.

(a) The ~~administrator~~ Department shall adopt regulations pursuant to this subchapter relative to:

(1) Format and content of all forms required under this subchapter.

(2) Proof of eligibility under § 3015F of this title.

(3) Administration of the ~~Fund established under § 3018F of this title.~~ Fund.

(4) Any other matter necessary for the administration or enforcement of the ~~Animal Population Control~~ Program and Spay/ Neuter Fund established under this subchapter.

(b) Any person ~~who~~ or organization that knowingly falsifies proof of eligibility for, or participation in, any program established under this chapter, or who knowingly furnishes any licensed veterinarian with inaccurate information concerning ownership of a pet submitted for sterilization, or who falsifies an animal sterilization certificate ~~shall be guilty of an unclassified misdemeanor and~~ shall be subject to a minimum mandatory ~~fine, which shall not be subject to suspension,~~ fine, of $250. The Department may deny future participation in the program to an individual or organization that violates this subsection.

~~(c) Failure to spay/neuter a dog or cat once within the parameters established in § 3016F of this title:~~

~~(1) In the absence of a medical exemption resulting from an examination by an accredited veterinarian, which finds that the dog/cat has reached reproductive age but is in a state of health which precludes the safe and humane implementation of a spay/neuter procedure or rabies inoculation (as is outlined in § 3016F(b)(1) of this title above) the adopter's spay/neuter deposit shall be escheated to the Fund's corpus after the specified timeframe has lapsed, and the proceeds shall be disbursed in accordance with the guidelines and process elaborated in § 3015F of this title.~~

~~(2) The administrator shall be notified and prosecution shall follow.~~

~~(3) In addition to the forfeiture of the spay/neuter deposit, which shall not be subject to suspension, the adopter shall be responsible for the actual cost of having the animal spayed/neutered and inoculated for rabies within a period of 15 calendar days.~~

~~(4) In addition to the forfeiture of the deposit moneys and the actual cost of having the animal spayed/neutered and inoculated for rabies within the established period of 15 calendar days a mandatory minimum fine of $250, plus all enforcement and court costs, all of which shall not be subject to suspension, shall be levied upon the violator for failure to comply with the spay/neuter and inoculation requisite within the established timeframe.~~

~~(5) If the adopter fails to comply with the spay/neuter and inoculation process within the extended 15-day timeframe, the minimum mandatory fine, which shall not be subject to suspension, shall be doubled and the animal shall be forfeited to the original adopting agency.~~

~~(6) The administrator shall employ all available remedies at law in any court of competent jurisdiction in pursuing the collection of any and all fines.~~

~~(d)~~ (c) Agency failure to spay/neuter an animal of reproductive age:

(1) Any agency, organization, or other entity cited under § 3016F of this title for failing to comply with the mandatory pre-adoption spay/neuter and rabies inoculation program set forth in this subchapter ~~shall be~~ is subject to a mandatory minimum fine of $500, ~~which shall not be subject to suspension,~~ for each violation of this subchapter.

(2) An agency's holding of animals of reproductive age until such time as said animals are the subject of an adoption application does not constitute a violation of this subchapter.

~~(e)~~ (d) All fines collected in association with this subchapter shall be deposited ~~in and become a part of the Fund's corpus, shall be invested with the proceeds thereof and the moneys earned therefrom, together with other interest income generated by the Fund's corpus shall be disbursed according to the guidelines and process elaborated in § 3014F of this title.~~ in the Spay/Neuter Fund.

§ 3018F. Program administration.

(a) The ~~administrator~~ Department shall administer the Program and ~~shall be~~ is responsible ~~for:~~ for all of the following:

~~(1) Distributing, collecting and compiling all forms, including but not limited to, veterinarian participation agreements, sterilization and immunization certifications, and creating a database there from for enforcement and accountability purposes; and~~

~~(2) Maintaining a list of participating veterinarians; and~~

~~(3) Determining eligibility; and~~

~~(4) Directing the collection of co-payments; and~~

~~(5) Obtaining the maximum number of spay/neuter/inoculation procedures available to the Program's financial parameters per calendar year.~~

(1) Determining eligibility of individuals and non-profit organizations.

(2) Management of nonprofit grants and reporting.

(3) Directing the collection of revenue.

(4) Enrolling veterinary provider participants.

(5) Processing payments for veterinary reimbursement and other expenses.

(6) Utilization of the Spay/Neuter Fund to meet Program goals.

(7) All other matters necessary for administration and enforcement of the Program.

(b) All reimbursement shall be through the ~~administrator~~ Department.

(c) The cost of administering the ~~Pet Population Control Spay/Neuter~~ Program may be reimbursed from the Spay/Neuter Fund.

§ 3019F. Veterinarian participation.

(a) Any veterinarian licensed in the State of Delaware may participate in the Program established under this chapter. To participate, a veterinarian must file an application provided by the ~~administrator~~ Department agreeing to all preset fees and program conditions. Preset fees shall be set by the ~~administrator,~~ Department, ~~in consultation with the Delaware Veterinary Medical Association~~ and shall be subject to revision as ~~determined necessary by the administrator.~~ necessary.

(b) ~~For all cats or and dogs sterilized under this Program, the administrator~~ The Department 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;~~ evaluation, spay/neuter surgery, rabies ~~vaccination~~ vaccination, and routine postsurgical care required by the servicing veterinarian's postoperative protocol. The

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.

(c) To receive reimbursement ~~for procedures performed~~, the participating veterinarian ~~or business they work for or the 501(c)(3) (26 U.S.C. § 501(c)(3)) organization shall submit a copy of the completed Spay/Neuter Fund Certificate signed by the veterinarian who performed the surgery to the administrator~~ shall provide documentation or other verification for procedures performed to the Department.

~~(d) The current rabies forms shall be revised in such a manner as to create an area for recording a serialized tag number for purposes of accountability.~~

~~(e) This process shall also apply to all inoculations clinics except that it shall also be the responsibility of the organization conducting the clinic to maintain copies of the certificates for a minimum of 12 months after the expiration date of the vaccination.~~

~~(f) In addition to that which is already established by law, a copy of the rabies registration form shall be generated and provided to the Program's administrator. The administrator's copy shall be utilized for establishing and maintaining a database for enforcement, performance review analysis and tax credit reporting purposes.~~

§ 3020F. Veterinarian services tax credit [Repealed].

Repealed by 76 Del. Laws, c. 284, § 10, effective Dec. 31, 2008.

§ 3021F. Performance measurement.

Performance measurement is necessary to determine the success of the Program and to assess if any changes in the Program should be made.

(1) To measure the performance of this Program, the ~~administrator~~ Department shall establish a standardized statewide yearly reporting system for ~~the following:~~ all of the following:

a. The number of spay/neuter ~~surgeries; and~~ surgeries.

b. The number of rabies inoculations performed pursuant to this ~~subchapter; and~~ subchapter.

c. Cat and dog shelter intake ~~statistics; and~~ statistics.

d. Euthanasia ~~statistics; and~~ statistics.

e. Such other criteria as the ~~administrator~~ Department shall find necessary for the purposes of performance review analysis.

(2) ~~The Performance Review Committee shall be reinstated as the Spay/Neuter Performance Review Committee (the Committee).~~ The Spay/Neuter Advisory Committee shall consist of the following members or their respective designees:

a. ~~The Secretary of the Department of Health and Social Services, shall serve as an ex officio nonvoting member and shall also act as Chairperson of the Committee;~~ The Executive Director of the Office of Animal Welfare, who shall serve as Chair of the Committee.

b. The Director of the Division of Public ~~Health, or a designee having knowledge in the area of rabies control;~~ Health.

c. The President of the Delaware Veterinary Medical ~~Association;~~ Association.

d. ~~The Executive Director of the Delaware Society for the Prevention of Cruelty to Animals;~~ The Executive Director of each Delaware animal shelter.

e. ~~The Executive Director of the First State Animal Center SPCA;~~ Three additional members appointed by the Chair, each of whom may serve up to 2 terms of 3 years per term. The additional appointed members must be a veterinarian, an animal welfare organization representative, or other animal welfare expert.

~~f. The Executive Director of Faithful Friends Animal Society;~~

~~g. The Executive Director of the Delaware Humane Association;~~

~~h. The Executive Director of the Brandywine Valley SPCA;~~

~~i. The Director of the Division of Social Services; and~~

~~j. Six additional members appointed by the Chairperson, including 2 members from each county, each of whom shall be a veterinarian or a representative of an animal rescue organization not cited above.~~

(3) The ~~Chairperson~~ Chair shall schedule Committee meetings as often as is necessary. ~~The Committee shall issue recommendations to the Department of Health and Social Services as often as the Chairperson deems necessary, but no less often than annually. Any member who fails to attend 3 consecutive meetings, or who fails to attend at least ½ of all regular business meetings during any calendar year, shall automatically upon such occurrence be deemed to have resigned from the Committee and a replacement shall be appointed by the Chairperson.~~

~~(4) Subject to and in accordance with Robert's Rules of Order, a quorum shall consist of 51% of the Committee's membership and actions by the Committee may only be taken by majority vote of those members present. The members shall receive no compensation for their services. The Committee is authorized to adopt such rules and procedures as may be necessary or convenient to accomplish the purposes set forth in this subchapter, including without limitation, the adoption of conflict of interest rules.~~

Section 2. Amend § 2139F, Title 21 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2139F. Special animal welfare license plates.

(a) The owner of any vehicle described in paragraph (b) of this subsection may apply to the Department for the assignment to that vehicle of a special animal welfare registration.

(b) This section applies only to:

(1) A private passenger ~~vehicle; or~~ vehicle.

(2) A truck or trailer with a manufacturer's gross vehicle weight rating (GVWR) of 26,000 pounds or less.

(c) Upon the initial application for a plate to be issued pursuant to this section, a 1-time fee of $50, which includes an administrative fee of $15, is required in addition to the annual registration fee required by this title. This additional fee is required for members of nonprofit organizations even if members are exempt from registration fees under § 2159 of this title. A replacement plate may be obtained upon payment of a fee to be set by the Division which shall cover the cost of the plate.

(d) The 1-time administrative fee collected pursuant to subsection (c) of this section shall be deposited into a special fund and used by the Division of Motor Vehicles for the purpose of promoting the sale of the plate and administering this section. Proceeds remaining after the Division of Motor Vehicles have covered the costs of promoting and administering this section shall be applied pursuant to subsection (f) of this section.

(e) All registration plates issued pursuant to this section shall be of the colors and design as determined by the ~~Committee~~ Department of Health and Social Services. The numbers and/or letters assigned will be the same as the current license plate assigned to the vehicle. The license plate may also include words, a slogan or an emblem indicating support for, or interest in, animal welfare. The ~~Committee~~ Department of Health and Social Services may at its discretion drop the wording "The First State" and substitute in place thereof an animal welfare slogan. The Division of Motor Vehicles shall have the power to refuse any design which it believes would cause a public safety enforcement problem.

(f) The funds derived by the State from that portion of the 1-time fee of $50 that is not defined as an administrative fee pursuant to subsection (d) of this section shall be deposited in the State Treasury and credited to ~~a special fund account to be known as the Animal Welfare License Fund the Spay/Neuter Fund~~ the Spay/Neuter Fund in the Department of Health and Social ~~services, Public Health Division. The Department of Health and Social Services shall divide the funds between organizations or veterinary clinics that provide low-cost dog or cat spaying and neutering services and nonprofit organizations that provide shelter to unwanted stray dogs and cats. In determining how the funds shall be expended, the Department of Health and Social Services shall consider the recommendations of the Fund Committee, as defined in subsection (g) of this section below, provided that such recommendations shall not be binding on the Department of Health and Social Services.~~ Services.

~~(g) For purposes of this section, the "Fund Committee" shall consist of the following 7 members or their respective designees:~~

~~(1) The Secretary of the Department of Health and Social Services, who shall also act as Chairperson of the committee and shall serve as an ex officio nonvoting member.~~

~~(2) The Executive Director of the First State Animal Center SPCA.~~

~~(3) The Executive Director of the Delaware SPCA.~~

~~(4) The Executive Director of the Delaware Humane Association.~~

~~(5) The Executive Director of the Faithful Friends Animal Society.~~

~~(6) The President of the State Veterinary Board.~~

~~(7) The Executive Director of the Brandywine Valley SPCA.~~

~~The Fund Committee shall meet as often as is necessary at times and in locations specified by the Chairperson. The Fund Committee shall issue recommendations to the Department of Health and Social Services as often as the Chairperson deems necessary but no less often than annually. Three members shall comprise a quorum and actions by the committee may only be taken by majority vote of those members present. The members shall receive no compensation for their services. Any member who fails to attend 3 consecutive meetings, or who fails to attend at least 1/2 of all regular business meetings during any calendar year, shall automatically upon such occurrence be deemed to have resigned from the Fund Committee and a replacement shall be appointed by the Chairperson. The Fund Committee is authorized to adopt such rules and procedures as may be necessary or convenient to accomplish the purposes set forth in this section, including without limitation, the adoption of conflict of interest rules.~~

~~(h)~~ (g) The Division of Motor Vehicles may promulgate rules and regulations as required to administer this section.