

7. Various VT Laws Dealing With Animals

Overview

In this section, we have included Title 13, which is Vermont's criminal statute relating to the humane and proper treatment of animals. In certain sections within Title 13, notations from the Vermont Animal Cruelty Task Force ("VACTF Notes") offer insights gained from practical experience in the field. We have also included a section of USDA law that may be relevant when Vermont laws are being violated, as well as new animal laws passed in both 2002 and 2003, shortly before this manual was published.

Note that in charging a person with violations of Title 13, the number of charges you bring depends on the number of animals involved or the number of individual acts of cruelty. Thus, if you have a violation and you find 10 animals in that situation, then you have 10 violations of that section, or if you determine that a dog has been beaten on five different occasions, you could have 5 violations of Section 352. However, the State's Attorney may elect to charge on fewer counts than you present.

Also included are relevant sections of Title 20, Vermont's civil statute relating to animals and public safety issues. There are no notations from the Vermont Animal Cruelty Task Force within the text of Title 20 provided, however if you have any questions about possible violations of the statute, contact the appropriate enforcement agency, such as The Department of Agriculture or your local legislative body.

The Animal Welfare Regulations promulgated by the Department of Agriculture under Title 20, Chapter 194, Section 3908 are also included. It should be noted that these regulations apply to pet merchants only, and should not be confused with criminal statute referenced in Title 13.

A sample Animal Cruelty Ordinance for addressing minor animal cruelty infractions civilly can be found on page 198 at the end of this chapter. This model was created by the Vermont League of Cities and Towns on behalf of the Vermont Animal Cruelty Task Force. It is our hope that towns will adopt similar ordinances, which will give them yet another enforcement tool to deal with animal cruelty violations.

You should also become familiar with any local ordinances relating to animals and animal control in your own municipality. In some cases, your local ordinance may be more restrictive (but never less restrictive) than state law, and hold animal owners to a higher standard.

IMPORTANT NOTE: As we said at the beginning of this manual, in any case where the reader has a question regarding the intent of the laws and/or legal proceeding discussed in this section or any other section of this manual, or their legal rights and duties in the situations described in this section or any other section of this manual, they should consult an attorney for advice BEFORE proceeding.

Remember that laws may change each year. Thus, to stay current with the animal cruelty laws and animal control laws, check with your local and state legislative bodies. The Vermont Statutes are updated on the Vermont Legislative website at www.leg.state.vt.us. You may also download updated copies of this manual at www.vactf.org.

Title 13: Crimes and Criminal Procedure

Chapter 8: Humane and Proper Treatment Of Animals

§ 351. Definitions

As used in this chapter:

- (1) "Animal" means all living sentient creatures, not human beings.
- (2) "Commissioner" means the commissioner of agriculture, food and markets.
- (3) "Horse" means the entire family of equidae.
- (4) "Humane officer" or "officer" means any law enforcement officer as defined in 23 V.S.A. § 4(11), auxiliary state police officers, deputy game wardens, humane society officer, employee or agent, local board of health officer or agent, or any officer authorized to serve criminal process.

VACTF Notes: 23 V.S.A. § 4(11) defines law enforcement officers as "sheriffs, deputy sheriffs, constables, police officers, state's attorneys, motor vehicle inspectors, state game wardens and state police . . ."
- (5) "Humane society" or "society for prevention of cruelty to animals" means the Vermont Humane Federation, Inc., or its successor, or any incorporated humane society which, through its agents has the lawful authority to interfere with acts of cruelty to animals.
- (6) "Local board of health" means the town or city health officer and the boards of selectmen or aldermen.
- (7) "Necessary medical attention" shall include but not be limited to medical treatment for illness, injury, disease, excessive parasitism, or malformed or overgrown hoof.
- (8) "Person" means any individual, firm, partnership or corporation, or authorized agent or representative of a person, partnership or corporation.
- (9) "Sanitation" means the maintenance of clean conditions for indoor and outdoor enclosures to minimize health hazards, including periodic cleanings to remove excretions or other waste materials, dirt and trash.
- (10) "Torture" or "torment" means omission, neglect, or an act by an animal owner or other person, whereby physical pain, suffering or death is caused or permitted to be caused to an animal.

VACTF Notes: Definition 10 provides for the charge of cruelty in cases where neglect or omission of care (not just overt actions) caused "physical pain, suffering or death" to an animal.

- (11) "Livestock" means cattle, bison, horses, sheep, goats, swine, cervidae, ratites and camelids.
- (12) "Poultry" means meat and egg producing chickens, exhibition (fancy) chickens, turkeys, domestic ducks, geese, pheasants, chicken partridge and cotarnix quail.
- (13) "Livestock and poultry husbandry practices" means the raising, management and using of animals to provide humans with food, fiber or transportation in a manner consistent with:
 - (A) husbandry practices recommended for the species by agricultural colleges and the U.S. Department of Agriculture Extension Service;
 - (B) husbandry practices modified for the species to conform to the Vermont environment and terrain; and
 - (C) husbandry practices that minimize pain and suffering.

VACTF Notes: Husbandry practices mentioned in Definition 13 are a "collected body of knowledge" which may be applied on a case by case basis, rather than a specific set of defined or articulated standards. In all cases involving livestock and poultry, the Department of Agriculture must be consulted prior to proceeding with charges. See Section 354 (a) of this Title and page 212 of Appendix II, Resource Agencies, "Consulting with the Department of Agriculture on Livestock Cruelty".

- (14) "Agricultural or sporting association" means an organization or association determined by the commissioner. (Added 1989, No. 270 (Adj. Sess.), § 2; amended 1997, No. 130 (Adj. Sess.), § 4.)
- (15) "Living space" means any cage, crate, or other structure used to confine an animal that serves as its principal, primary housing. Living space does not include a structure, such as a doghouse, in which an animal is not confined, or a cage, crate, or other structure in which the animal is temporarily confined. (Added 2004, No. 120)
- (16) "Adequate food" means food that is not spoiled or contaminated and is of sufficient quantity and quality to meet the normal daily requirements for the condition and size of the animal and the environment in which it is kept. An animal shall be fed or have food available at least once each day, unless a licensed veterinarian instructs otherwise, or withholding food is in accordance with accepted agricultural or veterinarian practices. (Added 2004, No. 120)

(17) "Adequate water" means fresh, potable water provided at suitable intervals for the species, and which, in no event, shall exceed 24 hours at any interval. The animal must have access to the water. (Added 2004, No. 120)

(18) "Adequate shelter" means shelter which protects the animal from injury and environmental hazards. (Added 2004, No. 120)

§ 351a. Purpose of subchapter

The purpose of this subchapter is to prevent cruelty to animals. In implementing this subchapter, enforcement officers are encouraged to educate the public on requirements of the subchapter and, when appropriate, to seek voluntary resolution of violations. (Added 1997, No. 130 (Adj. Sess.), § 5.)

VACTF Notes: The purpose of the subchapter emphasizes the role of education in a humane officer's job. Where appropriate, working with pet owners to provide assistance and education about the proper treatment of animals can be an effective response to cases of neglect. Consistent with the statute, a voluntary resolution in some situations may be the sole appropriate response, without a need to have criminal charges brought against a pet owner.

§ 351b. Scope of subchapter

This subchapter shall not apply to:

- (1) activities regulated by the department of fish and wildlife pursuant to part 4 of Title 10;
- (2) scientific research governed by accepted procedural standards subject to review by an institutional animal care and use committee;
- (3) livestock and poultry husbandry practices for raising, management and use of animals;
- (4) veterinary medical or surgical procedures; and
- (5) the killing of an animal as provided by sections 3809 and 3545 of Title 20. (Added 1997, No. 130 (Adj. Sess.), § 6.)

VACTF Notes: Title 20, Chapter 193, Section 3809 allows for the killing of a domestic pet or wolf-hybrid which attacks a person or domestic animal; Section 3545 (a) allows for the killing of a domestic pet or wolf-hybrid that suddenly assaults a person, provided that "the attack or assault does not occur while the (animal) is restrained . . . within an enclosure . . . or on the premises of the owner."; Section 3545 (b) allows for the killing of a domestic pet or wolf hybrid when it is found "killing or worrying another domestic pet or wolf-hybrid, a domestic animal or fowl . . . when . . . the killing is

reasonably necessary to prevent injury to the animal or fowl which is the subject of the attack."

§ 352. Cruelty to animals

A person commits the crime of cruelty to animals if the person:

- (1) intentionally kills or attempts to kill any animal belonging to another person without first obtaining legal authority or consent of the owner;

VACTF Notes: Even with owner consent, the method of killing the animal must not cause "undue pain or suffering", which is a felony offense under Section 352 (a), Aggravated Cruelty to Animals.

- (2) overworks, overloads, tortures, torments, abandons, administers poison to, cruelly beats or mutilates an animal, or exposes a poison with intent that it be taken by an animal;

VACTF Notes: Determining whether an animal has been "overworked" or "overloaded" can be made only on a case-by-case basis considering the age, strength, and health of the animal, the weight of the load and the duration of the load. The action becomes cruel when more is being demanded of the animal than could reasonably be expected under the circumstance;

- Keep in mind that the definition of "torture" and "torment" (Def. 10) provides for criminal charges through "omission" or "neglect" as well as physical acts "whereby pain, suffering or death is caused or permitted". "Torture" generally reflects physical pain, and "torment" refers to emotional or psychological stress;
- To "beat" an animal means to strike him, while to "mutilate" means to cut off or permanently destroy a limb or other essential body part. "Cruelly" indicates that the actions were being done under unjustified circumstances, or under otherwise justifiable circumstances but in an unjustifiable manner;
- Exposing poison with the intent that it be taken by an animal is an offense, even if the poison is not consumed.

- (3) ties, tethers, or restrains an animal, either a pet or livestock, in a manner that is inhumane or is detrimental to its welfare. Livestock and poultry husbandry practices are exempted;
- (4) deprives an animal which a person owns, possesses or acts as an agent for, of adequate food, water, shelter, rest, sanitation, or

necessary medical attention, or transports an animal in overcrowded vehicles;

VACTF Notes: In Section 352 (4), depriving an animal of adequate food and water is concerned with maintaining the health of an animal, and includes such acts as removal of food or drink from the animal's reach, physically barring the animal's access to such items, and the owner's affirmative duty to provide such items. Title 13 lacks a definition for "adequate", which makes it critical for humane officers to be familiar with the signs of inadequate nutrition, sanitation, and shelter in the animals involved in their investigation. (See also Chapter 6, "Animal Care Practices for Some Common Animals.");

• Sections 352 (3) and (4) are "strict liability offenses", which means it is not necessary to prove intent in order to prosecute. This is in contrast to other sections which require that the person act intentionally. For example, Section 352 (2) requires that the state prove the person intended for the animal to take the poison in a poisoning case. In all cases, however, the state must prove that the person's actions were voluntary. The state would not prosecute someone who fails to properly care for an animal because of an unexpected turn of events like a natural disaster or a medical emergency (See also 'State v. Gadreault' on page 245 of Appendix III, Forms and Supplies List)

- (5) owns, possesses, keeps or trains an animal engaged in an exhibition of fighting, or possesses, keeps or trains any animal with intent that it be engaged in an exhibition of fighting, or permits any such act to be done on premises under his or her charge or control;
- (6) acts as judge or spectator at events of animal fighting or bets or wagers on the outcome of such fight;
- (7) as poundkeeper, officer, agent of a humane society or as an owner or employee of an establishment for treatment, board or care of an animal, knowingly receives, sells, transfers or otherwise conveys an animal in his or her care for the purpose of research or vivisection;
- (8) intentionally torments or harasses an animal owned or engaged by a police department or public agency of the state or its political subdivisions, or interferes with the lawful performance of a police animal;
- (9) knowingly sells, offers for sale, barter or displays living baby chicks, ducklings or other fowl which have been dyed, colored or otherwise treated so as to impart to them an artificial color, or fails to provide poultry with proper brooder facilities;

(10) uses a live animal as bait or lure in a race, game or contest, or in training animals in a manner inconsistent with Part 4 of Title 10 or the rules adopted thereunder. (Added 1989, No. 270 (Adj. Sess.), § 2; amended 1997, No. 130 (Adj. Sess.), § 7.)

VACTF Notes: Sections 352 (1) through (4) and (7) through (10) are misdemeanor offenses, while Sections 352 (5) and (6), related to animal fighting, are felony offenses (see Section 353(a) for penalties).

§ 352a. Aggravated cruelty to animals

A person commits the crime of aggravated cruelty to animals if the person:

- (1) Kills an animal by intentionally causing the animal undue pain or suffering; or (Added 1997, No. 130 (Adj. Sess.), § 8.; Added 2004, No. 120)
- (2) Intentionally, maliciously, and without just cause tortures, mutilates, or cruelly beats an animal. (Added 2004, No. 120)

§ 352b. Rules; affirmative defense

- (a) An enforcement officer implementing the provisions of section 352 or 352a of this title shall be guided by rules established by the commissioner.
- (b) Except as provided in subsection (c) of this section, an affirmative defense to prosecution under section 352 or 352a of this title may be raised when:
 - (1) except for vivisection or research under section 352(7) of this title, the defendant was a veterinarian whose conduct conformed to accepted veterinary practice for the area, or was a scientist whose conduct was a part of scientific research governed by accepted procedural standards subject to review by an institutional care and use committee;
 - (2) the defendant's conduct was designed to control or eliminate rodents, ants or other common pests on the defendant's own property;
 - (3) the defendant was a person appropriately licensed to utilize pesticides under chapter 87 of Title 6;
 - (4) the defendant humanely euthanized any animal as a representative of a duly organized humane society, animal shelter or town pound according to rules of this subchapter, or as a veterinarian destroying animals under chapter 193 or sections 3511 and 3513 of Title 20; or

- (5) a state agency was implementing a rabies control program.
- (c) An affirmative defense to a charge of abandonment under section 352 of this title shall not be recognized where a person abandons an animal at or near an animal shelter or veterinary clinic, farm or other place of shelter, without making reasonable arrangements for the care of the animal.

VACTF Notes: Section 352b (c) makes it illegal to drop off or abandon an animal at any of the sites listed without making specific arrangements for the care of the animal, regardless of the expectation that care would be provided at the site.

- (d) The authority to enforce this chapter shall not be construed in a manner inconsistent with the animal control or disease control eradication programs in Title 6, or chapters 191, 193, 194 and 195 of Title 20 or the provisions of part 4 of Title 10, or the rules adopted thereunder. (Added 1997, No. 130 (Adj. Sess.), § 9.)

§ 353. Degree of offense; sentencing upon conviction

(a) Penalties.

- (1) Except as provided in subdivision (3) of this subsection, cruelty to animals under section 352 of this title shall be punishable by a sentence of imprisonment of not more than one year, or a fine of not more than \$2,000.00, or both. Second and subsequent convictions shall be punishable by a sentence of imprisonment of not more than two years or a fine of not more than \$5,000.00, or both.

VACTF Notes: Vermont law classifies misdemeanor and felony offenses by the amount of jail time prescribed. Penalties up to and including two years in jail classify the violation as a misdemeanor. Penalties of over two years in jail classify the violation as a felony.

- (2) Aggravated cruelty under section 352a of this title shall be punishable by a sentence of imprisonment of not more than three years or a fine of not more than \$5,000.00, or both. Second and subsequent offenses shall be punishable by a sentence of imprisonment of not more than five years or a fine of not more than \$7,500.00, or both.
- (3) An offense committed under subdivisions 352(5) and (6) of this title shall be punishable by a sentence of imprisonment of not more than 5 years, or a fine of not more than \$5,000.00, or both.

- (b) In addition to any other sentence the court may impose, the court may require a defendant convicted of a violation under section 352 or 352a of this title to:
- (1) Forfeit any rights to the animal subjected to cruelty, and to any other animal, except livestock or poultry owned, possessed, or in the custody of the defendant.
 - (2) Repay the reasonable costs incurred by any person, municipality or agency for providing care for the animal prior to judgment. If the court does not order a defendant to pay all the applicable costs incurred or orders only partial payment, it shall state on the record the reasons for that action.
 - (3) Forfeit any future right to own, possess, or care for any animal for a period which the court deems appropriate.
 - (4) Participate in available animal cruelty prevention programs or educational programs, or both, or obtain psychiatric or psychological counseling, within a reasonable distance from the defendant's residence. If a juvenile is adjudicated delinquent under section 352 or 352a of this title, the court may order the juvenile to undergo a psychiatric or psychological evaluation and to participate in treatment that the court determines to be appropriate after due consideration of the evaluation. The court may impose the costs of such programs or counseling upon the defendant when appropriate.
 - (5) Permit periodic unannounced visits for a period up to one year by a humane officer to inspect the care and condition of any animal permitted by the court to remain in the care, custody, or possession of the defendant. Such period may be extended by the court upon motion made by the state.
- (c) Upon an order of forfeiture of an animal under this section or section 354 of this title, the court shall order custody of the animal remanded to a humane society or other individual deemed appropriate by the court, for further disposition in accordance with accepted practices for humane treatment of animals. A transfer of rights under this section constitutes a transfer of ownership, and shall not constitute or authorize any limitation upon the right of the humane society, individual, or other entity, to whom rights are granted to dispose of the animal. (Added 1989, No. 270 (Adj. Sess.), § 2; amended 1997, No. 130 (Adj. Sess.), § 10.)

§ 354. Enforcement; possession of abused animal; searches and seizures; forfeiture

- (a) The commissioner of agriculture, food and markets shall be consulted prior to any enforcement action brought pursuant to this chapter which involves livestock and poultry.

VACTF Notes: An “enforcement action” includes anything beyond the initial investigation conducted by the humane agent. See also “Consulting with the Department of Agriculture on Livestock Cruelty” on page 212 of Appendix II, Resource Agencies.

- (b) Any humane officer as defined in section 351 of this title may enforce this chapter. As part of an enforcement action, a humane officer may seize an animal being cruelly treated in violation of this chapter.

VACTF Notes: While humane officers are given broad powers to seize animals in cruelty cases, it is critical for them to be familiar with 4th Amendment law. While Vermont law allows for the seizure of animals without a search warrant under special circumstances (see Section 354 (b) 3 below), it is STRONGLY recommended that a search warrant be obtained whenever possible. Humane officers employed by private shelters are also well-advised to partner with local law enforcement agencies when seizing animals since they have experience and training in preparing and executing search warrants. Improper seizure is a violation of the 4th Amendment, and will most likely result in a case that cannot be prosecuted as well as a possible return of the animals seized.

- (1) Voluntary surrender. A humane officer may accept animals voluntarily surrendered by the owner anytime during the cruelty investigation. The humane officer shall have a surrendered animal examined and assessed within 72 hours by a veterinarian licensed to practice in the state of Vermont.
- (2) Search and seizure using a search warrant. A humane officer having probable cause to believe an animal is being subjected to cruel treatment in violation of this subchapter may apply for a search warrant pursuant to the Rules of Criminal Procedure to authorize the officer to enter the premises where the animal is kept and seize the animal. The application and affidavit for the search warrant shall be reviewed and authorized by an attorney for the state when sought by an officer other than an enforcement officer defined in 23 V.S.A. § 4(11). A veterinarian licensed to practice in Vermont must accompany the humane officer during the execution of the search warrant.

VACTF Notes: A Vermont licensed veterinarian must be present during the execution of a search warrant.

- (3) Seizure without a search warrant. If the humane officer witnesses a situation in which the humane officer determines that an animal's life is in jeopardy and immediate action is required to protect the animal's health or safety, the officer may seize the animal without a warrant. The humane officer shall immediately take an animal seized under this subdivision to a licensed veterinarian for medical attention to stabilize the animal's condition and to assess the health of the animal.

VACTF Notes: It is STRONGLY recommended that animals not be seized without a warrant unless immediate action is necessary to protect the animal's life. Note the requirement for the seized animal to immediately be seen by a licensed veterinarian for medical attention, stabilization and assessment.

- (c) A humane officer shall provide suitable care at a reasonable cost for an animal seized under this section, and have a lien on the animal for all expenses incurred. A humane officer may arrange for the euthanasia of a severely injured, diseased, or suffering animal upon the recommendation of a licensed veterinarian. A humane officer may arrange for euthanasia of an animal seized under this section when the owner is unwilling or unable to provide necessary medical attention required while the animal is in custodial care or when the animal cannot be safely confined under standard housing conditions. An animal not destroyed by euthanasia shall be kept in custodial care until final disposition of the criminal charges except as provided in subsections (d) through (h) of this section. The custodial caregiver shall be responsible for maintaining the records applicable to all animals seized, including identification, residence, location, medical treatment, and disposition of the animals.

- (d) If an animal is seized under this section, the state may institute a civil proceeding for forfeiture of the animal in the territorial unit of the district court where the offense is alleged to have occurred. The proceeding shall be instituted by a motion of forfeiture, which shall be filed with the court and served upon the animal's owner.

VACTF Notes: This section permits the state to request forfeiture of the animal(s) before the criminal case is resolved. This requires a hearing in which the state must present testimony that establishes by "clear and convincing evidence" of a Section 352 or 352a violation. If the state meets its burden:

- The caregiver can recover its costs for caring for the animal if the person is later convicted of the criminal charge (See Section 354 (g)(1) below).
 - If the defendant is acquitted of charges, their animals are returned to them (see Sections 354 (g)(2)(a) and (b))and they are not responsible for caregiver's costs of caring for the animals (see Section 354 (g)(2)(c)).
- (e) The court shall set a hearing to be held within 21 days after institution of a forfeiture proceeding under this section. Time limits under this subsection shall not be construed as jurisdictional. (Added 2004, No. 120)

VACTF Notes: The court does not lose its ability to still hear the case if the forfeiture hearing is not set within 21 days.

- (f) At the hearing on the motion for forfeiture, the state shall have the burden of establishing by clear and convincing evidence that the animal was subjected to cruelty, neglect or abandonment in violation of section 352 or 352a of this title. The court shall make findings of fact and conclusions of law and shall issue a final order. If the state meets its burden of proof, the motion shall be granted and the court shall order the immediate forfeiture of the animal in accordance with the provisions of subsection 353(c) of this title.

- (g)(1) If the defendant is convicted of criminal charges under this chapter or if an order of forfeiture is entered against an owner under this section, the defendant or owner shall be required to repay all reasonable costs incurred by the custodial caregiver for caring for the animal, including veterinary expenses.

(2)(a) If the defendant is acquitted of criminal charges under this chapter and a civil forfeiture proceeding under this section is not pending, an animal that has been taken into custodial care shall be returned to the defendant unless the state institutes a civil forfeiture proceeding under this section within seven days of the acquittal. (Added 2004, No. 120)

VACTF Notes: If the defendant is acquitted of criminal charges, the state may still seek a civil forfeiture proceeding within 7 days of the acquittal.

(2)(b) If the court rules in favor of the owner in a civil forfeiture proceeding under this section and criminal charges against the owner under this chapter are not pending, an animal that has been taken into custodial care shall be returned to the owner unless the state files criminal charges under this section within seven days after the entry of final judgment. (Added 2004, No. 120)

VACTF Notes: Criminal charges may still be filed within 7 days after entry of final judgment, even if the court rules in favor of the defendant.

(2)(c) If an animal is returned to a defendant or owner under this subdivision, the defendant or owner shall not be responsible for the costs of caring for the animal. (Added 2004, No. 120)

(h) An order of the district court under this section may be appealed as a matter of right to the supreme court. The order shall not be stayed pending appeal.

VACTF Notes: If the defendant appeals to the Supreme Court, the forfeiture orders remains in place and is not "frozen" pending appeal.

(i) The provisions of this section are in addition to and not in lieu of the provisions of section 353 of this title.

(j) It is unlawful for a person to interfere with a humane officer or the secretary of agriculture, food and markets engaged in official duties under this chapter. A person who violates this subsection shall be prosecuted under section 3001 of this title. (Added 1989, No. 270 (Adj. Sess.), § 2; amended 1997, No. 130 (Adj. Sess.), § 11.)

§ 361. Interference with domestic animals

(a) A person commits the crime of interference with domestic animals if the person confines or secretes a domestic animal owned by another, with the intention of concealing its identity or the identity of its owner. A person also commits the crime of interference with domestic animals if he or she conceals the fact that the animal is licensed by removing the collar, harness or identification, or defaces a tattoo or brand tag from any licensed animal or other domestic animal owned by another.

(b) Interference with domestic animals shall be punishable by a sentence of imprisonment of not more than one year, or a fine of not more than \$2,000.00, or both. (Added 1989, No. 270 (Adj. Sess.), § 2.)

§ 362. Exposing poison on the land

A person who deposits any poison or substance poisonous to animals on his or her premises or on the premise or buildings of another, with the intent that it be taken by an animal, shall be in violation of subdivision 352(2) of this title. This section shall not apply to control of wild pests, protection of crops from insects, mice, and plant diseases, or the department of fish and wildlife and employees and agents of the state forest service in control of destructive wild animals. (Added 1989, No. 270 (Adj. Sess.), § 2.)

§ 363. Shooting birds for amusement

Except for the taking of game pursuant to Title 10, any person who keeps or uses any live bird for release to be shot for amusement or as a test of marksmanship or provides buildings, sheds, yards, rooms, fields or other areas to be used for such shooting purposes, shall be in violation of subdivision 352(1) of this title. (Added 1989, No. 270 (Adj. Sess.), § 2.)

§ 364. Animal fights

- (a) A person who participates in a fighting exhibition of animals shall be in violation of subdivisions 352(5) and (6) of this title.
- (b) In addition to seizure of fighting birds or animals involved in a fighting exhibition, a law enforcement officer or humane officer may seize any equipment associated with that activity.

VACTF Notes: See also "Dogfighting Questions and Answers" on page 273 of Appendix IV, Fact Sheets and Articles, and page 58 of Chapter 5, Special Cases, "Dog Fighting: Things to Be Aware of" for a listing of paraphernalia normally found at animal fighting events.)

- (c) In addition to the imposition of a penalty under this chapter, conviction under this section shall result in forfeiture of all seized fighting animals and equipment. The animals may be destroyed humanely or otherwise disposed of as directed by the court. (Added 1989, No. 270, (Adj. Sess.), § 2.)

§ 365. Shelter of animals

- (a) All livestock and animals which are to be predominantly maintained out-of-doors must be provided with adequate shelter to prevent direct exposure to the elements.
- (b) Adequate natural shelter, or a three-sided, roofed building with exposure out of the prevailing wind and of sufficient size to adequately accommodate all livestock maintained out-of-doors shall be provided. The building opening size and height must, at a minimum, extend one foot above the withers of the largest animal housed and must be maintained at that level even with manure and litter build-up. Nothing in this section shall control dairy herd housing facilities, either loose housing, comfort stall or stanchion ties, or other housing under control of the department of agriculture, food and markets. This section shall not apply to any accepted housing or grazing practices for any livestock industry.
- (c)(1) A dog, whether chained or penned, shall be provided living space no less than three feet by four feet for 25 pound and smaller dogs, four feet by four feet for 26-35 pound dogs, four feet by five feet for

36-50 pound dogs, five feet by five feet for 51-99 pound dogs, and six feet by five feet for 100 pound and larger dogs.

(2) The specifications required by subdivision (c)(1) of this section shall apply to each dog, regardless of whether the dog is housed individually or with other animals (Added 2004, No. 120)

(d) A dog or cat confined in a living space shall be permitted outside the cage, crate, or other structure for an opportunity of at least one hour of daily exercise, unless otherwise modified or restricted by a licensed veterinarian. Separate space for exercise is not required if an animal's living space is at least three times larger than the minimum requirements set forth in subdivision (c)(1) of this section. (Added 2004, No. 120)

(e) A dog maintained out-of-doors must be provided with suitable housing that assures that the dog is protected from wind and draft, and from excessive sun, rain and other environmental hazards throughout the year.

(f) A dog chained to a shelter must be on a tether chain at least four times the length of the dog as measured from the tip of its nose to the base of its tail, and shall allow the dog access to the shelter. (Added 2004, No. 120)

VACTF Notes: "Maintained out of doors" is not defined in this Statute, though it has been interpreted as meaning maintained outdoors full-time.

(g) A cat, over the age of two months, shall be provided minimum living space of nine square feet, provided the primary structure shall be constructed and maintained so as to provide sufficient space to allow the cat to turn about freely, stand, sit, and lie down. Each primary enclosure housing cats must be at least 24 inches high. These specifications shall apply to each cat regardless of whether the cat is housed individually or with other animals. (Added 2004, No. 120)

(h) Notwithstanding the provisions of this section, animals may be temporarily confined in a space sufficient for them to stand and turn about freely, provided that they are exercised in accordance with accepted agricultural or veterinarian practices, and are provided sufficient food, water, shelter and proper ventilation.

(i) Failure to comply with this section shall be a violation of subdivision 352(3) or (4) of this title. (Added 1989, No. 270 (Adj. Sess.), § 2; amended 1989, No. 256 (Adj. Sess.), § 10(a), eff. Jan. 1, 1991; 1997, No. 130 (Adj. Sess.), § 12.)

- (j) Notwithstanding the provisions of this section, an animal may be sheltered, chained, confined, or maintained out-of-doors if doing so is directed by a licensed veterinarian or is in accordance with accepted agricultural or veterinarian practices. (Added 2004, No. 120)

§ 366. Prohibited use of animals

- (a) No live animal shall be used as a fund-raising device or award in a contest, lottery, game, or promotion by any person or entity other than at an event recognized by an agricultural or sporting association. An alternative cash prize shall be offered. A person or entity shall not transfer or award an animal without reasonable assurance that the person receiving the animal will provide proper transportation and adequate care.
- (b) No live fowl, turtles or rabbits under eight weeks of age in lots of less than six shall be offered for sale or sold, displayed or given away.
- (c) No dog, puppy, cat or kitten shall be offered for sale, sold, displayed or given away on the side of the highway, as defined in 19 V.S.A. § 1, except by the owner or lessor of the abutting land. It shall be an affirmative defense under this subsection that a transaction involving a sale or giving away of a dog, puppy, cat or kitten was previously arranged by the parties, and the sale or giving away on the side of the highway was only for the convenient transfer of the animal.

VACTF Notes: Section 366 (c) is a recent amendment to Title 13 which took effect in 2002. 19 VSA § 1 defines "highways" as those that "are only such as are laid out in the manner prescribed by statute; or roads which have been constructed for public travel over land which has been conveyed to and accepted by a municipal corporation or to the state by deed or a fee or easement interest; or roads which have been dedicated to the public use and accepted by the city or town in which such roads are located; or such as may be from time to time laid out by the agency or town. The term "highway" includes rights-of-way, bridges, drainage structures, signs, guardrails, areas to accommodate utilities authorized by law to locate within highway limits, areas used to mitigate the environmental impacts of highway construction, vegetation, scenic enhancements and structures.

- (d) A person who violates this section shall be subject to a fine of not more than \$250.00. (Added 1989, No. 270 (Adj. Sess.), § 2; amended 1997, No. 130 (Adj. Sess.), § 13.)

§ 371. Euthanizing animals

- (a) Registered animal shelters may purchase, possess and administer approved euthanasia solution to euthanize injured, sick, homeless or unwanted pets and animals in accordance with the rules established by the commissioner of agriculture, food and markets under section 3913 of Title 20.
- (b) No person shall euthanize animals for an animal shelter without first completing the certification training program under section 3913 of Title 20, except a Vermont licensed veterinarian and a person in training under such program. (Added 1989, No. 270 (Adj. Sess.), § 2; amended 1993, No. 116 (Adj. Sess.), § 2, eff. March 23, 1994.)

§ 381. Transportation by railroad; rest and feeding

- (a) A railroad company transporting animals shall not permit them to be confined in cars more than 28 consecutive hours, including the time they have been confined on connecting roads, without unloading them for rest, water and feeding for at least five consecutive hours, unless prevented from so unloading by storm or other accidental causes. Animals unloaded shall be properly fed, watered and sheltered during each rest by the owner, or fed, watered and sheltered during each rest by the owner or person having custody of the animals. In case of default, the railroad company transporting the animal shall provide feed and watering at the owner's expense. In this case, the company shall have a lien upon the animals for food, care and custody furnished.
- (b) Violation of the 28-hour rule of this section is a violation of subdivision 352(4) of this title. (Added 1989, No. 270 (Adj. Sess.), § 2.)

§ 382. Transportation by truck; rest and feeding

- (a) No person shall confine or permit to be confined any animals being transported by truck under his or her orders or control for more than 18 consecutive hours without their removal from the truck for a rest period of not less than four hours. The animals shall be provided with feed and water during this period except when reasonable space, food and water are provided in the vehicle. Reasonable space for animals and protection from the weather shall be provided in trucks employed commercially in the long distance transportation of animals.
- (b) A person who violates a provision of this section shall be in violation of subdivision 352(4) of this title. (Added 1989, No. 270 (Adj. Sess.), § 2.)

§ 383. Shipping of animals

- (a) There shall be separation of livestock species, as defined in section 761 of Title 6, when these animals are transported by either rail or truck.
- (b) Failure to provide such separation shall be a violation of subdivisions 352(3) and (4) of this title. (Added 1989, No. 270 (Adj. Sess.), § 2; amended 1995, No. 39, § 3, eff. April 17, 1995.)

§ 384. Preference of animals as freight

Any private or common carrier operating within this state shall yield to vehicles containing cattle, sheep, swine, equine or other animals to allow continuous passage in preference to other freight. All vehicles and common carriers loaded with animals at any station shall take precedence over all other freight. (Added 1989, No. 270 (Adj. Sess.), § 2.)

§ 385. Transportation on the highway without title documents

- (a) No person, except the owner of cattle being transported or a person acting under written authority of the owner, shall transport cattle on any public highway unless the person has in his or her possession a bill of sale or a memorandum signed by the owner of the cattle and containing the owner's address, the number, breed and ear tag number of the cattle, and the name of the place to which the cattle are to be transported. Any person transporting such cattle shall, on demand, exhibit a bill of sale or memorandum to any state investigator, sheriff, deputy sheriff, constable, police officer, or state police officer.
- (b) Violation of this section shall be punishable by a sentence of imprisonment of not more than 60 days, or a fine of not more than \$1,000.00, or both. (Added 1989, No. 270 (Adj. Sess.), § 2.)

§ 386. Confinement of animals in vehicles

- (a) A person shall not leave an animal unattended in a standing or parked motor vehicle in a manner that would endanger the health or safety of the animal.
- (b) Any humane officer or member of a fire and rescue service may use reasonable force to remove any such animal from a motor vehicle. The officer so removing an animal shall deliver the animal to a humane society, veterinarian or town or municipal pound. If the owner of the animal cannot be found, the officer shall place a written notice in the vehicle, bearing the name of the officer and the department and address where the animal may be claimed. The

owner shall be liable for reasonable expenses, and a lien may be placed on the animal for these expenses. The officer may not be held liable for criminal or civil liability for any damage resulting from actions taken under subsection (a) of this section.

- (c) Failure to comply with subsection (a) of this section is a violation of subdivision 352(3) of this title. (Added 1989, No. 270 (Adj. Sess.), § 2.)

§ 387. Transportation of horses; vehicles

- (a) Every vehicle utilized for the transportation of more than seven horses on the highway shall meet the following requirements:
- (1) there shall be at least two doors for loading and unloading, which shall not be on the same side;
 - (2) loading ramps shall be provided if the vertical distance from the floor of the truck to the ground is greater than 15 inches;
 - (3) the interior compartment construction shall be of smooth material with no hazardous, sharp protrusions;
 - (4) there shall be sufficient openings to ensure adequacy of ventilation;
 - (5) partitions shall be placed in compartments having no stalls;
 - (6) doorways shall be of sufficient height to allow safe loading and unloading; and
 - (7) compartment height shall be sufficient to allow clearance of the poll and withers of each horse loaded.
- (b) Vehicles under this section shall have no more than one tier in compartments carrying horses.
- (c) The commissioner shall establish rules for compliance with the provisions of this subchapter.
- (d) Failure to comply with this section, or the rules established thereunder, is a violation of subdivision 352(3) of this title. (Added 1989, No. 270 (Adj. Sess.), § 2.)

§ 391. Definitions

In addition to those definitions set forth in section 351 of this title, the following words shall have the following definitions:

- (1) "Animal pulling contest" means a pulling contest in which weights are pulled by animals for competitive purposes.
- (2) "Commissioner" means the commissioner of agriculture, food and markets or a designee.
- (3) "Competitive event" means pulling contests, trail rides, shows and any other competition for premiums or prizes involving animals.

- (4) "Drug" means those substances identified under subsection 4051(e) of Title 18.
- (5) "Owner" means any person, partnership or corporation having title to animals in any competitive event.
- (6) "Superintendent" means any individual designated to control animals during any livestock competition. (Added 1989, No. 270 (Adj. Sess.), § 2.)

§ 392. Administration of drugs; violation; rules

- (a) No person shall administer internally or externally a drug that may affect or alter the normal performance of an animal entered in an animal pulling contest or competitive event. Any animal so treated shall be disqualified, and any award, premium or trophy forfeited.
- (b) The commissioner shall establish rules to implement the provisions of this subchapter. (Added 1989, No. 270 (Adj. Sess.), § 2.)

§ 393. Statement of ownership

A signed statement of ownership in the name of the handler, including a description of the animal, shall be submitted to the superintendent before the start of a competitive event or animal pulling contest. (Added 1989, No. 270 (Adj. Sess.), § 2.)

§ 394. Testing

- (a) The commissioner may take specimens for drug testing of saliva, blood or urine, or all three, from any animal entered in an animal pulling contest or a competitive event. If a drug is found in a chemical analysis of the saliva, urine or blood, it shall be prima facie evidence that a drug has been administered. A proper chain of evidence shall be maintained.
- (b) The commissioner may assess and retain a fee for the taking of a drug test sufficient to recoup the expense of the test procedure.
- (c) Failure of an owner or handler to submit an animal for testing on request shall be treated under this chapter as if the presence of a drug were found in a test performed on the animal.
- (d) Failure to provide adequate information or assistance in animal restraint for the commissioner to obtain an official sample shall be a violation of this section, subject to the penalty provision of section 397 of this title. (Added 1989, No. 270 (Adj. Sess.), § 2; amended 1993, No. 124 (Adj. Sess.), § 1.)

§ 395. Hearing; finding; order

Within 14 calendar days from the date test results are received by the commissioner, the commissioner shall notify the

superintendent of the animal pulling contest or competitive event, and the animal's owner, of the results. If the presence of a drug is found in the test, the commissioner shall hold a hearing, at which the owner of the animal or a representative of the owner may appear and be heard. On the basis of all evidence presented, the commissioner shall issue a finding of whether the provisions of this subchapter have been violated. The commissioner shall make an appropriate order of whether the owner, the representative of the owner or the animal shall be eligible to participate in future competitive events or animal pulling contests held in this state. (Added 1989, No. 270 (Adj. Sess.), § 2.)

§ 396. Appeal

Any person aggrieved by a finding and order or penalty of the commissioner under this subchapter may appeal to the superior court in the county in which the animal pulling contest or competitive event was held. (Added 1989, No. 270 (Adj. Sess.), § 2.)

§ 397. Administrative penalty

In addition to the forfeiture of any award, premium or trophy otherwise due, and in addition to other penalties provided by law, a person violating this chapter may be assessed an administrative penalty in an amount not to exceed \$1,000.00 by the commissioner. The commissioner shall utilize the provisions of 6 V.S.A. §§ 16 and 17 assessing the penalty. (Added 1989, No. 270 (Adj. Sess.), § 2.)

§ 398. Loss of eligibility

Any person fined or convicted of administering an unlawful drug to animals entered in a competitive event or animal pulling contest held in another state shall be ineligible to compete in any animal pulling contest or competitive event in this state for a period not to exceed two years from the date of such fine or court conviction. (Added 1989, No. 270 (Adj. Sess.), § 2.)

§ 399. Abuse; disqualification

- (a) Any person found rein-whipping or otherwise whipping a horse in an animal pulling contest under this subchapter shall be automatically disqualified, and be ineligible to receive any award, premium or trophy. The light use of reins applied to the hindquarters may be permitted on entry to the pit and while the team is making its draw. The use of reins for other than guiding the animals at any other time is prohibited.

- (b) Any person found face-whipping cattle in an animal pulling contest shall be automatically disqualified and ineligible to receive any award, premium or trophy. If a goad stick is used in the contest, it must be made of wood, not taped, and not more than 3/4 inches in diameter.
- (c) Excessive violation of either subsection (a) or (b) of this section shall be deemed a violation of subdivision 352(2) of this title. (Added 1989, No. 270 (Adj. Sess.), § 2.)

§ 400. Alcohol breath test; disqualification

A superintendent may require that contestants or other participants at an animal pulling contest or competitive event pass a breathalyzer test for alcohol. The test shall be conducted by the state police, sheriff or local police before the contest or event occurs. Any person above a 0.10 percent concentration level shall be disqualified and barred from participation in any animal pulling contest or competitive event on the day of the test. (Added 1989, No. 270 (Adj. Sess.), § 2.)

Title 20: Internal Security and Public Safety

Chapter 191: Control Generally

§ 3341. Cattle, horses, sheep, goats or swine

A person who knowingly permits cattle, horses, sheep, goats or swine to run at large in a public highway, or yard belonging to a public building, without the consent of the selectmen, shall be fined not more than \$10.00 nor less than \$3.00. (Amended 1981, No. 114 (Adj. Sess.), § 1.)

§ 3342. Public park, common or green

A person who permits cattle, horses, sheep, goats or swine to run at large in a public park, common or green, without the consent of the selectmen, shall be fined not more than \$25.00 nor less than \$5.00. (Amended 1981, No. 114 (Adj. Sess.), § 1.)

§ 3343. Yard of townhouse, church or schoolhouse

A person who turns cattle, horses, sheep, goats or swine into a yard belonging to a townhouse, church or schoolhouse, which is properly enclosed, or knowingly permits them to run therein, shall be fined not more than \$10.00 nor less than \$3.00. (Amended 1981, No. 114 (Adj. Sess.), § 1.)

§ 3344. Burial ground

A person who knowingly turns cattle, horses, sheep, goats or swine into a burial ground, or who knowingly permits the same to run therein, if it is properly enclosed, shall be fined \$25.00. (Amended 1981, No. 114 (Adj. Sess.), § 1.)

§ 3345. Land or premises of another

A person who knowingly permits his cattle, horses, sheep, goats, swine or domestic fowls to go upon the lands or premises of another, after the latter has given

the owner notice thereof, shall be fined not more than \$10.00 nor less than \$2.00. Such person shall also be liable for the damages suffered which may be recovered in a civil action. (Amended 1981, No. 114 (Adj. Sess.), § 1.)

§ 3346. Bulls

The owner or keeper of a bull may be fined not more than \$100.00 if such bull is more than nine months old and found unattended outside of the premises owned or occupied by the owner or keeper of such bull and shall be liable to a party damaged by such bull while outside the premises of such owner or keeper. The damages may be recovered in a civil action.

§ 3347. Rams

- (a) Rams shall not be allowed to go at large between August 1 and December 1 in each year. The owner or keeper of a ram shall be liable for damages sustained by a person in consequence of such ram going at large during such time.
- (b) If during such time a ram is found with sheep other than those of its owner or keeper, and not in his enclosure, the owner or keeper of such sheep may recover \$5.00 of the owner or keeper of such ram, in a civil action.

§ 3348. Marking

- (a) On or before August 1 in each year, the owner or keeper of a ram shall place on its body in durable and legible characters the initials of his name.
- (b) If a ram is found at large out of the enclosure and possession of its owner or keeper between August 1 and December 1, without being marked as provided in subsection (a), the person taking and securing it may recover \$5.00 of the owner or keeper, to be recovered in a civil action.
- (c) If a person takes up and secures a ram thus found at large with such initials upon its body, he shall give

notice within two days to the owner thereof, if known, and if not known, shall post in a public place near where the same was found, a written notice describing the marks upon its body and the place where secured. If the owner, within six days thereafter, tenders or pays to such person \$3.00, the ram shall be restored, otherwise it shall become the property of such person.

§ 3349. Stallions

- (a) An owner or keeper of a stallion, more than one year old, who wilfully or negligently permits such stallion to run at large out of the enclosure of such owner or keeper, shall be fined for each instance not more than \$500.00 nor less than \$100.00 and shall also be liable to a party injured for the damage done by such stallion while running at large.
- (b) A person who owns or keeps a stallion over one year of age, between April 1 and December 1, in a private enclosure in such a manner as to disturb and annoy the owner or occupant of adjoining premises shall be fined \$5.00 for each week he so keeps such stallion after he has received three days' notice from an adjoining owner or occupant to remove such stallion. (Amended 1997, No. 16, § 2.)

§ 3350. Repealed. 1997, No. 16, § 4.

§ 3381. Maintenance of pounds

Each organized town shall maintain as many good and sufficient pounds as it may need for the impounding of beasts liable to be impounded. The pound may be kept in an adjacent town if the adjacent town consents and the poundkeeper may be a resident of an adjacent town. Each town may regulate the operation of its pounds except as to matters regulated by statute. (Amended 1963, No. 74, § 1.)

§ 3382. Penalty for failure to maintain pound

If a town, for the term of six months at one time, is without such pound, it shall be fined \$30.00.

§ 3383. Impounding, when no pounds

If a town does not have such pound, a person wishing to impound a beast may use his barn or some other

enclosure for that purpose, notifying the owner of such beast where the same is impounded.

§ 3384. Security to poundkeeper

When a person impounds a beast, the poundkeeper may require sufficient security to indemnify him for liability for detaining the beast, and for supplying it with food and drink while in the pound. If the person so impounding does not furnish such security within twenty-four hours he may release the beast and deliver the same to the owner or keeper, and the person impounding the beast shall be liable to the poundkeeper for his costs, trouble and expense.

§ 3411. Right to impound

A person may impound a beast found in his enclosure doing damage.

§ 3412. Poundkeeper's duties and liabilities

The poundkeeper shall supply such beast with food and drink while in the pound, and such keeper shall be liable to pay the owner of such beast damages occasioned by neglecting so to do.

§ 3413. Notice by impounder

The person impounding such beast, within twenty-four hours thereafter, shall give notice thereof to the owner or person having the care of such beast, either personally, or by a written notice left at his dwelling house. Such notice shall require such owner or keeper to appear at the dwelling house of the impounder within twenty-four hours to appoint appraisers to fix the damage done by such beast.

§ 3414. Liability for failure to give notice

If a person so impounding a beast does not give such notice, he shall forfeit to such owner or keeper fifty cents for every twenty-four hours' neglect so to do, and shall pay the damages which such owner or keeper sustains in consequence thereof, to be recovered with costs in a civil action.

§ 3415. Appraisers of damages

If the owner or keeper appears, he may appoint one person and the impounder another, to appraise such

damage. If such appraisers do not agree, they may appoint a third.

§ 3416. Ascertainment of damages; discharge on payment

The appraisers shall ascertain the damages done by such beast, and make a certificate of the amount thereof, and forthwith transmit the same to the poundkeeper. A beast so impounded shall not be discharged until such damages, charges and costs are paid, nor shall a beast be detained after such payment is made.

§ 3417. Application to district judge

If the owner or keeper of a beast impounded does not appear, or does not appoint an appraiser, or if the appraisers appointed by the parties do not agree upon a third person, the impounder may apply to a district judge who by law can judge between the parties in civil causes, who shall appoint one or more appraisers, as the case requires. (Amended 1965, No. 194, § 10, eff. Feb. 1, 1967; 1973, No. 249 (Adj. Sess.), § 74, eff. April 9, 1974.)

§ 3418. Forfeiture for failure to replevy or redeem

If the owner or keeper of a beast impounded does not, within forty-eight hours after notice thereof as aforesaid, either replevy or redeem the same, he shall forfeit three dollars for each beast so by him suffered to remain in pound, and the same sum for every day thereafter he so suffers such beast to remain in pound, and pay the charges to the poundkeeper. Such forfeiture shall be recovered by the poundkeeper for his use in a civil action. (Amended 1981, No. 114 (Adj. Sess.), § 2.)

§ 3419. Sale of beasts

If the owner or keeper of a beast impounded does not, within forty-eight hours after notice thereof, replevy or redeem the same, the impounder may advertise and sell the beast, as provided when the owner is unknown.

§ 3420. Procedure when owner unknown

If the owner of a beast taken in an enclosure, doing damage and impounded, is unknown, the impounder shall, within forty-eight hours, post an advertisement in some public place in the town in which the beast was impounded, and in two adjoining towns, describing such beast and stating the time when and place where the same was impounded.

§ 3421. Payment of damages and charges or sale of beasts

If the owner, within thirty days after the posting of such advertisement, appears and claims the beast, he may receive the same on paying the damages done by it and the charges of impounding, keeping and advertising. If the owner does not appear within the time and claim such beast, the impounder may sell the same at public auction, after six days' notice posted in some public place in the town.

§ 3422. Proceeds of sale

The avails of the sale shall be applied to the payment of the damages done by the beast, to be ascertained by the fence viewers, and the expense of impounding, keeping, advertising, ascertaining the damages done, town clerk's fees and selling the beast. The balance shall be paid to the treasurer of the town in which the beast was impounded, to the use of the owner, if demanded within one year, otherwise to the use of the town.

§ 3423. Record of sale

Immediately after the sale, the impounder shall cause a description of the beast, with an account of the damages, charges and expenses aforesaid, and the sum for which it was sold, to be recorded in the office of the clerk of the town.

§ 3451. Cattle, horses or swine

If a person suffers his neat cattle, horses or swine to run at large on the highways or commons, any person may impound them. The owner shall pay the charges of the impounder and poundkeeper, and the poundkeeper shall not release such animals until the charges are paid.

§ 3452. Notice

When such animals are impounded, the poundkeeper shall, within twenty-four hours, post a notice in a public place in the town, describing the animals and stating the time and place of impounding and the time and place of sale.

§ 3453. Sale

If the owner of the animals, within twenty days, pays the poundkeeper his fees, including his reasonable expenses for advertising and the reasonable expense of keeping, with the impounder's fees, the animals shall be released, otherwise they shall be sold by the poundkeeper at public auction, and the avails shall be applied as in case of the sale of beasts taken doing damage when the owner is unknown. (Amended 1959, No. 262, § 34, eff. June 11, 1959.)

§ 3454. Stallions

A stallion found running at large may be impounded. Within forty-eight hours, the impounder shall notify the owner or keeper thereof. If the owner or keeper does not, within three days after such notice, pay to the impounder such damages as are assessed by three disinterested freeholders, appointed by a justice of the peace or a district judge of the county, with the costs and expenses of impounding, appraising, and the poundkeeper's charge of \$50.00 per day, the impounder may sell the stallion at public auction to satisfy the same, giving four days' notice of the time and place of sale, and the balance, after paying the damage and expenses, shall be paid to the treasurer of the town in which the stallion was impounded, for the use of the owner, if demanded within one year, otherwise to the use of the town. (Amended 1965, No. 194, § 10, eff. Feb. 1, 1967; 1997, No. 16, § 3.)

§ 3481. Breaking open pound; unlawful release

A person who breaks open a pound, or directly or indirectly releases a beast impounded, without authority so to do, shall be fined \$25.00 and shall be

liable to the person impounding for the damages occasioned thereby.

§ 3482. Escapes and rescues

If a beast escapes, or is unlawfully rescued from a pound, such beast may, within five days thereafter, be retaken wherever found and again impounded by the keeper of the pound, or by the person impounding it, and the beast shall be held for the payment of the fees and charges, as in this chapter provided. In case the beast was rescued with the knowledge and assent of the owner or keeper, it shall be held for the payment of the reasonable expense and trouble which accrues in retaking the same, to be paid to the poundkeeper, like other charges and expenses.

§ 3483. Hindering retaking

A person who hinders or impedes a poundkeeper or impounder in retaking a beast shall be fined \$10.00 and shall pay the damages to the person injured.

§ 3484. Taking beast from, or impeding impounder

A person who rescues a beast from the custody of a person driving or about to drive it to pound, or resists him in so doing, shall be fined \$10.00 and shall pay the damages to the person injured.

§ 3485. Limitation of prosecution

Prosecutions under the provisions of this subchapter shall be commenced within one year after the commission of the offense, and not after.

§ 3511. Abandoned animals, definition

An animal shall be deemed to be abandoned when it is placed in the custody of a veterinarian, veterinary hospital, boarding kennel, stable or other person or establishment for treatment, board or care and

- (1) Having been placed in custody for a specific period of time, the animal is not removed at the end of the specific period and a notice to remove the animal within ten days thereafter has been given to the person placing the animal in custody by means of

registered mail addressed to the last known address of the person or,

- (2) Having been placed in custody for an unspecified period of time, the animal is not removed within ten days after notice to remove the animal has been given to the person placing the animal in custody by means of registered mail addressed to the last known address of the person. (1967, No. 240 (Adj. Sess.), § 1, eff. Feb. 8, 1968.)

§ 3512. Waiver of lien

The giving of notice as prescribed in section 3511 of this title shall be deemed a waiver of any lien on the animal for the treatment, board or care of the animal, but shall not relieve the owner of the animal of his contractual liability for the treatment, board or care furnished. (1967, No. 240 (Adj. Sess.), § 2, eff. Feb. 8, 1968.)

§ 3513. Disposal of abandoned animals

Any person having in his care, custody or control any abandoned animal as defined in section 3511 of this title may deliver the animal to any humane society or society for the prevention of cruelty to animals, or in the case of dogs, cats or other small animals to any pound maintained by or for any town within which the animal was abandoned, or he may sell the animal, the proceeds from the sale to be applied to the contractual liability incurred by the person placing the animal. If the person to whom the animal was abandoned is unable to sell the animal, it may be humanely euthanized by any veterinarian licensed to practice in Vermont. (1967, No. 240 (Adj. Sess.), § 3, eff. Feb. 8, 1968.)

Title 20: Internal Security and Public Safety

Chapter 193: Domestic Pet or Wolf-Hybrid Control

§ 3541. Definitions

As used in this chapter:

- (1) "Commissioner" where no other department is referenced, means the commissioner of the department of agriculture, food and markets, and includes his or her designee.
- (2) "Domestic animal" means those animals defined by 6 V.S.A. § 1151(2).
- (3) "Domestic pet" or "pet" means any domestic dogs, domestic cats and ferrets. The term shall also include such other domestic animals as the commissioner

shall establish by rule, provided that the commissioner finds that the animal has the potential to become an imminent danger to public health or welfare if not subjected to the provisions of this chapter.

- (4) "Ferret" means only the European ferret (*Mustela putorius furo*).
- (5) "Legislative body" means the legislative body of a town, city or incorporated village.
- (6) "Owner" means any person who owns a domestic pet or wolf-hybrid and includes any person who has actual or constructive possession of the pet or wolf-hybrid. The term also includes those persons who provide feed or shelter to a domestic pet or wolf-hybrid. However, it is not the intent of the general assembly to require a person to be responsible under this chapter for feral animals that take up residence in a building other than the person's home, even if the person occasionally provides feed to the animal.
- (7) "Respondent" means a person alleged to have violated any provision of this chapter.
- (8) "Wolf-hybrid" means an animal which is the progeny or descendant of a domestic dog (*Canis familiaris*) and a wolf (*Canis lupus* or *Canis rufus*). "Wolf-hybrid" also means an animal which is advertised, registered, licensed or otherwise described or represented as a wolf-hybrid by its owner or an animal which exhibits primary physical and behavioral wolf characteristics. The commissioner of the department of fish and wildlife shall adopt a rule describing primary physical and behavioral wolf characteristics. (Added 1993, No. 213 (Adj. Sess.), § 2, eff. June 15, 1994.)

§ 3545. Right to kill domestic pets or wolf-hybrids generally

- (a) A person may kill a domestic pet or wolf-hybrid that suddenly assaults him or her or when necessary to discontinue an attack upon the person or another person provided that the attack or assault does not occur while the domestic pet or wolf-hybrid is restrained, within an enclosure containing the

domestic pet or wolf-hybrid, or on the premises of the owner.

- (b) A domestic pet or wolf-hybrid found wounding, killing or worrying another domestic pet or wolf-hybrid, a domestic animal or fowl may be killed when the attendant circumstances are such that the killing is reasonably necessary to prevent injury to the animal or fowl which is the subject of the attack. (Amended 1977, No. 215 (Adj. Sess.), § 1, eff. April 12, 1978; 1979, No. 92 (Adj. Sess.), § 1, eff. Feb. 28, 1980; 1993, No. 213 (Adj. Sess.), § 3, eff. June 15, 1994.)

§ 3546. Investigation of vicious domestic pets or wolf-hybrids; order

- (a) When a domestic pet or wolf-hybrid has bitten a person while the domestic pet or wolf-hybrid is off the premises of the owner or keeper, and the person bitten requires medical attention for the attack, such person may file a written complaint with the legislative body of the municipality. The complaint shall contain the time, date and place where the attack occurred, the name and address of the victim or victims, and any other facts that may assist the legislative body in conducting its investigation required by subsection (b) of this section.
- (b) The legislative body, within seven days from receipt of the complaint, shall investigate the charges and hold a hearing on the matter. If the owner of the domestic pet or wolf-hybrid which is the subject of the complaint can be ascertained with due diligence, said owner shall be provided with a written notice of the time, date and place of hearing and the facts of the complaint.
- (c) If the domestic pet or wolf-hybrid is found to have bitten the victim without provocation, the municipal officials shall make such order for the protection of persons as the facts and circumstances of the case may require, including, without limitation, that the domestic pet or wolf-hybrid is disposed of in a humane way, muzzled, chained, or confined. The order shall be sent by certified mail, return receipt requested. A person who, after receiving notice, fails

to comply with the terms of the order shall be subject to the penalties provided in section 3551 of this chapter.

- (d) The procedures provided in this section shall only apply if the domestic pet or wolf-hybrid is not a rabies suspect. If a member of the legislative body or a municipal official designated by the legislative body determines that the animal is a rabies suspect, the provisions of subchapter 5 of this chapter and the rules of the department of health shall apply.

(Amended 1977, No. 215 (Adj. Sess.), § 2, eff. April 12, 1978; 1993, No. 213 (Adj. Sess.), § 4, eff. June 15, 1994.)

§ 3547. Repealed. 1977, No. 215 (Adj. Sess.), § 15, eff. April 12, 1978.

§ 3548. Application to unorganized towns and gores; supervisors

The provisions of subchapters 1, 2, 4 and 5 of this chapter shall apply to unorganized towns and gores, and the duties imposed upon municipal clerks by this chapter shall, in unorganized towns and gores, be performed by the supervisors thereof. (Amended 1993, No. 213 (Adj. Sess.), § 5, eff. June 15, 1994.)

§ 3549. Domestic pets or wolf-hybrids, regulation by towns

The legislative body of a city or town by ordinance may regulate the keeping of domestic pets or wolf-hybrids and their running at large. (Added 1967, No. 300 (Adj. Sess.), § 1, eff. March 20, 1968; 1993, No. 213 (Adj. Sess.), § 6, eff. June 15, 1994.)

§ 3550. Enforcement; municipal legislative body; commissioner

- (a) A municipal legislative body or an officer designated by the commissioner may impose a civil penalty of up to \$500.00 per violation in accordance with the provisions of this section.

- (b) A municipal legislative body may impose penalties for violation of any provisions of subchapter 1 or 2, refusal to obtain a kennel permit under subchapter 3,

or refusal to comply with an order issued by a municipal officer under subchapter 5 of this chapter.

(c) An officer designated by the commissioner may impose penalties for violation of a rule adopted by a state agency under subchapter 5 of this chapter, violation of a quarantine order issued under subchapter 5 of this chapter, or refusal to comply with an order issued by a state officer under subchapter 5 of this chapter.

(d) In determining the amount of the civil penalty to be ordered, the legislative body or officer shall consider the following:

(1) The degree of actual or potential impact on public health, safety, and welfare resulting from the violation.

(2) Whether the respondent has cured the violation.

(3) The presence of mitigating circumstances.

(4) Whether the respondent knew or had reason to know the violation existed.

(5) The respondent's record of compliance.

(6) The deterrent effect of the penalty.

(7) The costs of enforcement.

(8) The length of time the violation has existed.

(e) When the legislative body or officer has reasonable grounds to believe that a person has violated a provision of this chapter under its purview, the legislative body or officer may issue a notice of the alleged violation, which shall be delivered to the respondent in person or mailed to the respondent by registered mail. The notice of violation shall include:

(1) A civil penalty of up to \$500.00.

(2) A brief description of the alleged violation and identification of the law alleged to have been violated.

(3) A statement that the respondent has a right to a hearing before the legislative body or a hearing officer designated by the commissioner at no cost to the respondent, a description of the procedures for requesting a hearing and a statement that failure to request a hearing within 21 days of the date of

mailing of the notice shall result in a final decision with no right of appeal.

- (4) If applicable, a directive that the respondent take actions necessary to achieve compliance with the law.
- (f) A person who receives a notice of violation shall be offered an opportunity for a hearing before the legislative body or hearing officer, provided that the request for hearing is made in writing to the clerk of the municipality or the commissioner no later than 21 days after the date of mailing of the notice of violation. If the respondent does not request a hearing in a timely fashion, the decision shall be final and the penalty shall be payable within 35 days following mailing of the notice of violation. If the respondent does make a timely request for a hearing, the legislative body or hearing officer shall hold a hearing within 14 days of receipt of the request. After the hearing, the legislative body or hearing officer may affirm, reduce or eliminate the penalty. The decision shall be delivered or mailed to the respondent in the same manner as the notice of violation and shall be effective five days following mailing of the decision or immediately following delivery of the decision.
- (g) Imposition of a penalty under this subchapter precludes imposition of any other administrative or civil penalty under any other provision of law for the same violation.
- (h) The civil penalty shall be paid to the enforcing agency or enforcing legislative body. If the respondent fails to pay the penalty within the time prescribed, the legislative body or commissioner may bring a collection action in small claims court or the superior court.
- (i) A respondent aggrieved by a decision made following a hearing before the legislative body or hearing officer may appeal within 30 days of receipt of the decision to the superior court which shall consider the matter *de novo*.
- (j) On application of a municipality or the commissioner, the superior court shall have jurisdiction to enjoin the violation of any provision of this chapter. The court

may also authorize the seizure and disposition of domestic pets or wolf-hybrids when owners refuse to have the pets or wolf-hybrids inoculated or licensed, or when the court determines that there is a threat to the public welfare. (Added 1993, No. 213 (Adj. Sess.), § 7, eff. June 15, 1994.)

§ 3551. Search warrants

An officer who has attempted to seize a domestic pet or wolf hybrid under sections 3546, 3549, 3624, 3745, 3806 or 3807 of this chapter and has not been permitted to search for or take the animal, may apply to a judicial officer authorized to issue search warrants for a warrant to search the properties of the owner of the animal or any other property if the officer has reasonable cause to believe that the animal may be on it. If the judicial officer is satisfied that there is a reasonable cause to believe that the animal is on a property, the judicial officer shall issue a search warrant authorizing a law enforcement officer of the state of Vermont to search the property and premises for the animal within a specified period of time not to exceed 10 days and to seize the animal. The warrant shall be served between the hours of 6:00 A.M. and 10:00 P.M. unless the warrant directs that it may be served at any time. The judicial officer may, by appropriate provision in the warrant, and for reasonable cause shown, authorize its execution at other times. The warrant shall designate the court to which it shall be returned. (Added 1993, No. 213 (Adj. Sess.), § 8, eff. June 15, 1994.)

§ 3581. GENERAL REQUIREMENTS

- (a) A person who is the owner of a dog or wolf-hybrid more than six months old shall annually on or before April 1 cause it to be registered, numbered, described and licensed on a form approved by the commissioner for one year from that day in the office of the clerk of the municipality wherein the dog or wolf-hybrid is kept. The owner of a dog or wolf-hybrid shall cause it to wear a collar, and attach thereto a license tag issued by the municipal clerk. Dog or wolf-hybrid owners shall pay for the license \$4.00 for each

neutered dog or wolf-hybrid, and \$8.00 for each unneutered dog or wolf-hybrid. If the license fee for any dog or wolf-hybrid is not paid by April 1, its owner or keeper may thereafter procure a license for that license year by paying a fee of fifty percent in excess of that otherwise required.

- (b) Before a person shall be entitled to obtain a license for a neutered dog or wolf-hybrid, he or she shall exhibit to the clerk a certificate signed by a duly licensed veterinarian showing that the dog or wolf-hybrid has been sterilized.
- (c) (1) A mandatory license fee surcharge of \$2.00 per license shall be collected by each city, town or village for the purpose of funding the dog, cat, and wolf-hybrid spaying and neutering program established in subchapter 6 of chapter 193 of this title.
(2) An optional license fee surcharge of up to \$10.00 per license is to be implemented by the legislative body of a city, town, or village which has established an animal and rabies control program for the sole purpose of funding the rabies control program.
(3) The license fee surcharges in this subsection shall not be considered part of the license fee for purposes of calculating a penalty for late payment.
- (d) Before obtaining a license for a dog or wolf-hybrid six months of age or older, a person shall deliver to the municipal clerk a certificate or a certified copy thereof issued by a duly licensed veterinarian, stating that the dog or wolf-hybrid has received a current pre-exposure rabies vaccination with a vaccine approved by the commissioner, and the person shall certify that the dog or wolf-hybrid described in the certificate or copy is the dog or wolf-hybrid to be licensed. The municipal clerk shall keep the certificates or copies thereof on file. The commissioner shall prescribe the size and format of rabies certificates. The owner of any such dog or wolf-hybrid shall maintain a copy of the rabies vaccination form and provide it to state or municipal officials upon request.
- (e) For the purposes of licensing a dog or wolf-hybrid, a current vaccination against rabies means that:

- (1) All dog and wolf-hybrid vaccinations recognized by state and local authorities shall be administered by a licensed veterinarian or under the supervision of a licensed veterinarian.
- (2) All dogs and wolf-hybrids over three months of age shall be vaccinated against rabies. The initial vaccination shall be valid for 12 months. Within 9-12 months of the initial vaccination, the animal must receive a booster vaccination.
- (3) All subsequent vaccinations following the initial vaccination shall be valid for 36 months.
- (4) All vaccinations, including the initial vaccinations, shall be with a U.S. Department of Agriculture-approved three-year rabies vaccine product.
- (f) In addition to the license fees assessed in subsections (a) and (c) of this section and section 3583 of this title, municipal clerks shall assess a \$1.00 fee for each license sold. The clerks shall forward the fees collected under this subsection to the state treasurer on or before the 15th day of May, September and January of each year, together with an accounting of the licenses sold. The funds collected under this subsection are to be used for rabies control programs. For this purpose, on or before the 30th days of May, September and January, the state treasurer shall disburse the funds collected under this subsection as follows:

- (1) Forty-five percent to the fish and wildlife fund.
- (2) Forty-five percent to the commissioner of the department of health.
- (3) Ten percent to the commissioner of the department of agriculture, food and markets.

(Amended 1965, No. 36, § 1, eff. April 28, 1965; 1966, No. 62 (Sp. Sess.), § 1; 1977, No. 215 (Adj. Sess.), § 3, eff. April 12, 1978; 1979, No. 92 (Adj. Sess.), § 3, eff. Feb. 28, 1980; 1989, No. 256 (Adj. Sess.), § 10(a); eff. Jan. 1, 1991; 1993, No. 213 (Adj. Sess.), § 9, eff. April 1, 1995; 2001, No. 39, § 5.)

§ 3581a. Immunization

- (a) An owner of a domestic pet or wolf-hybrid shall have that animal inoculated against rabies by a licensed

veterinarian in accordance with section 3581 of this title, if applicable, and with rules adopted by the commissioner.

- (b) No rabies vaccine may be used for domestic pets unless it is first approved by the commissioner.
- (c) Until the commissioner approves a rabies vaccine for use on wolf-hybrids, these animals shall be vaccinated with a vaccine approved by the commissioner for domestic dogs and a veterinarian inoculating a wolf-hybrid in accordance with this section shall not be liable for the failure of the rabies vaccine to protect the animal from rabies nor for any adverse reaction that may be attributable to the vaccination.
- (d) A person may use an approved vaccine to inoculate a feral feline that takes up residence in a building other than the person's home and need not use the services of a licensed veterinarian for this purpose.
- (e) The commissioners of the department of agriculture, food and markets and the department of health shall provide notices to veterinarians designed to help them to inform people about the provisions of this section regarding cats, wolf-hybrids and other domestic pets. (Added 1993, No. 213 (Adj. Sess.), § 10, eff. June 15, 1994.)

§ 3582. Dogs or wolf-hybrids obtained after April 1

A person who becomes the owner after April 1 of a dog or wolf-hybrid six months old which has not been licensed, or a person who owns, keeps or harbors a dog or wolf-hybrid in which becomes six months old after April 1 shall within 30 days apply for and obtain a license for the dog or wolf-hybrid the same manner as the annual license is obtained. If an application under this section is made after October 1, the fee for the license shall be one-half the amount otherwise required. If the license fee is not paid within 30 days, the owner may thereafter procure a license for that license year by paying a license fee of 50 percent in excess of that otherwise required. (Amended 1977, No. 215 (Adj. Sess.), § 4, eff. April 12, 1978; 1979, No. 92

(Adj. Sess.), § 4, eff. Feb. 28, 1980; 1993, No. 213
(Adj. Sess.), § 11, eff. April 1, 1995.)

§ 3582a. Repealed. 1977 (Adj. Sess.), § 15, eff. April
12, 1978.

§ 3583. Domestic pets and wolf-hybrids kept for
breeding purposes

(a) The owner or keeper of domestic pets and wolf-hybrids
kept for breeding purposes may take out annually, on
or before April 1, a special license for the domestic
pets or wolf-hybrids, provided:

(1) He or she keeps the domestic pets or wolf-hybrids
within a proper enclosure. A proper enclosure is a
locked fence or structure of sufficient height and
sufficient depth into the ground to prevent the entry
of young children and to prevent the animal from
escaping. A proper enclosure also provides humane
shelter for the animal.

(2) The domestic pets or wolf-hybrids at all times have a
current vaccination against rabies.

(3) When the number of domestic pets or wolf-hybrids so
kept does not exceed ten, the fee shall be \$30.00 and
for each additional domestic pet or wolf-hybrid so
kept, an annual fee of \$3.00.

(b) Domestic pets and wolf-hybrids covered by the special
license hereunder shall be exempt from other license
fees, and all licenses under this section are exempt
from the surcharge enacted under subsection (c) of
section 3581 of this title.

(c) If the license fee is not paid by April 1, the owner or
keeper may thereafter procure a license for that
license year by paying a fee of fifty percent in excess of
that otherwise required. These license fees are in
addition to any fees required for the operation of a
kennel under subchapter 3 of this chapter. (Amended
1977, No. 215 (Adj. Sess.), § 5, eff. April 12, 1978;
1979, No. 92 (Adj. Sess.), § 5, eff. Feb. 28, 1980;
1993, No. 213 (Adj. Sess.), § 12, eff. April 1, 1995.)

§ 3587. Dogs brought into state

Without obtaining a Vermont license, a person may bring or cause to be brought into the state for a period not exceeding 90 days, one or more licensed dog or dogs bearing the identification of the owner, provided that the owner possesses a certificate signed by a licensed veterinarian or a state official of any other state that the dog has received a rabies vaccination that is current for the 90 days following entry into the state. (Amended 1977, No. 215 (Adj. Sess.), § 6, eff. April 12, 1978; 1979, No. 92 (Adj. Sess.), § 6, eff. Feb. 28, 1980.)

§ 3588. Issuance of licenses; record of licenses

Municipal clerks shall issue licenses and receive the money therefor, and pay the same into the municipal treasury, within sixty days of the receipt thereof, retaining to their own use \$2.00 for each license or permit, and shall return therewith a sworn statement of the amount of moneys thus received and paid over by them. (Amended 1966, No. 62 (Sp. Sess.), § 3; 1971, No. 84, § 11; 1977, No. 215 (Adj. Sess.), § 7, eff. April 12, 1978; 1993, No. 213 (Adj. Sess.), § 13, eff. June 15, 1994.)

§ 3589. Record of licenses

Municipal clerks shall also keep a record of licenses issued by them, with the names of the owners or keepers of the dogs or wolf-hybrids licensed and the names, registered numbers and descriptions of such dogs or wolf-hybrids. (Amended 1993, No. 213 (Adj. Sess.), § 14, eff. April 1, 1995.)

§ 3590. List of dogs and wolf-hybrids not licensed

- (a) The legislative body shall annually designate one or more persons to maintain a list of unlicensed, inoculated and licensed dogs and wolf-hybrids owned or kept in their municipality and to submit the list to the municipal clerk.
- (b) On receiving a list of dogs and wolf-hybrids from persons authorized by the legislative body, the municipal clerk shall notify the owners or keepers of all dogs and wolf-hybrids named on the list that have not already been licensed or inoculated, and after May 30 shall furnish to the legislative body a list of dogs

and wolf-hybrids not licensed or inoculated as required by law. Owners shall also be notified that unlicensed or uninoculated dogs or wolf-hybrids may be destroyed. (Amended 1965, No. 36, § 3, eff. April 28, 1965; 1977, No. 215 (Adj. Sess.), § 8, eff. April 12, 1978; 1979, No. 92 (Adj. Sess.), § 7, eff. Feb. 28, 1990; 1993, No. 213 (Adj. Sess.), § 15, eff. April 1, 1995.)

§ 3591. Transfer of license

A license from a municipal clerk shall be valid in any part of the state and may be transferred with the dog or wolf-hybrid licensed, provided such license is recorded by the clerk of the municipality where such dog or wolf-hybrid is kept. (Amended 1993, No. 213 (Adj. Sess.), § 16, eff. April 1, 1995.)

§ 3592. Repealed. 1993, No. 213 (Adj. Sess.), § 32, eff. June 15, 1994.

§ 3621. Issuance of warrant to impound, destroy; complaint

The legislative body of a municipality may at any time issue a warrant to one or more police officers or constables, or pound keepers, directing them to proceed forthwith to destroy in a humane way or cause to be destroyed in a humane way all dogs or wolf-hybrids within the town or city not licensed according to the provisions of this subchapter, except as exempted by section 3587 of this title, and to enter a complaint against the owners or keepers thereof. (Amended 1977, No. 215 (Adj. Sess.), § 10, eff. April 12, 1978; 1979, No. 92 (Adj. Sess.), § 2, eff. Feb 28, 1980; 1993, No. 213 (Adj. Sess.), § 17, eff. April 1, 1995.)

§ 3622. Form of warrant

Such warrant shall be in the following form:

State of Vermont: _____ County, ss.)

To _____, constable or police officer of the town or city of

_____ :

By the authority of the state of Vermont, you are hereby commanded forthwith to impound and destroy

in a humane way or cause to be destroyed in a humane way all dogs and wolf-hybrids not duly licensed according to law, except as exempted by section 3587 of 20 V.S.A.; and you are further required to make and return complaint against the owner or keeper of any such dog or wolf-hybrid.

Hereof fail not, and due return make of this warrant, with your doings thereon, within 90 days from the date hereof, stating the number of dogs or wolf-hybrids destroyed and the names of the owners or keepers thereof, and whether all unlicensed dogs or wolf-hybrids in such town (or city) have been destroyed, and the names of persons against whom complaints have been made under the provisions of subchapters 1, 2 and 4 of chapter 193 of 20 V.S.A., and whether complaints have been made and returned against all persons who have failed to comply with the provisions of such subchapter.

Given under our (my) hands at _____
aforesaid, this _____ day of _____, 19____.

Legislative Body

(Amended 1977, No. 215 (Adj. Sess.), § 11 eff. April 12, 1978; 1993, No. 213 (Adj. Sess.), § 18, eff. April 1, 1995.)

§ 3623. Constable to make complaints

A constable to whom such warrant has been issued shall make complaints therein required to be made to the town grand jurors.

§ 3624. Who may destroy; fees

A police officer or constable shall humanely destroy or cause to be destroyed dogs or wolf-hybrids whenever a warrant has been issued authorizing such actions, except as exempted by section 3587 of this title. Any action must be taken within 90 days of the issuance of the warrant. The officer shall incinerate, bury or cause to be buried or otherwise properly dispose of their remains.

Any officers, other than those employed under regular pay, shall receive compensation for each dog or wolf-hybrid so destroyed as authorized by the legislative body of their respective towns. Bills for any services shall be approved by the legislative body of the municipality in which the dogs or wolf-hybrids are destroyed, and paid from moneys received under the provisions of this subchapter. (Amended 1977, No 215 (Adj. Sess.), § 12 eff. April 12, 1978; 1993, No. 213 (Adj. Sess.), § 19, eff. April 1, 1995.)

§ 3625. Return by officers

Each police officer or constable to whom such warrant is issued shall make the return therein directed to the authority issuing the warrant within 90 days from its date. (Amended 1977, No. 215 (Adj. Sess.), § 13, eff. April 12, 1978.)

§ 3626. Certificate to state's attorney

The selectmen or mayor shall annually, within ten days from July 25, transmit a certificate, subscribed and sworn to, of the fact of the issue of such warrant, and whether the same has been duly executed and returned agreeably to the provisions of this chapter, to the state's attorneys of their respective counties, who shall prosecute town officers who fail to comply with the provisions of this subchapter.

§ 3627. Repealed. 1993, No. 213 (Adj. Sess.), § 32, eff. June 15, 1994.

§ 3681. Permit

The owner or keeper of two or more domestic pets or wolf-hybrids four months of age or older kept for sale or for breeding purposes, except for his or her own use, shall apply to the municipal clerk of the town or city in which the domestic pets or wolf-hybrids are kept for a kennel permit to be issued on forms prescribed by the commissioner and pay the clerk a fee of \$10.00 for the same. The provisions of subchapters 1, 2, and 4 of this chapter not inconsistent with this subchapter, shall apply to the permit which shall be in addition to other permits

required. A kennel permit shall expire on March 31 next after issuance, and shall be displayed prominently on the premises on which the domestic pets or wolf-hybrids are kept. If the permit fee is not paid by April 1, the owner or keeper may thereafter procure a permit for that license year by paying a fee of fifty percent in excess of that otherwise required. Municipal clerks shall maintain a record of the type of animals being kept by the permit holder. (Amended 1971, No. 27, § 2, eff. March 24, 1971; No. 84, § 12; 1977, No. 215 (Adj. Sess.), § 14, eff. April 12, 1978; 1993, No. 213 (Adj. Sess.), § 20, eff. April 1, 1995.)

§ 3682. Inspection of premises

These premises may be inspected at any reasonable time by a law enforcement officer, a representative of the department of agriculture, food and markets, or an officer or agent of an incorporated humane society and a veterinarian licensed to practice in Vermont, designated by such officer, agent or agency. (Amended 1971, No. 27, § 3, eff. March 24, 1971; 1989, No. 256 (Adj. Sess.), § 10(a), eff. Jan. 1, 1991.)

§ 3683. Quarantine of premises

In the event such officer, representative or agent and veterinarian shall find that domestic pets or wolf-hybrids are kept under unsanitary or inhumane conditions, that there is communicable disease among them, or that the condition of the domestic pets or wolf-hybrids is such as to jeopardize or endanger the health or safety of persons, they shall quarantine said premises by an order in writing delivered to the holder of the permit, which quarantine shall remain in effect until the conditions affording a basis for such quarantine order have been remedied. (Amended 1971, No. 27, § 4, eff. March 24, 1971; 1993, No. 213 (Adj. Sess.), § 21, eff. April 1, 1995.)

§ 3684. -Offenses; bill of costs in prosecution

The person operating a kennel who is found to have neglected to remedy conditions specified in said quarantine order, other than the prevalence of contagious disease, within ten days after receiving notice of such order, or who sells, gives away or

otherwise removes a domestic pet or wolf-hybrid under quarantine or affected with a contagious disease, shall be subject to the penalty provided in section 353(a)(1) of Title 13. Necessary fees and expenses of a veterinarian designated by such officer or agent shall be included in the bill of costs in a prosecution made hereunder and shall be taxed to the respondent. (Amended 1993, No. 213 (Adj. Sess.), § 22, eff. April 1, 1995.)

§ 3741. Election of remedy

The owner of sheep, lambs or other domestic animals worried, maimed or killed by dogs may have his election to proceed against the town, or against the owner of such dogs under the provisions of this subchapter; but having signified his election by proceeding in either mode, he shall not have the other remedy.

§ 3742. Notice of damage; appraisal

A person who suffers loss by the worrying, maiming or killing of his sheep, lambs, fowls or other domestic animals, by dogs, within twenty-four hours after he learns of such damage, shall give notice thereof to one or more of the selectmen of the town wherein the damage was done, who shall proceed to the premises where the damage was done, and determine whether the same was inflicted by dogs, and, if so, appraise the amount thereof and return a certificate of such amount to the selectmen of such town; but if, in the opinion of the selectman, the amount of such damage exceeds \$ 20.00, he shall appoint two disinterested persons, who, with the selectman, shall appraise the amount of such damage and return a certificate of the same to the selectmen of such town forthwith. Such appraisal shall be for the full value of all animals killed, not less than one-half value of all animals maimed and not less than fifty cents per head for any injury to the remainder of the flock over three months of age, caused by worrying.

§ 3743. Examination of certificate

Such selectmen shall forthwith examine such certificate and, when doubt exists, may summon the appraisers and all parties interested and make such examination as they deem proper. They shall issue an order upon the treasurer of the town in which the damage was done, for all or any part thereof, as justice requires.

§ 3744. Fees and travel expenses

The appraisers shall receive from the town treasurer, out of the moneys received under the provisions of this subchapter, \$1.00 each for every examination so made by them, and the selectman acting in the case shall receive twenty cents a mile one way, for his necessary travel.

§ 3745. Identification and killing of dogs

A selectman, when called upon to appraise damage done to sheep or other domestic animals by dogs, shall make inquiry and, if possible, identify dogs so killing, worrying or wounding such sheep or other domestic animals; and when such selectman has, to his satisfaction, identified such dogs, he shall issue his warrant to a constable or police officer, commanding him forthwith to kill such dog or dogs wherever found; and the officer shall receive for such service the fees prescribed by law for the killing of unlicensed dogs. The selectmen may offer a reward for the identification of such dogs. Such reward shall not exceed the sum of \$5.00 and shall be paid by the town treasurer out of the moneys received under the provisions of this subchapter.

§ 3746. Action against town

Upon failure of the selectmen to perform the duties prescribed in sections 3742 and 3743 of this title, or the treasurer to make payment as prescribed by section 3543 of this title, the party suffering the loss may recover the same of such town in a civil action, with costs.

§ 3747. Action by town against owner of dogs

The town may bring a civil action against the owner or keeper of a dog involved in doing damage to sheep,

lambs or other domestic animals, in such town, which damage the selectmen have ordered to be paid, to recover the full amount thereof to the use of such town.

§ 3748. Action by sheep owner against dog owner

If sheep are worried, wounded or killed by a dog, the owner or keeper of such dog, whether it is accustomed to worry, wound or kill sheep or not, shall pay to the owner of such sheep double the damages sustained, to be recovered in a civil action, with double costs. If the injury complained of is occasioned by two or more dogs acting jointly, belonging to different owners or keepers, the person injured may have a joint action against the different owners or keepers of such dogs, and recover joint damages and costs against all.

§ 3749. Bounty on dog killing or worrying sheep

Selectmen may offer a bounty of \$5.00 for anyone killing a dog caught in the act of killing or worrying sheep.

§ 3801. Rabies control authority

(a) In the event of an outbreak of rabies, the commissioner of agriculture, food and markets, the commissioner of fish and wildlife and the commissioner of health shall work together to assist the affected towns. In addition to the responsibilities provided by this chapter, the department of agriculture, food and markets shall generally be responsible for management of rabies in livestock, education of veterinarians and livestock owners concerning rabies and vaccination recommendations for livestock. The department of fish and wildlife shall generally be responsible for management of rabies in wildlife and the education of the sporting community, municipal officials and the general public about rabies in wildlife. The department of health shall generally be responsible for the prevention of rabies in humans, management of rabies in animals that may have exposed humans, and assisting with diagnosis of rabies in animals that may have exposed humans and supervision of health officials' education.

(b) In addition to any other applicable authority, the three departments may individually, or jointly, adopt rules to control the spread of rabies within a specific region, or within the state as a whole. The commissioner of agriculture, food and markets is authorized to adopt rules necessary to control the spread of rabies in domestic animals, domestic pets and wolf-hybrids, including mandating the vaccination of specific species of animals, the conditions under which rabies inoculation clinics may be operated and establishing quarantines for domestic animals. The commissioner of fish and wildlife is authorized to adopt rules necessary to control the spread of rabies in wildlife, including mandating the vaccination of specific species of wild animals, translocation of wild animals and the destruction of wild animals through the use of registered pesticides, trapping or other means as may be necessary. The commissioner of health is authorized to adopt rules requiring the reporting of incidents of animals biting humans, the confinement, quarantine, observation and disposition of animals that are suspected of exposing humans to rabies, and the disposition of animals bitten by animals suspected of carrying rabies and other rules as necessary to protect the general public from rabies.

(c) The departments may cooperate with other federal, state and local officials in controlling the spread of rabies within the state and within the region.
(Amended 1965, No. 36, § 4, eff. April 28, 1965; 1983, No. 158 (Adj. Sess.), eff. April 13, 1984; 1989, No. 256 (Adj. Sess.), § 10(a), eff. Jan. 1, 1991; 1993, No. 213 (Adj. Sess.), § 23, eff. June 15, 1994.)

§ 3802. Quarantine

With the approval of the governor, a town, county or the entire state may be placed under quarantine for such time as may be considered necessary by the commissioner of health, or the commissioner of agriculture, food and markets. (Amended 1993, No. 213 (Adj. Sess.), § 24, eff. June 15, 1994.)

§ 3803. Notice

When a quarantine is established as provided in section 3802 of this title notice of such quarantine shall be sent to the chairman of boards of selectmen, mayors, health officers and to the town clerk of each municipality in the quarantined area. Notice of such quarantine shall be printed in one or more newspapers circulating in the quarantined area.

§ 3806. Confining or impounding a domestic pet or wolf-hybrid

(a) Any person authorized to enforce state livestock disease control, health, wildlife, or criminal laws and any person authorized to enforce local ordinances may confine, or impound any domestic pet or wolf-hybrid when:

- (1) It is suspected of having been exposed to rabies.
- (2) It is believed to have been attacked by another animal which may be rabid.
- (3) It has been attacked by a wild animal.
- (4) It has been running at large in violation of any of the provisions of this subchapter.
- (5) It has an unknown rabies vaccination history.

(b) In the event that a domestic pet or wolf-hybrid is confined or impounded under this section, the owner, if known, shall be notified within 24 hours. Notification may be accomplished by in-person communication, by telephone call, or by written statement sent to the last known address of the owner. If the owner's address is not known, notification may be posted in the municipal clerk's office and other usual places for public notice for a one-week period.

(c) Any domestic pet or wolf-hybrid which is considered a rabies suspect shall be managed in accordance with the rules of the department of health. Rules adopted by the department of health in accordance with this chapter shall provide for management of domestic pets or wolf-hybrids for whom there is no approved rabies vaccine. (Amended 1993, No. 213 (Adj. Sess.), § 25, eff. June 15, 1994.)

§ 3807. Killing a domestic pet or wolf-hybrid

- (a) When the legislative body, a municipal officer designated by the legislative body, the commissioner of the department of fish and wildlife, the commissioner of the department of health or the commissioner of the department of agriculture, food and markets reasonably suspects that a domestic pet or wolf-hybrid impounded under section 3806 of this title has been exposed to rabies, has been attacked by a rabid animal or has been running at large in violation of any of the provisions of this subchapter the official shall order the domestic pet or wolf-hybrid to be killed. However, if the official finds that it is not reasonable to suspect that a domestic pet or wolf-hybrid impounded under section 3806 of this title is rabid or has been exposed to rabies, the official may deliver the domestic pet or wolf-hybrid to the owner. When it is impractical to confine or impound a domestic pet or wolf-hybrid pursuant to section 3806 of this title, or when the owner of a domestic pet or wolf-hybrid confined or impounded cannot be ascertained, the officials may immediately order the domestic pet or wolf-hybrid to be killed.
- (b) In the event that a domestic pet is suspected of exposing a human, pet, wolf-hybrid, or domestic animal to rabies, it shall be managed in accordance with the provisions of this subchapter and the rules of the department of health.
- (c) Since there is no approved pre-exposure rabies vaccine for wolf-hybrids, until the commissioner finds and approves a rabies vaccine, any wolf-hybrid which bites or otherwise exposes a human, pet, or domestic animal to rabies shall immediately be destroyed and its head shall be sent to the state department of health for the purpose of testing its brain tissue for the presence of the disease. If an alternative means of testing is provided by rule of the department of health, that procedure may be substituted for the procedure described in this subsection. The legislative body of the municipality or a municipal officer designated by the legislative body shall be responsible for ensuring the provisions of this subsection are carried out.

(Amended 1993, No. 213 (Adj. Sess.), § 26, eff. June 15, 1994.)

§ 3808. Fees for killing domestic pets or wolf-hybrids

Officers shall be entitled to the same fees for killing domestic pets or wolf-hybrids under the provisions of this subchapter as are provided in section 3624 of this title. The owner of an impounded domestic pet or wolf-hybrid or the town, in case the owner of the domestic pet or wolf-hybrid cannot be identified, shall be liable for all such fees. (Amended 1993, No. 213 (Adj. Sess.), § 27, eff. June 15, 1994.)

§ 3809. Killing a domestic pet or wolf-hybrid which attacks a person or domestic animal

Nothing in this subchapter shall be construed as preventing any person from killing a suspected rabid domestic pet or wolf-hybrid which attacks a person, another domestic pet or wolf-hybrid or domestic animal. A person so killing such domestic pet or wolf-hybrid shall not be held liable for damages for such killing. (Amended 1993, No. 213 (Adj. Sess.), § 28, eff. June 15, 1994.)

§ 3810. Repealed. 1993, No. 213 (Adj. Sess.), § 32, eff. June 15, 1994.

§ 3811. Carcass disposal

In order to protect the public health, the legislative body of a municipality or a municipal officer designated by the legislative body may dispose of the carcass of any animal suspected of having been exposed to rabies through incineration. Disposal of animal carcasses in the manner provided by this section shall not be subject to the provisions of chapter 23 of Title 10 and the rules promulgated thereunder. (Added 1993, No. 213 (Adj. Sess.), § 29, eff. June 15, 1994.)

§ 3812. Immunity from liability for volunteers

Any person who as a volunteer conducts or assists at a nonprofit public clinic for inoculating domestic pets, wolf-hybrids, and domestic animals against rabies shall not be liable to any other person for injuries

resulting from the loss of animals, animal bites and from the inoculation process. (Added 1993, No. 213 (Adj. Sess.), § 30, eff. June 15, 1994.)

§ 3813. Vaccination administration

- (a) The commissioner may purchase rabies vaccine for distribution at reduced cost to the public through rabies clinics.
- (b) The commissioner shall ensure that reduced cost rabies clinics take place in all geographic areas of the state and shall cooperate with the veterinary profession to make certain that all owners of domestic pets and wolf-hybrids have access to reasonably priced rabies vaccines.
- (c) Veterinarians shall provide an owner of a domestic pet or wolf-hybrid with a completed rabies vaccination form and tag for each animal which has been inoculated against rabies. (Added 1993, No. 213 (Adj. Sess.), § 31, eff. June 15, 1994.)

§ 3814. FINDINGS

The general assembly finds:

- (1) The supply of dogs, cats and wolf-hybrids in Vermont is a major concern.
- (2) There are insufficient resources in this state to care for or provide homes for these animals.
- (3) Many of these animals are ultimately euthanized or become victims of accidents, starvation, or disease.
- (4) Pet owners who have limited economic resources have great difficulty affording the cost of the professional spaying and neutering services

§ 3815. Dog, Cat, and Wolf-Hybrid Spaying and Neutering Program

- (a) The agency of agriculture, food and markets shall establish by rule a process by which a qualified organization shall administer a program providing reduced-cost spaying and neutering services and presurgical immunization for dogs, cats, and wolf-hybrids owned by low income individuals.

- (b) The program shall reimburse veterinarians who voluntarily consent to spay or neuter dogs, cats, and wolf-hybrids under the auspices of the program. The reimbursement shall be less any co-payment by the owner of a dog, cat, or wolf-hybrid for the cost of each spaying or neutering procedure.

§ 3816. ANIMAL SPAYING AND NEUTERING FUND;
CREATION

- (a) There is created, pursuant to subchapter 5 of chapter 7 of Title 32, in the agency of agriculture, food and markets, the dog, cat, and wolf-hybrid spaying and neutering special fund to finance the costs of the dog, cat, and wolf-hybrid spaying and neutering program established in section 3815 of this title.
- (b) Revenue for the fund shall be derived from:
 - (1) The \$2.00 surcharge payment paid to a municipality pursuant to subdivision 3581(c)(1) of this title.
 - (2) Gifts from private donors.
 - (3) Any appropriation which the general assembly makes to the fund.
- (c) Interest earned on the fund shall be retained in the fund.
- (d) The agency may offset the cost of administering the dog, cat and wolf-hybrid spaying and neutering program from the fund created in subsection (a) of this section in accordance with the provisions of section 10 of Title 6.

§ 3816. RULES ADOPTION AUTHORITY

The agency of agriculture, food and markets may adopt rules to implement this subchapter

Title 20: Internal Security and Public Safety

Chapter 194: Welfare of Animals

§ 3901. Definitions

As used in this chapter, unless the context clearly requires otherwise:

- (1) "Adequate feed" means the provision at suitable intervals, not exceeding 24 hours, of a quantity of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition in each animal. All foodstuff shall be served in a clean and sanitary manner.
- (2) "Adequate water" means a constant access to a supply of clean, fresh, potable water provided in a sanitary manner or provided at suitable intervals for the species and not to exceed 24 hours at any interval.
- (3) "Ambient temperature" means the temperature surrounding the animal.
- (4) "Animal" means any dog or cat, rabbit, rodent, nonhuman primate, bird or other warm-blooded vertebrate but shall not include horses, cattle, sheep, goats, swine and domestic fowl.
- (5) "Animal shelter" means a facility which is used to house or contain animals and is owned, operated, or maintained by a duly incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection and humane treatment of animals.
- (6) "Commissioner" means the commissioner of agriculture, food and markets.
- (7) "Dealer" means any person who sells, exchanges, or donates, or offers to sell, exchange, or donate animals, but shall not include a person who makes disposition only of offspring from animals maintained by him only as household pets.
- (8) "Euthanize" means to humanely destroy an animal by a method producing instantaneous unconsciousness

and immediate death, or by anesthesia produced by an agent which causes painless loss of consciousness and death during the loss of consciousness.

"Euthanasia" means the humane destruction of animals in accordance with this subdivision.

- (9) "Housing facility" means any room, building, or area used to contain a primary enclosure or enclosures.
- (10) "Person" means any individual, partnership, firm, joint stock company, corporation, association, trust, estate, or other legal entity.
- (11) "Pet shop" means a place where animals are bought, sold, exchanged, or offered for sale or exchange to the general public.
- (12) "Primary enclosure" means any structure used to immediately restrict an animal or animals, excluding household pets, to a limited amount of space, such as a room, pen, cage, compartment or hutch.
- (13) "Public auction" means any place or establishment where dogs or cats are sold at auction to the highest bidder whether individually, as a group, or by weight.
- (14) "Fair" means any public or privately operated facility where animals are confined for the purpose of display and/or sale or for viewing.
- (15) "Pet merchant" means any person who operates a pet shop or who acts as a dealer. (Added 1971, No. 27, § 5, eff. March 24, 1971; amended 1993, No. 51 § 1.)

§ 3902. Registration of fairs

No person may operate a fair as defined under section 3901 of this title unless a certificate of registration for the fair has been granted by the commissioner.

Application for the certificate shall be made in a manner provided by the commissioner. No fee shall be required for the certificate. Certificates of registration shall be valid for a period of one year or until revoked, and may be removed for like periods upon application in the manner provided. (Added 1971, No. 27, § 5, eff. March 24, 1971.)

§ 3903. Registration of animal shelters

- (a) No person may operate an animal shelter after the expiration of six months following the effective date of

this chapter unless a certificate of registration for the animal shelter has been granted by the commissioner. Application for the certificate shall be made in the manner provided by the commissioner. No fee shall be required for the certificate. Certificates of registration shall be valid for a period of one year or until revoked, and may be renewed for like periods upon application in the manner provided.

- (b) An animal shelter registered under this chapter shall not accept an animal unless the donor provides the following information: the name and address of the donor and, if known, the name of the animal, its vaccination history and other information concerning the background, temperament and health of the animal. (Added 1971, No. 27, § 5, eff. March 24, 1971; amended 1997, No. 130 (Adj. Sess.), § 14.)

§ 3904. Repealed. 1993, No. 51, § 5.

§ 3905. Public auctions

No person may operate a public auction as defined in this chapter after the expiration of six months following the effective date of this chapter unless a license to operate the auction has been granted by the commissioner. The license period shall be April 1 to March 31 and the license fee shall be \$10.00 for each license period or part thereof. (Added 1971, No. 27, § 5, eff. March 24, 1971; amended 1975, No. 220 (Adj. Sess.), § 21.)

§ 3906. LICENSING OF PET MERCHANTS

No person may transact business as a pet merchant, as defined in this chapter, unless a license for that purpose has been granted by the commissioner to that person. Application for the license shall be made in the manner provided by the commissioner. The license period shall be April 1 to March 31 and the license fee shall be \$30.00 for each license period or part thereof.

(Added 1971, No. 27, § 5, eff. March 24, 1971; amended 1975, No. 220 (Adj. Sess.), § 22; 1989, No. 257 (Adj. Sess.), § 21; 1993, No. 51, § 2; 2001, No. 143 (Adj. Sess.) § 44.)

§ 3907. Denial or revocation of registration or license
Issuance of a certificate of registration may be denied to any animal shelter or fair, or a license denied to any public auction, or pet merchants, or any certificate or license previously granted under this chapter, may be revoked by the commissioner if, after public hearing, it is determined that the housing facilities or primary enclosures are inadequate for the purposes of this chapter, or if the feeding, watering, sanitizing and housing practices of the animal shelter, fair, public auction, pet merchant as the case may be, are not consistent with this chapter or with rules adopted under this chapter. (Added 1971, No. 27, § 5, eff. March 24, 1971; amended 1993, No. 51, § 3.)

§ 3908. Adoption of regulations

The commissioner may as he deems necessary adopt, amend, revise and repeal rules consistent with this chapter for the purpose of carrying out its purposes. The rules may include, but need not be limited to, provisions relating to humane transportation to and from registered or licensed premises, records of purchase and sale, identification of animals, primary enclosures, housing facilities, sanitation, euthanasia, ambient temperatures, feeding, watering, and adequate veterinary medical care, with respect to animals kept or cared for at premises licensed or registered under this chapter. The commissioner may at his discretion, adopt in whole or in part those portions of the rules of the secretary of agriculture under Public Law 89-544, commonly known as the Laboratory Animal Welfare Act, which are consistent with the purposes of this chapter. (Added 1971, No. 27, § 5, eff. March 24, 1971.)

NOTE: A copy of the regulations promulgated under this section is included in this chapter beginning on page 169. These regulations apply to pet merchants only, and should not be confused with criminal statute.

§ 3909. Sale of animals by humane society

The board of directors of an incorporated humane society shall determine the method of disposition of animals released by it. Any proceeds derived from the sale of animals by the society shall be paid to the clerk or treasurer of the humane society and no part of the proceeds shall accrue to any individual. Proceeds from the sale of animals by any person authorized by a municipality to dispose of such animals shall revert to the treasury of the municipality. (Added 1971, No. 27, § 5, eff. March 24, 1971.)

§ 3910. Exceptions

This chapter shall not apply to any place or establishment operated as an animal hospital under the supervision of a duly licensed veterinarian in connection with the treatment, alleviation or prevention of diseases. (Added 1971, No. 27, § 5, eff. March 24, 1971.)

§ 3911. Penalties

- (a) Any person licensed or registered under this chapter, who fails to provide animals under his care or custody with adequate food or adequate water, as defined in section 3901 of this title, or who fails to house animals in his care or custody in a manner which is adequate for their welfare, shall be fined not more than \$500.00.
- (b) Any person who operates a fair, public auction, or who transacts business as a pet merchant, without being duly licensed or without possessing a proper certificate of registration, as the case may be, as required under this chapter, or who violates any provision of this chapter or of any rule lawfully adopted under its authority for which no other penalty is provided, shall be fined not more than \$300.00 or imprisoned for not more than six months, or both.
- (c) The commissioner may assess administrative penalties under sections 15-17 of Title 6, not to exceed \$1,000.00, for violations of this chapter. (Added 1971, No. 27, § 5, eff. March 24, 1971; amended 1993, No. 51, § 4; 1997, No. 130 (Adj. Sess.), § 2.)

§ 3912. Commitment of animals to department of agriculture, food and markets

The commissioner or any officer of the department designated by the commissioner, may file with the court in which a person was convicted of violating the preceding section, a petition for custody of animals in the possession of the person convicted. If the court, on due notice to that person and to any other person owning or having any interest in the animals, finds that the welfare of any of the animals so requires, the court shall order the animals committed to the department of agriculture, food and markets. Animals committed to the department of agriculture, food and markets may be sold or euthanized, or kept in the custody of the department, as the commissioner determines. (Added 1971, No. 27, § 5, eff. March 24, 1971; amended 1989, No. 256 (Adj. Sess.), § 10(a), eff. Jan. 1, 1991.)

§ 3913. Euthanasia certification

- (a) The commissioner of agriculture, food and markets shall establish rules for a euthanasia training program and certification process for persons completing the program.
- (b) The commissioner of agriculture, food and markets shall establish rules for the possession and use of euthanasia solutions by registered animal shelters that utilize certified euthanasia technicians. The rules shall identify euthanasia solutions which may be used, techniques for the proper handling and storage of solutions and requirements for recordkeeping, and address any other matter deemed necessary by the commissioner.
- (c) The commissioner of agriculture, food and markets may revoke or suspend certification upon violation of the rules adopted under this section.
- (d) The rules shall comply with all applicable federal drug enforcement standards.
- (e) The commissioner of agriculture, food and markets has no responsibility to enforce any other statute relating to the abuse of narcotics or other regulated substance unless specifically authorized by such

statute. (Added 1993, No. 116 (Adj. Sess.), § 1, eff. March 23, 1994.)

§ 3914. Special funds

Fees collected under this chapter shall be credited to a special fund and shall be available to the department of agriculture, food and markets to offset the cost of providing the services. (Added 1999, No. 49, § 131.)

Title 20: Internal Security and Public Safety

Chapter 199: Sale of Dogs and Cats

§ 4301. Definitions

As used in this chapter:

- (1) "Animal" means a dog or cat.
- (2) "Consumer" means an individual who purchases an animal from any licensee or registrant under chapter 194 of Title 20. A licensee or registrant under this section is not a consumer.
- (3) "Pet dealer" means any person, firm, partnership or corporation, or a representative or agent, who engages in the sale of more than one litter of animals per year or two or more animals over six months of age to consumers for monetary consideration. Breeders of animals who sell animals to the public are included in this definition; except that duly incorporated humane societies or animal shelters which make animals available for adoption are exempt. (Added 1989, No. 270 (Adj. Sess.), § 3.)

§ 4302. Sale of an animal; restitution

- (a) If, within seven days following the sale of an animal, a veterinarian of the consumer's choosing certifies the animal to be unfit for purchase due to illness or the

presence of signs of contagious or infectious disease, or within one year the veterinarian certifies the existence of congenital malformation or hereditary disease, the consumer may act under subdivision (1) of this subsection, or if mutually agreed upon, under subdivision (2) or (3) of this subsection. The consumer may have:

- (1) the right to return the animal and receive a full refund of the purchase price, including sales tax, and reasonable veterinary fees related to certification under this section. A veterinary finding of intestinal parasites is not grounds for declaring an animal unfit, nor is an injury or illness sustained subsequent to the consumer taking possession of an animal;
 - (2) the right to return the animal and receive an exchange animal of the consumer's choice of equivalent value, and reasonable veterinary costs related to certification under this subsection;
 - (3) the right to retain the animal and receive reimbursement from the pet dealer for reasonable veterinary service for the purpose of curing or attempting to cure the animal. In no case shall this service exceed the purchase price of the animal. Value of service is reasonable if it compares to similar service rendered by other veterinarians in the area, but in no case may it cover costs not directly related to the certification of unfitness.
- (b) The commissioner shall prescribe a form for and the content of the certificate to be used under subsection (a) of this section. The form shall include, but not be limited to, an identification of the type of animal, the owner, date and diagnosis, the treatment recommended, if any, and an estimated cost of the treatment. The form shall also include notice of the provisions of subsection (a) of this section.
- (c) Every pet dealer who sells an animal to a consumer shall provide the consumer at the time of sale with the written form prescribed by the commissioner. The notice may be included in a written contract, an animal history certificate or other separate document.

- (d) The commissioner shall prescribe by rule other information which shall be provided in writing by the pet dealer to the consumer at the time of sale. Such information shall include, but not be limited to, a description of the animal, including breed and date of purchase, the name, address and telephone number of the consumer and the purchase price. Certification of this document occurs when signed by the pet dealer.
- (e) Refund or reimbursement required under subsection (a) of this section shall be made within ten business days following receipt of the signed veterinary certification. The certification shall be presented to the pet dealer within three business days by the consumer. (Added 1989, No. 270 (Adj. Sess.), § 3.)

§ 4303. Challenge by pet dealer

A pet dealer may contest a demand for reimbursement, refund or exchange under section 4302 of this title by requiring the consumer to produce the animal for examination by a licensed veterinarian of the dealer's designation. If the consumer and the dealer are unable to reach an agreement under provisions of this section within ten business days of an examination, the consumer may initiate an action in a court of competent jurisdiction in the locality where the consumer resides to obtain a refund, exchange or reimbursement. Nothing in this section shall limit the rights or remedies which are otherwise available to the consumer under any other law. (Added 1989, No. 270 (Adj. Sess.), § 3.)

§ 4304. Administrative penalties

The commissioner may assess administrative penalties under sections 15-17 of Title 6, not to exceed \$1,000.00, for violations of this chapter. (Added 1997, No. 130 (Adj. Sess.), § 3.)

ANIMAL WELFARE REGULATIONS (Apply to Pet Merchants Only)

(Promulgated under authority of VSA T20 Chapter 194 Section 3908)

PART 1 – DEFINIITON OF TERMS

SECTION 1.1 DEFINITIONS

- (a) Act. Refers to the provisions of T20 Chapter 197 “Welfare of Animals and T20 Sections 3681, 3682 and 3683 as relating to provisions for the inspection of kennel premises.
- (b) Division. Means the Livestock Division of the Department of Agriculture.
- (c) Division representative. Means any inspector or other person employed by the Division who is responsible for the performance of the functions involved.
- (d) Non-human primate. Means any non-human member of the highest order of mammals including prosimians, monkeys and apes.
- (e) Standards. Means the requirement with respect to the humane handling, care, treatment, and transportation of animals.

- (f) Non-conditioned. Means animals which have not been subjected to special care and treatment for sufficient time to stabilize and, where necessary to improve their health to make them suitable for sale.

PART 2 – REGULATIONS

SECTION 2.1 LICENSING AND REGISTRATION.

Licensing period shall be from April 1 to March 31 or part thereof. Registration period shall be from January 1 to December 31 or part thereof.

SECTION 2.2 RECORD KEEPING.

In connection with each dog and cat purchased or otherwise acquired, held, transported, or sold, or otherwise disposed of, a licensee shall keep and maintain the following information in the manner prescribed by the Division.

- (1) The name and address of the person from whom acquired, and the person to whom sold or otherwise disposed of.
- (2) The dates of acquisition and disposition.
- (3) The description and identification of the animals.

SECTION 2.3 COMPLIANCE WITH STANDARDS.

Each licensee shall comply in all respects with the standards set forth for the humane handling, care, treatment and transportation of animals.

SECTION 2.4 HOLDING PERIOD.

All dogs and cats acquired by a licensee shall be held by him, under his supervision and control, for a period of five business days after the acquisition of such animals provided, however, that dogs or cats suffering from disease, emaciation or injury may be destroyed by euthanasia prior to the expiration of the five day holding period only if such euthanasia is carried out under the direct supervision of a licensed veterinarian.

SECTION 2.5 INSPECTION OF RECORDS.

Each licensee upon request shall permit Division representatives to examine records required to be kept by the Act or regulations, and to make copies of such records, and to inspect such property and animals as

such representative considers necessary to enforce the provisions of the Act, regulations or standards. The use of a room, or other facilities necessary for the proper examination of such records shall be extended to such authorized representative.

SECTION 2.6 INSPECTION FOR MISSING ANIMALS.

Each licensee upon request shall permit Division representatives; police or law officers of legally constituted law enforcement agencies with general law enforcement authority, to enter his premises to inspect animals and records for the purpose of seeking animals that are missing.

PART 3 – STANDARDS

SUBPART A – SPECIFICATIONS FOR HANDLING, CARE, TREATMENT, AND TRANSPORTATION OF DOGS AND CATS.

SECTION 3.1 FACILITIES, GENERAL.

- (a) Structural strength. Housing facilities for dogs or cats shall be structurally sound and shall be maintained in good repair, to protect the animals from injury, to contain the animals, and to restrict the entrance of other animals.
- (b) Water and electric power. Reliable and adequate electric power, if required to comply with other provisions of this subpart, and adequate potable water shall be available.
- (c) Storage. Supplies of food and bedding shall be stored in facilities which adequately protect such supplies against infestation or contamination by vermin. Refrigeration shall be provided for supplies of perishable food.
- (d) Waste disposal. Provision shall be made for the removal and disposal of animal and food wastes, bedding, dead animals, and debris. Disposal facilities shall be so provided and operated as to minimize vermin infestation, odors, and disease hazards.
- (e) Washrooms and sinks. Facilities, such as washrooms, basins, or sinks, shall be provided to maintain cleanliness among animal caretakers.
- (f) Runways. In facilities where dogs and cats are held for relatively short periods of time, such as, but not limited to, boarding kennels and animal shelters, runways shall be paved to facilitate proper cleaning and disinfection between occupants. In facilities where paving is not required by this subparagraph, runways shall be maintained in a sanitary manner at all times with adequate drainage to prevent standing water.

SECTION 3.2 FACILITIES, INDOOR

- (a) Heating. Indoor housing facilities for dogs or cats shall be sufficiently heated when necessary to protect the dogs or cats from cold, and to provide for their health and comfort. The ambient temperature shall not

be allowed to fall below 50° for dogs and cats not acclimated to lower temperatures.

- (b) Ventilation. Indoor housing facilities for dogs and cats shall be adequately ventilated to provide for the health and comfort of the animals at all times. Such facilities shall be provided with fresh air either by means of windows, doors, vents, or air conditioning and shall be ventilated so as to minimize drafts, odors, and moisture condensation. Auxiliary ventilation, such as exhaust fans and vents or air conditioning, shall be provided when the ambient temperature is 85°F or higher.
- (c) Lighting. Indoor housing facilities for dogs and cats shall have ample light, by natural or artificial means, or both, of good quality and well distributed. Such lighting shall provide uniformly distributed illumination of sufficient light intensity to permit routine inspection and cleaning during the entire working period. Primary enclosures shall be so placed as to protect the dogs and cats from excessive illumination.
- (d) Interior surfaces. The interior building surfaces of indoor housing facilities shall be constructed and maintained so that they are substantially impervious to moisture and may be readily sanitized.
- (e) Drainage. A suitable method shall be provided to rapidly eliminate excess water from indoor housing facilities. If drains are used, they shall be properly constructed and kept in good repair to avoid foul odors there from. If closed drainage systems are used, they shall be equipped with traps and so installed as to prevent any backup of sewage onto the floor of the room.

SECTION 3.3 FACILITIES, OUTDOOR.

- (a) Shelter from sunlight. When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to allow all dogs and cats kept outdoors to protect themselves from the direct rays of the sun.
- (b) Shelter from rain or snow. Dogs and cats kept outdoors shall be provided with access to shelter to allow them to remain dry during rain or snow.
- (c) Shelter from cold weather. Shelter shall be provided for all dogs and cats kept outdoors when the atmospheric temperature falls below 50°F. Sufficient clean bedding material or other means of protection from the weather elements shall be provided when the ambient temperature falls below that temperature to which a dog or cat is acclimated.
- (d) Drainage. A suitable method shall be provided to rapidly eliminate excess water.

SECTION 3.4 PRIMARY ENCLOSURES

All primary enclosures for dogs and cats shall conform to the following

requirements:

(a) General –

(1) Requirements for primary enclosures for dogs and cats.

- (i) Primary enclosures shall be structurally sound and maintained in good repair to protect the dogs and cats from injury, to contain them, and to keep predators out.
- (ii) Primary enclosures shall be constructed and maintained so as to enable the dogs and cats to remain dry and clean.
- (iii) Primary enclosures shall be constructed and maintained so that the dogs or cats contained therein have convenient access to clean food and water as required in this subpart.
- (iv) The floors of the primary enclosures shall be constructed so as to protect the dogs' and cats' feet and legs from injury.

(2) Additional requirements for primary enclosures housing cats.

- (i) In all enclosures having a solid floor, sufficient clean litter shall be provided to contain excreta.
- (ii) Each primary enclosure shall be provided with a solid resting surface or surfaces which, in the aggregate, shall be of adequate size to comfortably hold all occupants of the primary enclosure at the same time. Such resting surface or surfaces shall be elevated in primary enclosures housing two or more cats.

(b) Space requirements. –

(1) Dogs and cats. Primary enclosures shall be constructed and maintained so as to provide sufficient space to allow each dog and cat to turn about freely and to easily stand, sit and lie in a comfortable normal position.

(2) Dogs

(i) In addition to the provisions of subparagraph (1) of this paragraph, each dog housed in any primary enclosure shall be provided a minimum square footage of floor space equal to the mathematical square of the sum of the length of the dog in inches, as measured from the tip of its nose to the base of its tail, plus 6 inches, expressed in square feet. Not more than 12 adult nonconditioned dogs shall be housed in the same primary enclosure.

This requirement may be computed by using the following equation:

$(\text{length of dog in inches} + 6)^2 / 144 \text{ in}^2 / \text{ft}^2 = \text{required square feet of floor space.}$

(ii) Dog house with chains. If dog houses with chains are used as primary enclosures for dogs kept outdoors, the chains used shall be so placed or attached that they cannot become entangled with the chains of other dogs or any other objects. Such chains shall be of a type commonly used for the size dog involved and equipped with snap hooks and shall be attached to the dog by means of a well fitted collar. Such chains shall be at least four times the length of the dog as measured from the tip of its nose to the base of its tail and shall allow the dog convenient access to the dog house.

(3) Cats. In addition to the provisions of subchapter (1) of this paragraph each adult cat housed in any primary enclosure shall be provided a minimum of 2 1/2 square feet of floor space. Not more than 12 adult nonconditioned cats shall be housed in the same primary enclosure.

SECTION 3.5 ANIMAL HEALTH AND HUSBANDRY STANDARDS

- (a) Dogs and cats shall be fed at least once each day except as otherwise might be required to provide adequate veterinary care. The food shall be free from contamination, wholesome, palatable, and of sufficient quantity and nutritive value to meet the normal daily requirements for the condition and size of the dog or cat.
- (b) Food receptacles shall be accessible to all dogs and cats and shall be located so as to minimize contamination by excreta. Feeding pans shall be durable and kept clean. Disposable food receptacles may be used but must be discarded after each feeding. Self-feeders may be used for the feeding of dry food, and they shall be sanitized regularly to prevent molding, deterioration or caking of feed.

SECTION 3.6 WATERING

If potable water is not accessible to the dogs and cats at all times, potable liquids shall be offered to such animals at least twice daily for periods of not less than 1 hour, except as might otherwise be required to provide adequate veterinary care. Watering receptacles shall be kept clean.

SECTION 3.7. SANITATION

- (a) Cleaning of primary enclosures. Excreta shall be removed from primary enclosures as often as necessary to prevent contamination of the dogs or cats contained therein and to reduce disease hazards and odors. When a hosing or flushing method is used for cleaning a primary enclosure, any dog contained therein shall be removed from such enclosure during the cleaning process, and adequate measures shall be

taken to protect the animals in other such enclosures from being contaminated with water and other wastes.

(b) Sanitization of primary enclosures.

- (1) Prior to the introduction of nonconditioned dogs or cats into empty primary enclosures previously occupied, such enclosures shall be sanitized in the manner provided in subparagraph (3) of this paragraph.
- (2) Primary enclosures for dogs and cats shall be sanitized often enough to prevent an accumulation of debris or excreta, or a disease hazard: Provided, however, that such enclosures shall be sanitized at least once every week in the manner provided in subparagraph (3) of this paragraph.
- (3) Cages, rooms, and hard-surfaces pens or runs shall be sanitized by washing them with hot water (180°F.) soap or detergent as in a mechanical cage washer, or by washing all soiled surfaces with a detergent solution followed by a safe and effective disinfectant, or by cleaning all soiled surfaces with live steam.

(c) Housekeeping. Premises (buildings and grounds) shall be kept clean and in good repair in order to protect the animals from injury and to facilitate the prescribed husbandry practices set forth in this subpart. Premises shall remain free of accumulations of trash.

(d) Pest control. An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained.

SECTION 3.8 EMPLOYEES

A sufficient number of employees shall be utilized to maintain the prescribed level of husbandry practices set forth in this subpart. Such practices shall be under the supervision of an animal caretaker who has a background in animal husbandry or care.

SECTION 3.9 CLASSIFICATION AND SEPARATION.

Animals housed in the same primary enclosure shall be maintained in compatible groups, with the following additional restrictions:

- (a) Females in season (estrus) shall not be housed in the same primary enclosure with males, except for breeding purposes.
- (b) Any dog or cat exhibiting a vicious disposition shall be housed individually in a primary enclosure.

- (c) Puppies or kittens shall not be housed in the same primary enclosure with adult dogs or cats other than their dams.
- (d) Dogs shall not be housed in the same primary enclosure with cats, nor shall dogs or cats be housed in the same primary enclosure with any other species of animals.
- (e) Dogs and cats under quarantine or treatment for a communicable disease shall be separated from other dogs or cats and other susceptible species of animals in such a manner as to minimize dissemination of such disease.

SECTION 3.10 VETERINARY CARE

- (a) Each dog and cat shall be observed daily by the animal caretaker in charge, or by someone under his direct supervision. Sick or diseased, injured, lame or blind dogs or cats shall be provided with veterinary care or humanely disposed of.

TRANSPORTATION STANDARDS

SECTION 3.11 VEHICLES

- (a) Vehicles used in transporting dogs or cats shall be mechanically sound and equipped to provide fresh air to all animals being transported without injurious drafts.
- (b) The animal's cargo space shall be so constructed and maintained as to prevent the ingress of exhaust from the vehicle's engine.
- (c) The interior of the animal cargo space shall be kept clean.

SECTION 3.12 PRIMARY ENCLOSURES USED TO TRANSPORT DOGS AND CATS.

- (a) Primary enclosures, such as compartments or transport cages, cartons or crates, used to transport dogs or cats, shall be well-constructed and well-ventilated and designed to protect the health and insure the safety of the animals. Such enclosures shall be constructed or positioned in the vehicle in such a manner that (1) each animal in the vehicle has access to sufficient air for normal breathing, (2) the openings of such enclosures are easily accessible at all times for emergency removal of the animals and (3) the animals are afforded adequate protection from the elements. The ambient temperature shall not be allowed to exceed 95°F, at any time nor exceed 85°F unless the animals are acclimated to lower temperatures.
- (b) Animals transported in the same primary enclosures shall be of the same species and maintained in compatible groups. Puppies or kittens shall not be transported in the same primary enclosures with adult dogs or

cats other than their dams. Any dog or cat exhibiting a vicious disposition shall be transported individually in a primary enclosure. Any female dog or cat in season (estrus) shall not be transported in the same primary enclosure with any male.

- (c) Primary enclosures used to transport dogs or cats shall be large enough to insure that each animal contained therein has sufficient space to turn around freely, to stand erect, and to lie in a natural position.
- (d) Animals shall not be placed in primary enclosures over other animals in transit unless each enclosure is fitted with a floor or a material which prevents animal excreta from entering lower enclosures.
- (e) Primary enclosures used to transport dogs or cats shall be cleaned and sanitized between shipments. All litter in the vehicle shall be clean at the beginning of each trip.

SECTION 3.13 FOOD AND WATER REQUIREMENTS

- (a) If dogs and cats are transported for a period of more than 12 hours:
 - (1) The vehicle shall stop at time potable water shall be continuously provided for the dogs and cats.
 - (2) Each adult dog and cat shall be fed at least once in each 24-hour period. Puppies and kittens shall have food made available to them every 6 hours.
- (d) Dogs shall be removed from the vehicle and given fresh water and an opportunity for exercise if they have been confined in the vehicle for a period of 24 hours.

SECTION 3.14 CARE IN TRANSIT

It shall be the responsibility of the attendant or driver to inspect the animals frequently to determine whether they need emergency veterinary care and if so, to obtain such care at the earliest opportunity.

SUBPART B SPECIFICATIONS FOR HANDLING, CARE , TREATMENT, AND TRANSPORTATION OF GUINEA PIGS, HAMSTERS AND OTHER RODENTS.

FACILITIES AND OPERATING STANDARDS

SECTION 3.25 FACILITIES, GENERAL.

- (a) Structural strength. Housing facilities for guinea pigs, hamsters and other rodents shall be structurally sound and shall be maintained in good repair, to protect the animals from injury, to contain the animals and to restrict the entrance of other animals.

- (b) Water and electric power. Reliable and adequate electric power, if required to comply with other provisions of this subpart, and adequate potable water shall be available.
- (c) Storage. Supplies of food and bedding shall be stored in facilities which adequately protect such supplies against spoilage or deterioration and infestation or contamination by vermin. Food supplies shall be stored in containers with tightly fitting lids or covers or in the original containers as received from the commercial sources of supply. Refrigeration shall be provided for supplies of perishable food.
- (d) Waste disposal. Provisions shall be made for the removal and disposal of animal and food wastes, bedding, dead animals, and debris. Disposal facilities shall be so provided and operated as to minimize vermin infestation, odors, and disease hazards.
- (e) Washroom and sinks. Facilities, such as washrooms, basins, or sinks, shall be provided to maintain cleanliness among animal caretakers.

SECTION 3.26 FACILITIES, INDOOR.

- (a) Heating. Indoor housing facilities for guinea pigs, hamsters, and other rodents shall be sufficiently heated when necessary to protect the animals from the cold, and to provide for their health and comfort. The ambient temperature shall not be allowed to fall below 60°F not to exceed 85°F.
- (b) Ventilation. Indoor housing facilities for guinea pigs, hamsters and other rodents shall be adequately ventilated to provide for the health and comfort of the animals at all times. Such facilities shall be provided with fresh air either by means of windows, doors, vents, or air conditioning , and shall be ventilated so as to minimize drafts, odors, and moisture condensation. The ambient temperature shall not be allowed to rise above 85°F.
- (c) Lighting. Indoor housing facilities for guinea pigs, hamsters and other rodents shall have ample light, by natural or artificial means, or both, of good quality and well distributed. Such lighting shall provide uniformly distributed illumination of sufficient light intensity to permit routine inspection and cleaning during the entire working period. Primary enclosures shall be so placed as to protect the guinea pigs, hamsters and other rodents from excessive illumination.
- (d) Interior surfaces. The interior building surfaces of indoor housing facilities shall be constructed and maintained so that they are substantially impervious to moisture and may be readily sanitized.

SECTION 3.27 FACILITIES, OUTDOOR

- (a) Hamsters shall not be housed in outdoor facilities.

- (b) Guinea pigs and other rodents shall not be housed in outdoor facilities unless such facilities are located in an appropriate climate and prior approval for such outdoor housing is obtained from the Commissioner.

SECITON 3.28 PRIMARY ENCLOSURES

All primary enclosures for guinea pigs, hamsters and other rodents shall conform the following requirements.

(a) General.

- (1) Primary enclosures shall be structurally sound and maintained in good repair to protect the guinea pigs, hamsters and other rodents from injury. Such enclosures, including their racks, shelving and other accessories, shall be constructed of smooth material substantially impervious to liquids and moisture.
- (2) Primary enclosures shall be constructed and maintained so that the guinea pigs, hamsters or other rodents contained therein have convenient access to clean food and water as required in this subject.
- (3) Primary enclosures having a solid floor shall be provided with clean bedding material.
- (3) Primary enclosures equipped with mesh or wire floors shall be so constructed as to allow feces to pass through the spaces or the mesh or wire: Provided, however, that such floors shall be constructed so as to protect the animals feet and legs from injury.

(a) Space requirements

- (1) Guinea pigs, hamsters and other rodents. Primary enclosures shall be constructed and maintained so as to provide sufficient space for each animal contained therein to make normal postural adjustments with adequate freedom of movement.
- (2) Guinea pigs. In addition to the provisions of subparagraph (1) of this paragraph, the following space requirements are applicable to primary enclosures for guinea pigs.
- (i) The interior height of any primary enclosure used to confine guinea pigs shall be at least 6 ½ inches.
- (ii) Each guinea pig housed in a primary enclosure shall be provided a minimum amount of floor space in accordance with the following table.

Weigh or state of maturity

Minimum space per
guinea pig

(square inches)

Weaning to 350 grams-----	60
350 grams or more-----	90
Breeders-----	180

(3) Hamsters. In addition to the provisions of subparagraph (1) of this paragraph the following space requirements are applicable to primary enclosures for hamsters.

- (i) The interior height of any primary enclosure used to confine hamsters shall be at least 5 ½ inches, except that in the case of dwarf hamsters, such interior height shall be at least 5 inches.
- (ii) A nursing female hamster, together with her litter, shall be housed in a primary enclosure which contains no other hamsters and which provides at least 121 square inches of floor space: Provided however, that in the case of dwarf hamster such floor space shall be at least 25 square inches.
- (iii) The minimum amount of floor space per individual hamster and the maximum number of hamsters allowed in a single primary enclosure, except as provided for nursing females in subdivision (ii) of the subparagraph, shall be in accordance with the following table:

Age	Minimum space per Hamster (square inches)	Maximum Population Per enclosure	
	Dwarf	Other	
Weaning to 5 weeks	5.0	10.0	20
5 to 10 weeks	7.5	12.5	16
10 weeks or more	9	15.0	
13			

- (iv) The space requirements for rats shall be those required for guinea pigs. The space requirements for mice shall be those required for hamsters.

ANIMAL HEALTH AND HUSBANDRY STANDARDS

SECTION 3.29 FEEDING

- (a) Guinea pigs, hamsters and other rodents shall be fed each day except as otherwise might be required to provide adequate veterinary care. The food shall be free from contamination, wholesome, palatable and of sufficient quantity and nutritive value to meet the normal daily requirements for the condition and size of the guinea pig, hamster or other rodent.
- (b) Food comprising the basic diet shall be at least equivalent in quality and content to pelleted rations produced commercially and commonly available from feed suppliers.
- (c) The basic diet of guinea pigs, hamsters, and other rodents may be supplemented with good quality fruits or vegetables consistent with their individual dietary requirements.
- (d) Food receptacles, if used, shall be accessible to all guinea pigs, hamsters or other rodents in a primary enclosure and shall be located so as to minimize contamination by excreta. All food receptacles shall be kept clean. In self-feeders are used for the feeding of pelleted feed, measures must be taken to prevent molding, deterioration or caking of the feed. Hamsters may be fed pelleted feed on the floor of a primary enclosure.
- (e) Fruit or vegetable food supplements may be placed upon the bedding within the primary enclosure: Provided, however, that the uneaten portion of such supplements and any bedding soiled as a result of such feeding practices shall be removed from the primary enclosure when such uneaten supplements accumulate or such bedding becomes soiled to a degree that might be harmful or uncomfortable to animals therein.

SECTION 3.30 WATERING.

Unless food supplements consumed by guinea pigs, hamsters or other rodents supply them with their normal water requirements, potable water shall be provided daily except as might otherwise be required to provide adequate veterinary care. Open containers used for dispensing water to guinea pigs, hamsters or other rodents shall be so placed in or attached to the primary enclosures as to minimize contamination from excreta. All watering receptacles shall be sanitized when dirty.

SECTION 3.31 SANITATION.

(a) Cleaning and sanitation of primary enclosures.

- (1) Primary enclosures shall be cleaned and sanitized often enough to prevent an accumulation of excreta or debris. Provided, however, that such enclosures shall be sanitized at least once every 2 weeks in the manner provided in subparagraph (4) of this paragraph.

- (2) In the event a primary enclosure becomes soiled or wet to a degree that might be harmful or uncomfortable to the animals therein due to leakage of the watering system, discharge from dead or dying animals, spoiled perishable foods, or moisture condensation, the guinea pigs, hamsters or other rodents shall be transferred to clean primary enclosures.
 - (3) Prior to the introduction of guinea pigs, hamsters or other rodents into empty primary enclosures previously occupied, such enclosures shall be sanitized in the manner provided in subparagraph (4) of this paragraph.
 - (4) Primary enclosures for guinea pigs, hamsters, or other rodents shall be sanitized by washing them with hot water (180°) and soap or detergent as in a mechanical cage washer, or by washing all soiled surfaces with a detergent solution followed by a safe and effective disinfectant, or by cleaning all soiled surfaces with live steam.
- (b) Housekeeping. Premises (buildings and grounds) shall be kept clean and in good repair in order to protect the animals from injury and to facilitate the prescribed husbandry practices set forth in this subpart. Premises shall remain free of accumulations of trash.
- (c) Pest control. An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained.

SECTION 3.32 EMPLOYEES

A sufficient number of employees shall be utilized to maintain the prescribed level of husbandry practices set forth in this subpart. Such practices shall be under the supervision of an animal caretaker who has a background in animal husbandry or care.

SECTION 3.33 CLASSIFICATION AND SEPARATION

Animals housed in the same primary enclosure shall be maintained in compatible groups, with the following additional restrictions.

- (a) Except where harem breeding is practiced, preweanling guinea pigs shall not be housed in the same primary enclosure with adults other than their parents.
- (b) Guinea pigs shall not be housed in the same primary enclosure with hamsters, nor shall guinea pigs or hamsters be housed in the same primary enclosure with any other species of animals.
- (c) Guinea pigs, hamsters or other rodents under quarantine or treatment for a communicable disease shall be separated from other guinea pigs, hamsters or other rodents and other susceptible species of animals in such a manner as to minimize dissemination of such disease.

SECTION 3.34 VETERINARY CARE

- (a) Each guinea pig, hamster and other rodent shall be observed at least every 48 hours by the animal caretaker in charge, or by someone under his direct supervision, for evidence of disease or injury. Sick or diseased, injured, lame, or blind guinea pigs, hamsters or other rodents shall be provided with veterinary care or humanely disposed of.

TRANSPORTATION STANDARDS

SECTION 3.35 VEHICLES

- (a) Vehicles used in transporting guinea pigs, hamsters or other rodents shall be mechanically sound and equipped to provide fresh air to all animals being transported without injurious drafts.
- (b) The animal cargo space shall be so constructed and maintained as to prevent the ingress of exhaust from the vehicle's engine.
- (c) The interior of the animal cargo space shall be kept clean.

SECTION 3.36 PRIMARY ENCLOSURES USED TO TRANSPORT GUINEA PIGS, HAMSTERS AND OTHER RODENTS.

- (a) Primary enclosures, such as cartons, boxes or transport cages, used to transport guinea pigs, hamsters or other rodents shall be well-constructed, well-ventilated and designed to protect the health and insure the safety of the animals. Any such primary enclosures which cannot be readily sanitized shall be constructed of new material and shall be discarded after one usage. Any such primary enclosures which may be readily sanitized may be reused but shall be sanitized prior to the introduction of guinea pigs, hamsters or other rodents for shipment. All primary enclosures used to transport guinea pigs, hamsters or other rodents shall be positioned in the vehicle in such a manner that each animal in the vehicle has access to sufficient air for normal breathing. The ambient temperature shall not be allowed to exceed 85°F not fall below 60°F.
- (b) Animals transported in the same primary enclosure shall be of the same species and in compatible groups.
- (c) Primary enclosures used to transport guinea pigs, hamsters or other rodents shall be large enough to insure that each animal contained therein has sufficient space to turn about freely and to make normal postural adjustments.
- (d) Not more than 15 guinea pigs shall be transported in the same primary enclosure. Not more than 25 hamsters shall be transported in the same primary enclosure.

(e) In addition to the other provisions of this section, the following requirements shall also apply to primary enclosures used to transport guinea pigs, hamsters and other rodents.

(1) Guinea pigs.

(i) The interior height of primary enclosures used to transport guinea pigs shall be at least 8 inches.

(ii) Each guinea pig transported in a primary enclosure shall be provided a minimum amount of floor space in accordance with the following table:

Weight (grams) guinea pig	Minimum space per (square inches)
Up to 350-----	30
350 to 600-----	45
Over 600-----	55

(2) Hamsters.

(i) The interior height of a primary enclosure used to transport hamsters shall be at least 6 inches except that in the case of dwarf hamsters such interior height shall be at least 5 inches.

(ii) Each hamster transported in a primary enclosure shall be provided a minimum amount of floor space in accordance with the following table:

	Age	Minimum space per hamster (square inches)
	Dwarf	Other
Weaning to 5 weeks	5	7.0
5 to 10 weeks	7.5	11.0
Over 10 weeks	9	15.0

SECTION 3.37 FEED AND WATER REQUIREMENTS

If guinea pigs, hamsters or other rodents are transported for a period of more than 6 hours, the animals shall be fed the quantity and quality of fruits or

vegetables sufficient to satisfy their food and water needs during transit.

SECTION 3.28 CARE IN TRANSIT

It shall be the responsibility of the attendant or driver to provide or obtain adequate care for the animals in case of an emergency.

SUBPART C – SPECIFICATIONS FOR HANDLING, CARE, TREATMENT AND TRANSPORTATION OF RABBITS.

FACILITIES AND OPERATING STANDARDS

SECTION 3.50 FACILITIES, GENERAL

- (a) Structural strength. Housing facilities for rabbits shall be structurally sound and shall be maintained in good repair, to protect the animals from injury, to contain the animals, and to restrict the entrance of other animals.
- (b) Water and electric power. Reliable and adequate electric power, if required to comply with other provisions of the subpart, and adequate potable water shall be available.
- (c) Storage. Supplies of food and bedding shall be stored in facilities which adequately protect such supplies against infestation or contamination by vermin. Refrigeration shall be provided for supplies of perishable food.
- (d) Waste disposal. Provisions shall be made for the removal and disposal of animal and food wastes, bedding, dead animals, and debris. Disposal facilities shall be so provided and operated as to minimize vermin infestation, odors, and disease hazards.
- (e) Washrooms and sinks. Facilities, such as washrooms, basins, or sinks, shall be provided to maintain cleanliness among animal caretakers.

SECTION 3.51 FACILITIES, INDOOR.

- (a) Heating. Indoor housing facilities for rabbits need not be heated.
- (b) Ventilation. Indoor housing facilities for rabbits shall be adequately ventilated to provide for the health and comfort of the animals at all times. Such facilities shall be provided with fresh air either by means of windows, doors, vents or air conditioning and shall be ventilated so as to minimize drafts, odors, and moisture condensation. Auxiliary ventilation, such as exhaust fans and vents or air conditioning, shall be provided when the ambient temperature is 85°F or higher.
- (c) Lighting. Indoor housing facilities for rabbits shall have ample light, by natural or artificial means, or both, of good quality and well distributed.

Such lighting shall provide uniformly distributed illumination or sufficient light intensity to permit routine inspection and cleaning during the entire working period. Primary enclosures shall be so placed as to protect the rabbits from excessive illumination.

- (d) Interior surfaces. The interior building surfaces of indoor housing facilities shall be constructed and maintained so that they are substantially impervious to moisture and may be readily sanitized.

SECTION 3.52 FACILITIES, OUTDOOR.

- (a) Shelter from sunlight. When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to allow all rabbits kept outdoors to protect themselves from the direct rays of the sun. When the atmospheric temperature exceeds 90°F artificial cooling shall be provided by a sprinkler system or other means.
- (b) Shelter from rain or snow. Rabbits kept outdoors shall be provided with access to shelter to allow them to remain dry during rain or snow.
- (c) Shelter from cold weather. Shelter shall be provided for all rabbits kept outdoors when the temperature falls below 40°F.
- (d) Protection from predators. Outdoor housing facilities for rabbits shall be fenced or otherwise enclosed to minimize the entrance of predators.
- (e) Drainage. A suitable method shall be provided to rapidly eliminate excess water.

SECTION 3.53 PRIMARY ENCLOSURES

All primary enclosures for rabbits shall conform to the following requirements:

- (a) General.
 - (1) Primary enclosures shall be structurally sound and maintained in good repair to protect the rabbits from injury, to contain the, and to keep predators out.
 - (2) Primary enclosures shall be constructed and maintained so that the rabbits contained therein have convenient access to clean food and water as required in this subpart.
 - (3) Primary enclosures shall be constructed and maintained so that the rabbits contained therein have convenient access to clean food and water as required in this subpart.
 - (4) The floors of the primary enclosures shall be constructed so as to protect the rabbit's feet and legs from injury. Litter shall be provided in all primary enclosures having solid floors.

(5)A suitable nest box containing clean nesting material shall be provided in each primary enclosure housing a female with a litter less than one month of age.

(b) Space requirements. Primary enclosures shall be constructed and maintained so as to provide sufficient space for the animal to make normal postural adjustments with adequate freedom of movement. Each rabbit housed in a primary enclosure shall be provided a minimum amount of floor space, exclusive of the space taken up by food and water receptacles, in accordance with the following table:

Category	Individual weights (pounds)	Minimum space per rabbit (square inches)
Groups	3 through 5	144
	6 through 8	288
	9 or more	432
Individual adults	3 through 5	180
	6 through 8	360
	9 through 11	540
	12 or more	720
Nursing females	3 through 5	576
	6 through 8	720
	9 through 11	864
	12 or more	1080

ANIMAL HEALTH AND HUSBANDRY STANDARDS

SECTION 3.54 FEEDING

- (a) Rabbits shall be fed at least once each day except as otherwise might be required to provide adequate veterinary care. The food shall be free from contamination, wholesome, palatable and of sufficient quantity and nutritive value to meet the normal daily requirements for the condition and size of the rabbit.
- (b) Food receptacles shall be accessible to all rabbits in a primary enclosure and shall be located so as to minimize contamination by excreta. All food receptacles shall be kept clean. If self-feeders are used for the feeding of dry feed, measures must be taken to prevent molding, deterioration or caking of the feed.

SECTION 3.55 WATERING.

Sufficient potable water shall be provided daily except as might otherwise be required to provide adequate veterinary care. All watering receptacles shall be sanitized when dirty.

SECTION 3.56 SANITATION.

(a) Cleaning of primary enclosures.

- (1) Primary enclosures shall be kept reasonably free of excreta, hair, cobweb and other debris by periodic cleaning. Measures shall be taken to prevent the wetting of rabbits in such enclosures if a washing process is used.
- (2) In primary enclosures equipped with solid floors, soiled litter shall be removed and replaced with clean litter at least once each week.
- (3) If primary enclosures are equipped with wire or mesh floors, the troughs or pans under such enclosures shall be cleaned at least once each week. If worm bins are used under such enclosures they shall be maintained in a sanitary condition.

(b) Sanitization of primary enclosures.

- (1) Primary enclosures for rabbits shall be sanitized at least once every 30 days in the manner provided in subparagraph (3) of this paragraph.
- (2) Prior to the introduction of rabbits into empty primary enclosures previously occupied, such enclosures shall be sanitized in the manner provided in subparagraph (3) of this paragraph.
- (3) Primary enclosures for rabbits shall be sanitized by washing them with hot water (180°) and soap or detergent as in a mechanical cage washer, or by washing all soiled surfaces with a detergent solution followed by a safe and effective disinfectant, or by cleaning all soiled surfaces with live steam or flame.

(c) Housekeeping. Premises (buildings and grounds) shall be kept clean and in good repair in order to protect the animals from injury and to facilitate the prescribed husbandry practices set forth in this subpart. Premises shall remain free of accumulations of trash.

(d) Pest control. An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained.

SECTION 3.57 EMPLOYEES

A sufficient number of employees shall be utilized to maintain the prescribed level of husbandry practices set forth in this subpart. Such practices shall

be under the supervision of an animal caretaker who has a background in animal husbandry or care.

SECTION 3.58 CLASSIFICATION AND SEPARATION

Animals housed in the same primary enclosure shall be maintained in compatible groups with the following additional restrictions:

- (a) Rabbits shall not be housed in the same primary enclosure with any other species of animals unless required for scientific reasons.
- (b) Rabbits under quarantine or treatment for a communicable disease shall be separated from other rabbits and other susceptible species of animals in such a manner as to minimize dissemination of such disease.

SECTION 3.59 VETERINARY CARE

Each rabbit shall be observed at least every 48 hours by the animal caretaker in charge, or by someone working under his direct supervision, for evidence of disease or injury. Sick or diseased, injured, lame or blind rabbits shall be provided with veterinary care or humanely disposed of.

TRANSPORTATION STANDARDS

SECTION 3.60 VEHICLES

- (a) Vehicles used in transporting rabbits shall be mechanically sound and equipped to provide fresh air to all animals being transported without injurious drafts.
- (b) The animal cargo space shall be so constructed and maintained as to prevent the ingress of exhaust from the vehicle's engine.
- (c) The interior of the animal cargo space shall be kept clean.

SECTION 3.61 PRIMARY ENCLOSURES USED TO TRANSPORT RABBITS.

- (a) Primary enclosures, such as compartments or transport cages, cartons, or crates, used to transport rabbits, shall be well-constructed, well-ventilated and designed to protect the health and insure the safety of these animals. Such enclosures shall be constructed or positioned in the vehicle in such a manner that (1) each animal in the vehicle has access to sufficient air for normal breathing, (2) the openings of such enclosures are easily accessible at all times for emergency removal of the animals, and (3) the animals are afforded adequate protection from the elements. The ambient temperature shall not be allowed to exceed 85° nor fall below that temperature to which the animals are acclimated.
- (b) Rabbits transported in the same primary enclosure shall be in compatible groups and shall not be transported in the same primary enclosures with other species of animals.

- (c) Primary enclosures used to transport rabbits shall be large enough to insure that each rabbit contained therein has sufficient space to turn about freely, and to make normal postural adjustments. Not more than 15 rabbits shall be transported in the same primary enclosure.
- (d) Rabbits shall not be placed in primary enclosures over other animals in transit unless each enclosure is fitted with a floor of a material which prevents animal excreta from entering lower enclosures.
- (e) Primary enclosures used to transport rabbits shall be cleaned and sanitized between shipments. All litter in the vehicle shall be clean at the beginning of each trip.

SECTION 3.62 FOOD AND WATER REQUIREMENTS

If rabbits are transported for a period of more than 6 hours, they shall be provided with food and water. This requirement may be met by providing feed-stuff and water, or the quantity and quality of vegetables, sufficient to satisfy their food and water needs during transit.

SECTION 3.63 CARE IN TRANSIT

It shall be the responsibility of the attendant or driver to provide or obtain adequate care for the animals in case of an emergency.

SUBPART D- SPECIFICATIONS FOR THE HUMANE HANDLING CARE, TREATMENT, AND TRANSPORTATION NONHUMAN PRIMATES.

FACILITIES AND OPERATING STANDARDS

SECTION 3.75 FACILITIES, GENERAL

- (a) Structural strength. The housing facilities for nonhuman primates shall be structurally sound and shall be maintained in good repair, to protect the animals from injury, to contain the animals, and to restrict the entrance of other animals.
- (b) Water and electric power. Reliable and adequate electric power, if required to comply with other provisions of this subpart, and adequate potable water shall be available.
- (c) Storage. Supplies of food and bedding shall be stored in facilities which adequately protect such supplies against infestation or contamination by vermin. Refrigeration shall be provided for supplies or perishable food.
- (d) Waste disposal. Provision shall be made for the removal and disposal of animal and food wastes, bedding, dead animals, and debris. Disposal facilities shall be so provided and operated as to minimize vermin infestation, odors, and disease hazards.

- (e) Washrooms and sinks. Facilities, such as washrooms, basins, or sinks, shall be provided to maintain cleanliness among animal caretakers.

SECTION 3.76 FACILITIES, INDOOR.

- (a) Heating. Indoor housing facilities for nonhuman primates shall be sufficiently heated when necessary to protect the animals from the cold, and to provide for their health and comfort. The ambient temperature shall not be allowed to fall below 50°F.
- (b) Ventilation. Indoor housing facilities for nonhuman primates shall be adequately ventilated to provide for the health and comfort of the animals at all times. Such facilities shall be provided with fresh air either by means of windows, doors, vents, or air conditioning and shall be ventilated so as to minimize drafts, odors, and moisture condensation. Auxiliary ventilation, such as exhaust fans and vents or air conditioning, shall be provided when the ambient temperature is 85°F or higher.
- (c) Lighting. Indoor housing facilities for nonhuman primates shall have ample light, by natural or artificial means, or both, of good quality and well distributed. Such lighting shall provide uniformly distributed illumination of sufficient light intensity to permit routine inspection and cleaning during the entire working period. Primary enclosures shall be so placed as to protect the nonhuman primates from excessive illumination.
- (d) Interior surfaces. The interior building surfaces of indoor housing facilities shall be constructed and maintained so that they are substantially impervious to moisture and may be readily sanitized.
- (e) Drainage. A suitable method shall be provided to rapidly eliminate excess water from indoor housing facilities. If drains are used, they shall be properly constructed and kept in good repair to avoid foul odors therefrom. If closed drainage systems are used, they shall be equipped with traps and so installed as to prevent any backup of sewage onto the floor of the room.

SECTION 3.77 FACILITIES, OUTDOOR.

- (a) Shelter from sunlight. When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to allow all nonhuman primates kept outdoors to protect themselves from the direct rays of the sun.
- (b) Shelter from rain or snow. Nonhuman primates kept outdoors shall be provided with access to shelter to allow them to remain dry during rain or snow.
- (c) Shelter from cold weather. Shelter shall be provided for all nonhuman primates kept outdoors to afford comfort and protection to such animals appropriate for the local climatic conditions and nonhuman primate species concerned.

- (d) Drainage. A suitable method shall be provided to rapidly eliminate excess water.

SECTION 3.78 PRIMARY ENCLOSURES.

All primary enclosures for nonhuman primates shall conform to the following requirements.

(a) General.

- (1) Primary enclosures shall be structurally sound and maintained in good repair to protect the nonhuman primates from injury, to contain them, and to keep predators out.
- (2) Primary enclosures shall be constructed and maintained so as to enable the nonhuman primates to remain dry and clean.
- (3) Primary enclosures shall be constructed and maintained so that the nonhuman primates contained therein have convenient access to clean food and water as required in this subject.
- (4) The floors of the primary enclosures shall be constructed so as to protect the nonhuman primates from injury.

(b) Space requirements.

- (1) Primary enclosures shall be constructed and maintained so as to provide sufficient space to allow each nonhuman primate to make normal postural adjustments with adequate freedom of movements.
- (2) Each nonhuman primate housed in a primary enclosure shall be provided with a minimum floor space equal to an area of at least three times the area occupied by such primate when standing on four feet.

SECTION 3.79 FEEDING

- (a) Nonhuman primates shall be fed at least once a day except as otherwise might be required to provide adequate veterinary care. The food shall be free from contamination, wholesome, palatable, and of sufficient quantity and nutritive value to meet the normal daily requirements for the condition and size of the nonhuman primate.
- (b) Food, and food receptacles if used, shall be accessible to all non-human primates and shall be places so as to minimize contamination by excreta. Food receptacles shall be kept clean. If self-feeders are used, measures shall be taken to prevent molding, deterioration or caking of food.

SECTION 3.80 WATERING

If potable water is not accessible to the nonhuman primates at all times, such water shall be offered to them at least twice daily except as might otherwise be required to provide adequate veterinary care. All watering receptacles shall be kept clean.

SECTION 3.81 SANITATION

- (a) Cleaning of primary enclosures. Excreta shall be removed from primary enclosures as often as necessary to prevent contamination of the nonhuman primates contained therein and to reduce disease hazards and odors. When hosing or flushing methods are used for this purpose, measures shall be taken to prevent animals confined in such enclosures from being wetted involuntarily.
- (b) Sanitization of enclosures.
- (1) Prior to the introduction of non-human primates into primary enclosures previously occupied by other nonhuman primates, such enclosures shall be sanitized in the manner provided in subparagraph (3) of this paragraph.
- (2) Primary enclosures for nonhuman primates shall be sanitized often enough to prevent an accumulation of debris or excreta, or a disease hazard: Provided, however, that such enclosures shall be sanitized at least once every 2 weeks in the manner provided in subparagraph (3) of this paragraph.
- (3) Cages, rooms and hard surfaced pens or runs shall be sanitized either by washing them with hot water (180°F) and soap or detergent, as in a mechanical cage washer, or by washing all soiled surfaces with a detergent solution followed by a safe and effective disinfectant, or by cleaning all soiled surfaces with live steam. Runs, if provided, shall be paved.
- (c) Housekeeping. Premises (buildings and grounds) shall be kept clean and in good repair in odor to protect the animals from injury and to facilitate the prescribed husbandry practices set forth in this subpart. Premises shall remain free of accumulations of trash.
- (d) Pest control. An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained.

SECTION 3.82 EMPLOYEES

A sufficient number of employees shall be utilized to maintain the prescribed level of husbandry practices set forth in this subpart. Such practices shall be under the supervision of animal caretaker who has a background in animal husbandry or care.

SECTION 3.83 CLASSIFICATION AND SEPARATION

Nonhuman primates housed in the same primary enclosure shall be maintained in compatible groups and shall not be housed in the same primary enclosure with animal species other than nonhuman primates.

SECTION 3.84 VETERINARY CARE

Each nonhuman primate shall be observed daily by the animal caretaker in charge or by someone working under his direct supervision. Sick or diseased, injured, lame or blind nonhuman primates shall be provided with veterinary care or humanely disposed of.

SECTION 3.85 VEHICLES

- (a) Vehicles used in transporting nonhuman primates shall be mechanically sound and equipped to provide fresh air to all animals being transported, without injurious drafts.
- (b) The animal cargo space shall be so constructed and maintained as to prevent the ingress of exhaust from the vehicle's engine.
- (c) The interior of the animal cargo space shall be kept clean

SECTION 3.86 PRIMARY ENCLOSURES USED TO TRANSPORT NONHUMAN PRIMATES

- (a) Primary enclosures such as compartment, transport cages or crates, used to transport nonhuman primates shall be well-constructed, well-ventilated, and designed to protect the health and insure the safety of the animals. Such enclosures shall be constructed or positioned in the vehicle in such a manner that (1) each animal in the vehicle has access to sufficient air for normal breathing, (2) the openings of such enclosures are easily accessible at all times for emergency removal of the animals and (3) the animals are afforded adequate protection from the elements. The temperature within such enclosures shall not be allowed to exceed the atmospheric temperature. Moreover the ambient temperature shall not be allowed to exceed 85°F for more than 4 hours continuously nor allowed to fall below 45°F.
- (b) Nonhuman primates transported in the same primary enclosure shall be in compatible groups and shall not be transported in the same primary enclosures with other species of animals.
- (c) Primary enclosures used to transport nonhuman primates shall be large enough to insure that each nonhuman primate contained therein has sufficient space to turn about freely and to make normal postural adjustments. Not more than 10 nonhuman primates shall be transported in the same primary enclosures.
- (d) Nonhuman primates shall not be placed in primary enclosures over other animals in transit unless each enclosure is fitted with a floor of a material which prevents animal excreta from entering lower enclosures.
- (e) Primary enclosures used to transport nonhuman primates shall be cleaned and sanitized between shipments. All litter in the vehicle shall be clean at the beginning of each trip.

SECTION 3.87 FOOD AND WATER REQUIREMENTS

If nonhuman primates are transported for a period of more than 12 hours:

- (a) Potable water shall be provided to each nonhuman primate at least once in each 12-hour period.
- (b) Each nonhuman primate shall be fed at least once in each 24-hour period.

SECTION 3.88 CARE IN TRANSIT

It shall be the responsibility of the attendant or driver to provide or obtain adequate care for the animals in case of an emergency.

Nonhuman primates include a great diversity of forms, ranging from the marmoset weighing only a few ounces, to the adult gorilla weighing hundreds of pounds. They come from Asia, Africa, and Central and South America, and they live in different habitats. Their nutritional and activity requirements differ as do their social and environmental requirements. As a result, the conditions appropriate for one species do not necessarily apply to another; therefore, discretion must be used in interpreting these standards.

NEW ANIMAL LAWS PASSED IN 2002

Sec. 24. 26 V.S.A. § 2405 is added to read:

§ 2405. IMMUNITY FROM LIABILITY FOR GOOD SAMARITAN ACTS

(a) For purposes of this section, an "emergency" shall include a fire, flood, storm or other natural disaster, hazardous chemical or substance incident, vehicular collision with an animal, or other transportation accident where an animal is injured or in need of assistance to protect its health or life.

(b) A veterinarian licensed by the board or any other person who, in good faith, provides care and treatment to an animal during an emergency shall not be held liable for civil damages by the owner of the animal, unless his or her acts constitute gross negligence or unless he or she will receive or expects to receive remuneration.

(c) Nothing contained in this section shall alter existing law with respect to tort liability of a practitioner of veterinary medicine for acts committed in the ordinary course of his or her practice.

VACTF Notes: This "Good Samaritan Law" is intended to protect both veterinarians and laymen from civil liability when they lend assistance to pets during emergencies or disasters

Sec. 1. 24 V.S.A. § 2291(21) is added to read:

§ 2291. ENUMERATION OF POWERS

For the purpose of promoting the public health, safety, welfare and convenience, a town, city or incorporated village shall have the following powers:

* * *

(21) To regulate, by means of a civil ordinance adopted pursuant to chapter 59 of this title, subject to the limitations of 13 V.S.A. § 351b and 354(a) and consistent with the rules adopted by the commissioner of agriculture, food and markets, pursuant to 13 V.S.A. § 352b(a), the welfare of animals in the municipality. Such ordinance may be enforced by humane officers as defined in 13 V.S.A. § 351, if authorized to do so by the municipality.

VACTF Notes: This law gives municipalities the authority to create a civil ordinance (and ultimately impose civil penalties) for addressing animal welfare concerns. See page 197 of this chapter for a sample "Animal Cruelty Ordinance" created by the Vermont League of Cities and Towns.

NEW ANIMAL LAWS PASSED IN 2003

Sec. 12. 26 V.S.A. § 2404 is added to read:

§ 2404. IMMUNITY FROM LIABILITY FOR REPORTING SUSPECTED CASES OF ANIMAL CRUELTY

(a) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, a veterinarian licensed to practice in this state who, in good faith and in the normal course of practice, reports suspected cases of cruelty to animals, as defined in sections 352 and 352a of Title 13, to any humane officer or officer as defined in subdivision 351(4) of Title 13 or local board of health officer or agent.

(b) There shall be no monetary liability on the part of, and no cause of action for damages against, a veterinarian licensed to practice in this state who accompanies a humane officer during the execution of a warrant pursuant to section 354 of Title 13, or evaluates the health of and provides medical attention to, including a decision for euthanasia, an animal brought to that veterinarian for health assessment, pursuant to section 354.

(c) There shall be no monetary liability on the part of, and no cause of action for damages against, a veterinarian licensed to practice in this state who inspects premises or orders a quarantine pursuant to section 3682 or 3683 of Title 20.

Sec. 102a. 20 V.S.A. § 3906 is amended to read:

§ 3906. LICENSING OF PET MERCHANTS

(a) No person may transact business as a pet merchant, as defined in this chapter, unless a license for that purpose has been granted by the commissioner to that person. Application for the license shall be made in the manner provided by the commissioner. The license period shall be April 1 to March 31 and the license fee shall be ~~\$30.00~~ \$150.00 for each license period or part thereof.

(b) Pursuant to the authority granted to the commissioner of the department of agriculture, food and markets in section 1 of Title 6, the commissioner may contract with local veterinarians to provide services to the department to assist in the regulation of pet merchants.

Sec. 102b. REPORT

(a) The department of agriculture, food and markets shall work with the Vermont animal cruelty task force to develop recommendations no later than January 15, 2004 for improving the existing system for licensing pet merchant facilities. The department of agriculture, food and markets shall report the recommendations to the house and senate committees on agriculture no later than January 15, 2004.

Sec. 102c. APPROPRIATION

(a) There is appropriated \$25,000.00 in general funds in fiscal year 2004 to the special fund established in section 3914 of Title 20 for the purpose of licensing pet merchants.

NEW ANIMAL LAWS PASSED IN 2004

Changes to Title 13 with the passage of S100 will make sweeping, positive changes to the current criminal animal cruelty statute. The new aggravated animal cruelty provision will allow for felony charges even if the animal does not die from its injuries. For the first time, minimum living space requirements are defined for permanently confined cats. In addition, the forfeiture procedure was revised to mandate a hearing within 21 days after proceedings are instituted. Other important measures include doubling the minimum tether size for dogs, requiring at least an hour of daily exercise, and better defining adequate food, water and shelter for animals. The new language was incorporated into the 2004 updates to Chapter 7. To see the full text of the new law, go to www.leg.state.vt.us/docs/legdoc.cfm?URL=/docs/2004/acts/ACT120.HTM.

Changes to Title 20, Chapter 193 were made with the passage of H 772, which will create a subsidy program to enable low-income households to spay or

neuter their pets. Through a mandatory \$2 surcharge on dog licensing fees, a special fund will be administered by the Agency of Agriculture, Food & Markets, and will allow veterinarians to receive reimbursement for this voluntary service. The bill also allows for the administration of an approved 3-year rabies vaccine. The new language was incorporated into the 2004 updates to Chapter 7. Full text of the new law can be found in section 37 of the Fees Bill (H 772) at <http://www.leg.state.vt.us/docs/legdoc.cfm?URL=/docs/2004/acts/ACT163.H>
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USDA LAW AND ANIMAL CRUELTY

The USDA Animal Welfare Act may be relevant when you investigate animal cruelty that involves the following:

- Animal dealers, such as dog breeders, breeders of research animals
- Breeders of hunting dogs, security dogs
- Animal exhibitors, such as zoos (including roadside zoos), carnivals, circuses, animal acts, educational exhibits
- Airport terminal animal holding facilities

- Any business (including pet stores) that deals with wild animals that are not indigenous to Vermont (meaning not native to the state, for example, prairie dogs, pot bellied pigs, etc.)

In general, such enterprises must be licensed by the USDA and operated according to the standards established by the Animal Welfare Act. Document your case and contact the USDA field office for Vermont at (703) 812-6545, or the main office in Maryland at (410) 962-7463, and present them with your findings. If you have a situation you are not sure of, call the USDA to find out.

Examples:

1. You may be investigating a case involving an irresponsible breeder or puppy mill owner who is in violation of Title 13.

If the breeder has more than three breeding bitches and is selling the litters wholesale, he must be licensed under the Animal Welfare Act and must be in compliance with standards specified under the Animal Welfare Act.

2. You may be investigating a case involving a roadside zoo which is violating Title 13.

If the zoo contains animals that are not indigenous to Vermont (meaning they are not native to the state, but have been imported from somewhere else, such as lion cubs, for example) then the zoo must be licensed by the USDA and meet certain mandated standards of care established by the Animal Welfare Act.

SAMPLE "ANIMAL CRUELTY ORDINANCE"

TOWN OF _____ CIVIL ORDINANCE

Article I: PURPOSE; TITLE

This ordinance is enacted to protect the welfare of animals in the Town of _____, under authority of 24 V.S.A. § 2291 (21). This ordinance shall be known and may be cited as the "Animal Cruelty Ordinance."

Article II: DEFINITIONS

Consistent with the provisions of 13 V.S.A. Chapter 8 regulating the humane and proper treatment of animals:

- A. "Animal" means all living sentient creatures, not human beings. 13 V.S.A. § 351 (1).
- B. "Commissioner" shall mean the Commissioner of Agriculture, Food and Markets. 13 V.S.A. § 351 (2).
- C. Pursuant to 13 V.S.A § 352, a person commits "cruelty to animals" if the person:
 - 1. intentionally kills or attempts to kill any animal belonging to another person without first obtaining legal authority or consent of the owner;
 - 2. overworks, overloads, tortures, torments, abandons, administers poison to, cruelly beats or mutilates an animal, exposes a poison with intent that it be taken by an animal;
 - 3. ties, tethers, or restrains an animal, either a pet or livestock, in a manner that is inhumane or is detrimental to its welfare. Livestock and poultry husbandry practices are exempted;
 - 4. deprives an animal which a person owns, possesses or acts as an agent for, of adequate food, water, shelter, rest or sanitation, or necessary medical attention, or transports an animal in overcrowded vehicles;
 - 5. owns, possesses, keeps or trains an animal engaged in an exhibition of fighting, or possesses, keeps or trains any animal with intent that it be engaged in an exhibition of fighting, or permits any such act to be done on premises under his or her charge or control;
 - 6. acts as judge or spectator at events of animal fighting or bets or wagers on the outcome of such fight;
 - 7. as poundkeeper; officer, agent of a humane society or as an owner or employee of an establishment for treatment, board or care of an animal, knowingly receives, sells, transfers or otherwise conveys an animal in his or her care for the purpose of research or vivisection;
 - 8. intentionally torments or harasses an animal owned or engaged by a police department or public agency of the state or its political subdivisions, or interferes with the lawful performance of a police animal;
 - 9. knowingly sells, offers for sale, barter or displays living baby chicks, ducklings or other fowl which have been dyed, colored or otherwise treated so as to impart to them an artificial color, or fails to provide poultry with proper brooder facilities;
 - 10. uses a live animal as bait or lure in a race, game or contest, or in training animals in a manner inconsistent with Part 4 of Title 10 or the rules adopted thereunder.

Article III. LIMITATIONS

- A. This ordinance shall not apply to:
 - 1. activities regulated by the department of fish and wildlife pursuant to part 4 of Title 10 of the Vermont Statutes Annotated;
 - 2. scientific research governed by accepted procedural standards subject to review by an institutional animal care and use committee;

3. livestock and poultry husbandry practices as defined in section 351(13) of Title 13 of the Vermont Statutes Annotated for the raising, management and use of animals;
4. veterinary medical or surgical procedures; or
5. the killing of an animal as provided by sections 3809 and 3545 of Title 20 of the Vermont Statutes Annotated.

B. Enforcement involving the welfare of livestock and poultry shall not be attempted prior to consultation with the commissioner.

Article IV: CIVIL ENFORCEMENT

This ordinance is a civil ordinance and enforcement shall be carried out in accordance with 24 V.S.A. §§ 1974a et seq. of the Vermont Statutes Annotated. An enforcement officer shall be guided by the Rules established by the commissioner regarding cruelty to animals and aggravated cruelty to animals.

Article V: ENFORCEMENT OFFICERS

The selectboard may authorize any or all of the following humane officers to enforce this ordinance:

- A. any law enforcement officer as defined in 23 V.S.A. § 4 (11);
- B. auxiliary state police officers;
- C. deputy game wardens;
- D. humane society officers, employees or agents;
- E. local board of health officers or agents; or
- F. any officer authorized to serve criminal process.

Article VI. PENALTIES

- A. A person found in violation of cruelty to animals shall be subject to the following penalties:
 1. 1st offense: fines not to exceed \$_____ per offense plus reasonable animal care costs;
 2. 2nd offense: fines not to exceed \$_____ per offense plus reasonable animal care costs;
 3. 3rd and subsequent offenses: impoundment of the animal(s), fines not to exceed \$_____ per offense plus animal care costs, and the town may seek injunctive relief in the Superior Court in the county in which the town is located, including but not limited to ordering the violation to cease.

Article VII: REPEAL OF INCONSISTENT PROVISIONS

All ordinances or parts of ordinances, resolutions, regulations, or other documents inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

Article VIII: SEVERABILITY

This ordinance and its various parts, sentences, sections, and clauses are hereby declared to be severable. If any part, sentence, section or clause is adjudged invalid, it is hereby provided that the remainder of this ordinance shall not be affected thereby.

Article IX: EFFECTIVE DATE

This ordinance shall become effective 60 days after its adoption by the selectboard. If a petition is filed under 24 V.S.A. §1973, that statute shall govern the taking effect of this ordinance.

ADOPTED this ____ day of _____, 20__.

SIGNATURES of SELECTBOARD:

VLCT Model Animal Cruelty Ordinance
Editorial Notes

- I. **Municipal Authority.** Municipal authority to regulate and enforce against acts of animal cruelty is codified at 24 V.S.A. § 2291 (21). This is enabling legislation that allows municipalities to regulate as a civil offense cruelty to animals. This new law was formed, and is to a large degree constrained, by existing criminal law relating to the humane care and proper treatment of animals. The laws regulating the humane care and treatment of animals can be found in 13 V.S.A. §§ 351-400.
- II. **Penalties.** Criminal penalties for cruelty to animals are defined in 13 V.S.A. § 353. This area of the law also establishes a number of definitions involving the regulation of cruelty to animals. Where the state has established a definition, it is not legal to deviate from that definition. Definitions used in the VLCT model are consistent with the definitions found in 13 V.S.A. § 351.

Local officials should also be aware that while enforcement of a municipal civil ordinance falls under the jurisdiction of the Vermont Judicial Bureau, penalties that escalate beyond \$500 must be pursued in Superior Court. 24 V.S.A. § 1974a (b). Municipalities may want to pursue more severe penalties beyond fines, such as community service and impoundment of a violator's other animals. However, the Judicial Bureau does not have the legal authority to order a violator to do something, such as perform community service or turn over his or her animals. This is called "injunctive relief," and in Vermont, only the Superior Court has this power. The exception to this rule is that the Judicial Bureau can "order that a civil ordinance violation cease." 24 V.S.A. § 1974a (c). Therefore, when penalties exceed \$500, or when the municipality desires additional relief, the case must be brought in Superior Court. 24 V.S.A. § 1974a (b).

- III. **Standards.** Many of the standards established by Title 13 also refer to practices and rules established by the Commissioner of the Department of Agriculture. However, the Department of Agriculture has not developed any such rules. Rather, the language in the statute is intended to provide a vehicle for the department to include best agricultural practices in the definition of animal cruelty as is necessary.
- IV. **Changes to the Ordinance.** While it is not necessary to adopt this model ordinance verbatim, if altered, all provisions must be consistent with state law. If you have questions about proposed changes and compliance with state law, be sure to consult with your town attorney or call the VLCT Municipal Law Center for guidance prior to adoption of the ordinance.