

HOUSE BILL 1290

D3

8lr2629

By: **Delegate Frush**

Introduced and read first time: February 8, 2008

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Courts - Civil Penalties - Failure to Sterilize Rescued Dog or Cat**

3 FOR the purpose of requiring a certain releasing agency to have a certain dog or cat
4 sterilized or enter into a certain written agreement with a certain adopting
5 party at a certain time; requiring that a certain adopting party sterilize a
6 certain dog or car within a certain period of time under certain circumstances;
7 creating certain exceptions; requiring a certain written agreement to contain
8 certain items; requiring a certain releasing agency to set a certain amount for a
9 certain deposit; requiring a certain releasing agency to keep a certain deposit in
10 a certain account; requiring a certain releasing agency to refund a certain
11 deposit to a certain party under certain circumstances; requiring a certain
12 releasing agency to send a certain party a certain letter under certain
13 circumstances; providing that a certain deposit shall be forfeited if a certain
14 party does not respond to a certain letter under certain circumstances; requiring
15 a certain releasing agency to use certain forfeited and unclaimed deposits for
16 certain purposes; requiring a certain adopting party to present a certain
17 certificate to a certain agency as proof of a certain sterilization; providing that a
18 certain adopting party shall forfeit a certain deposit as liquidated damages
19 under certain circumstances; providing that a certain adopting party is liable to
20 pay a certain releasing agency a certain civil penalty, court costs, and certain
21 attorney's fees and shall relinquish ownership of a certain dog or cat to a certain
22 releasing agency under certain circumstances; specifying certain procedures to
23 be followed for seeking a certain civil penalty under this Act; providing for the
24 exclusive original civil jurisdiction of the District Court for actions filed under
25 this Act; providing that local jurisdictions are not prevented from enacting laws
26 or ordinances that are more stringent than this Act; providing for the
27 application of this Act; defining certain terms; and generally relating to civil
28 penalties for failure to sterilize a rescued dog or cat.

29 BY adding to

30 Article - Courts and Judicial Proceedings

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 3–1801 through 3–1811 to be under the new subtitle “Subtitle 18. Civil
2 Penalties for Failure to Sterilize Rescued Dog or Cat”; and 4–401(18)
3 Annotated Code of Maryland
4 (2006 Replacement Volume and 2007 Supplement)

5 BY repealing and reenacting, with amendments,
6 Article – Courts and Judicial Proceedings
7 Section 4–401(16) and (17)
8 Annotated Code of Maryland
9 (2006 Replacement Volume and 2007 Supplement)

10 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
11 MARYLAND, That the Laws of Maryland read as follows:

12 **Article – Courts and Judicial Proceedings**

13 **SUBTITLE 18. CIVIL PENALTIES FOR FAILURE TO STERILIZE RESCUED DOG**
14 **OR CAT.**

15 **3–1801.**

16 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
17 INDICATED.

18 (B) “ADOPTING PARTY” MEANS AN INDIVIDUAL WHO RECEIVES A DOG
19 OR CAT FROM A RELEASING AGENCY WITH OR WITHOUT PAYING A FEE.

20 (C) “ANIMAL RESCUE ORGANIZATION” MEANS AN INDIVIDUAL, GROUP
21 OF INDIVIDUALS, OR FOR PROFIT OR NONPROFIT ENTITY THAT HAS AS ONE OF
22 ITS PURPOSES THE SALE OR PLACEMENT OF RESCUED DOGS OR CATS THAT
23 HAVE BEEN REMOVED FROM THE CUSTODY OF:

24 (1) AN ANIMAL SHELTER OR HUMANE SOCIETY SHELTER; OR

25 (2) AN OWNER OTHER THAN THE ORIGINAL BREEDER OF THE
26 DOG OR CAT.

27 (D) “ANIMAL SHELTER” MEANS A FACILITY OWNED OR OPERATED BY,
28 OR UNDER CONTRACT WITH, A COUNTY OR MUNICIPAL CORPORATION FOR THE
29 CARE, CONFINEMENT, AND DETENTION OF ANIMALS.

30 (E) “HUMANE SOCIETY” MEANS A SOCIETY OR ASSOCIATION
31 OPERATING IN THE STATE FOR THE PREVENTION OF CRUELTY TO ANIMALS.

32 (F) “RELEASING AGENCY” MEANS:

- 1 (1) **A PUBLIC OR PRIVATE POUND;**
- 2 (2) **AN ANIMAL RESCUE ORGANIZATION;**
- 3 (3) **AN ANIMAL SHELTER;**
- 4 (4) **A HUMANE SOCIETY; OR**
- 5 (5) **A PET SHOP.**

6 (G) **“STERILIZE” MEANS TO SURGICALLY REMOVE THE REPRODUCTIVE**
7 **ORGANS OF AN ANIMAL RENDERING IT INCAPABLE OF REPRODUCING.**

8 (H) **“VETERINARIAN” MEANS A PERSON WHO IS LICENSED TO PRACTICE**
9 **VETERINARY MEDICINE UNDER TITLE 2, SUBTITLE 3 OF THE AGRICULTURE**
10 **ARTICLE.**

11 **3-1802.**

12 (A) **BEFORE PLACING A DOG OR CAT WITH AN ADOPTING PARTY, A**
13 **RELEASING AGENCY SHALL:**

- 14 (1) **HAVE THE DOG OR CAT STERILIZED BY A VETERINARIAN; OR**
- 15 (2) **ENTER INTO A WRITTEN AGREEMENT WITH THE ADOPTING**
16 **PARTY THAT REQUIRES THE ADOPTING PARTY TO:**
 - 17 (I) **HAVE THE DOG OR CAT STERILIZED WITHIN 30 DAYS OF**
18 **PLACEMENT OR IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION; AND**
 - 19 (II) **PAY A GUARANTEE DEPOSIT.**

20 (B) (1) **IF THE DOG OR CAT IS UNDER THE AGE OF 4 MONTHS WHEN**
21 **PLACED WITH THE ADOPTING PARTY, THE DOG OR CAT SHALL BE STERILIZED**
22 **WITHIN 30 BUSINESS DAYS OF REACHING 4 MONTHS OLD.**

23 (2) **IF A VETERINARIAN CERTIFIES THAT THE DOG OR CAT IS**
24 **INJURED OR TOO SICK TO BE STERILIZED OR THAT THE PROCEDURE WOULD BE**
25 **DETRIMENTAL TO THE ANIMAL’S HEALTH, THE DOG OR CAT SHALL BE**
26 **STERILIZED WITHIN 30 DAYS OF BECOMING HEALTHY ENOUGH TO BE**
27 **STERILIZED, AS CERTIFIED BY A VETERINARIAN.**

28 **3-1803.**

THE WRITTEN AGREEMENT SHALL INCLUDE:

(1) A DESCRIPTION OF THE DOG OR CAT, INCLUDING AGE, SEX, AND GENERAL DESCRIPTION;

(2) THE DATE OF PLACEMENT AND THE DATE BY WHICH THE DOG OR CAT SHALL BE STERILIZED;

(3) THE ADOPTING PARTY'S NAME, ADDRESS, TELEPHONE NUMBER, AND SIGNATURE;

(4) THE RELEASING AGENCY'S NAME, ADDRESS, TELEPHONE NUMBER, AND SIGNATURE;

(5) THE AMOUNT OF THE GUARANTEE DEPOSIT; AND

(6) A NOTICE STATING THAT:

(I) THE GUARANTEE DEPOSIT IS REFUNDABLE ON PRESENTATION OF A CERTIFICATE FROM A VETERINARIAN THAT THE DOG OR CAT HAS BEEN STERILIZED;

(II) THE STERILIZATION MUST BE COMPLETED BY THE DATE LISTED IN THE WRITTEN AGREEMENT;

(III) BY LAW, THE RELEASING AGENCY HAS THE RIGHT TO RETAIN THE GUARANTEE DEPOSIT AS LIQUIDATED DAMAGES IF THE ADOPTING PARTY DOES NOT PRESENT A CERTIFICATE FROM A VETERINARIAN INDICATING THAT THE STERILIZATION WAS COMPLETED BY THE DATE LISTED IN THE WRITTEN AGREEMENT; AND

(IV) BY LAW, THE RELEASING AGENCY HAS THE RIGHT TO RECLAIM THE DOG OR CAT AND SEEK A CIVIL FINE OF \$500 FROM THE ADOPTING PARTY, PLUS COURT COSTS AND REASONABLE ATTORNEY'S FEES, IF THE ADOPTING PARTY CONTINUES TO VIOLATE THE WRITTEN AGREEMENT.

3-1804.

(A) A RELEASING AGENCY SHALL SET AN AMOUNT FOR A GUARANTEE DEPOSIT THAT WILL ENCOURAGE THE STERILIZATION OF RESCUED DOGS AND CATS BUT THAT IS NOT LESS THAN \$75.

1 **(B) THE RELEASING AGENCY SHALL KEEP THE GUARANTEE DEPOSIT IN**
2 **A SEPARATE ESCROW ACCOUNT.**

3 **(C) THE RELEASING AGENCY SHALL REFUND THE GUARANTEE DEPOSIT**
4 **TO THE ADOPTING PARTY IF:**

5 **(1) THE ADOPTING PARTY PROVIDES A SIGNED AND DATED**
6 **CERTIFICATE FROM A VETERINARIAN THAT:**

7 **(I) DESCRIBES THE ADOPTED DOG OR CAT;**

8 **(II) ATTESTS THAT THE DOG OR CAT WAS STERILIZED; AND**

9 **(III) INCLUDES THE DATE OF STERILIZATION; OR**

10 **(2) THE ADOPTING PARTY PROVIDES A SIGNED LETTER THAT:**

11 **(I) THE DOG OR CAT DIED OR WAS LOST OR STOLEN**
12 **BEFORE THE DATE SPECIFIED IN THE WRITTEN AGREEMENT WITH DETAILS**
13 **ABOUT THE DATE OF DEATH OR DISAPPEARANCE; AND**

14 **(II) IS PRESENTED TO THE RELEASING AGENCY NO LATER**
15 **THAN 30 DAYS AFTER THE DEATH OR DISAPPEARANCE OF THE DOG OR CAT.**

16 **(D) (1) IF THE ADOPTING PARTY DOES NOT PROVIDE A CERTIFICATE**
17 **OR LETTER IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION WITHIN 30**
18 **DAYS OF THE SPECIFIED STERILIZATION DATE, THE RELEASING AGENCY SHALL**
19 **SEND THE ADOPTING PARTY AN INITIAL DEMAND LETTER IN ACCORDANCE WITH**
20 **§ 3-1806 OF THIS SUBTITLE.**

21 **(2) THE GUARANTEE DEPOSIT SHALL BE FORFEITED AS**
22 **LIQUIDATED DAMAGES IF THE ADOPTING PARTY DOES NOT RESPOND TO THE**
23 **INITIAL DEMAND LETTER IN ACCORDANCE WITH § 3-1806 OF THIS SUBTITLE.**

24 **(E) THE RELEASING AGENCY SHALL USE ALL FORFEITED AND**
25 **UNCLAIMED GUARANTEE DEPOSITS TO FINANCE:**

26 **(1) PUBLIC EDUCATION PROGRAMS TO PREVENT THE**
27 **OVERPOPULATION OF ANIMALS;**

28 **(2) THE STERILIZATION OF DOGS AND CATS AVAILABLE FOR**
29 **PLACEMENT BY THE RELEASING AGENCY;**

1 **(3) FOLLOW-UP PROGRAMS TO ENSURE THAT PLACED DOGS AND**
2 **CATS ARE STERILIZED; AND**

3 **(4) THE COSTS INCURRED IN PURSUING REMEDIES UNDER THIS**
4 **SUBTITLE.**

5 **3-1805.**

6 **(A) IN ACCORDANCE WITH THE WRITTEN AGREEMENT, AN ADOPTING**
7 **PARTY SHALL HAVE THE DOG OR CAT STERILIZED IN A TIMELY FASHION AND**
8 **PRESENT THE RELEASING AGENCY WITH THE CERTIFICATE OF A VETERINARIAN**
9 **AS PROOF OF THE STERILIZATION.**

10 **(B) ON FAILURE TO ACT IN ACCORDANCE WITH THE WRITTEN**
11 **AGREEMENT AND SUBJECT TO THE RELEASING PARTY'S COMPLIANCE WITH THE**
12 **PROCEDURES CONTAINED IN § 3-1806 OF THIS SUBTITLE, THE ADOPTING**
13 **PARTY SHALL FORFEIT THE GUARANTEE DEPOSIT AS LIQUIDATED DAMAGES.**

14 **(C) ON CONTINUED FAILURE TO ACT IN ACCORDANCE WITH THE**
15 **WRITTEN AGREEMENT AND SUBJECT TO THE RELEASING PARTY'S COMPLIANCE**
16 **WITH THE PROCEDURES CONTAINED IN § 3-1806 OF THIS SUBTITLE, THE**
17 **ADOPTING PARTY:**

18 **(1) IS LIABLE TO PAY THE RELEASING AGENCY A CIVIL PENALTY**
19 **OF \$500, COURT COSTS, AND REASONABLE ATTORNEY'S FEES; AND**

20 **(2) SHALL RELINQUISH OWNERSHIP OF THE DOG OR CAT TO THE**
21 **RELEASING AGENCY.**

22 **3-1806.**

23 **(A) IF A RELEASING AGENCY ELECTS TO SEEK THE CIVIL PENALTY**
24 **AVAILABLE UNDER § 3-1805 OF THIS SUBTITLE, THE RELEASING AGENCY:**

25 **(1) SHALL COMPLY WITH THE PROCEDURES CONTAINED IN THIS**
26 **SECTION; AND**

27 **(2) MAY NOT ACCEPT PAYMENT IN CASH WITHOUT ISSUING A**
28 **RECEIPT FOR THE PAYMENT.**

29 **(B) (1) THE RELEASING AGENCY SHALL CAUSE AN INITIAL DEMAND**
30 **LETTER TO BE:**

1 (I) HAND DELIVERED PERSONALLY TO THE ADOPTING
2 PARTY; OR

3 (II) MAILED TO THE ADOPTING PARTY AT THAT PERSON'S
4 LAST KNOWN ADDRESS.

5 (2) THE INITIAL DEMAND LETTER SHALL:

6 (I) PROVIDE A COPY OF THE WRITTEN AGREEMENT
7 EXECUTED BETWEEN THE ADOPTING PARTY AND THE RELEASING AGENCY;

8 (II) SPECIFY THAT THE GUARANTEE DEPOSIT PAID IN
9 ACCORDANCE WITH THE WRITTEN AGREEMENT MAY BE FORFEITED AS
10 LIQUIDATED DAMAGES IF THE DOG OR CAT IS NOT STERILIZED AND THE
11 CERTIFICATE IS NOT PROVIDED;

12 (III) SPECIFY THAT THE RELEASING AGENCY MAY SEEK THE
13 \$500 CIVIL PENALTY UNDER § 3-1805 OF THIS SUBTITLE, PLUS COURT COSTS
14 AND REASONABLE ATTORNEY'S FEES, FOR CONTINUED FAILURE TO STERILIZE
15 THE DOG OR CAT AND PROVIDE THE CERTIFICATE;

16 (IV) REQUEST COMPLIANCE WITH THE TERMS OF THE
17 WRITTEN AGREEMENT OR PAYMENT OF THE CIVIL PENALTY BY CASH, MONEY
18 ORDER, CERTIFIED CHECK, OR CASHIER'S CHECK; AND

19 (V) SPECIFY THE DATE BY WHICH THE ADOPTING PARTY
20 SHALL PROVIDE THE CERTIFICATE FROM THE VETERINARIAN TO AVOID CIVIL
21 ACTION, WHICH DATE SHALL BE AT LEAST 15 DAYS AFTER THE DATE OF HAND
22 DELIVERY OR FROM THE POSTMARK DATE, AS APPLICABLE, OF THE INITIAL
23 DEMAND LETTER.

24 (C) (1) IF THE CERTIFICATE FROM A VETERINARIAN IS NOT
25 RECEIVED BY THE RELEASING AGENCY ON OR BEFORE THE DATE SPECIFIED IN
26 THE INITIAL DEMAND LETTER, THE RELEASING AGENCY MAY RETAIN THE
27 GUARANTEE DEPOSIT AS LIQUIDATED DAMAGES AND SHALL CAUSE A SECOND
28 DEMAND LETTER TO BE MAILED TO THE ADOPTING PARTY AT THAT PERSON'S
29 LAST KNOWN ADDRESS.

30 (2) THE SECOND DEMAND LETTER SHALL:

31 (I) CONTAIN THE SAME INFORMATION, REQUEST FOR
32 PAYMENT, AND NOTICE THAT IS REQUIRED BY SUBSECTION (B)(2) OF THIS
33 SECTION FOR AN INITIAL DEMAND LETTER;

1 (II) SPECIFY THE DATE BY WHICH THE ADOPTING PARTY
2 SHALL PROVIDE THE REQUIRED CERTIFICATE FROM A VETERINARIAN TO AVOID
3 CIVIL ACTION, WHICH DATE SHALL BE AT LEAST 10 DAYS FROM THE POSTMARK
4 DATE OF THE SECOND DEMAND LETTER; AND

5 (III) ADVISE THE ADOPTING PARTY THAT, IF THE REQUIRED
6 CERTIFICATE IS NOT RECEIVED BEFORE THE DATE SPECIFIED IN THE SECOND
7 DEMAND LETTER, THE ADOPTING PARTY WILL BE SUBJECT TO IMMEDIATE
8 INSTITUTION OF A CIVIL SUIT FOR THE CIVIL PENALTY, COURT COSTS, AND
9 REASONABLE ATTORNEY'S FEES.

10 (D) THE RELEASING AGENCY SHALL GET A CERTIFICATE OF MAILING
11 FROM THE U. S. POSTAL SERVICE FOR EACH INITIAL DEMAND LETTER AND
12 SECOND DEMAND LETTER MAILED TO AN ADOPTING PARTY UNDER THIS
13 SECTION.

14 **3-1807.**

15 AN ADOPTING PARTY WHO COMPLIES FULLY WITH AN INITIAL DEMAND
16 LETTER OR A SECOND DEMAND LETTER ON OR BEFORE THE DATE SPECIFIED IN
17 THAT DEMAND LETTER MAY NOT INCUR ANY FURTHER CIVIL LIABILITY TO THE
18 RELEASING AGENCY FOR DAMAGES ARISING OUT OF THE FAILURE TO STERILIZE
19 THE DOG OR CAT THAT WAS THE SUBJECT OF THE DEMAND LETTER.

20 **3-1808.**

21 (A) IF THE SECOND DEMAND LETTER IS RETURNED UNCLAIMED TO THE
22 RELEASING AGENCY OR IF A CERTIFICATE FROM A VETERINARIAN IS NOT
23 OTHERWISE RECEIVED BY THE RELEASING AGENCY ON OR BEFORE THE DATE
24 SPECIFIED IN THE SECOND DEMAND LETTER, THE RELEASING AGENCY MAY FILE
25 A CIVIL ACTION TO RECOVER THE CIVIL PENALTY PROVIDED FOR IN § 3-1805 OF
26 THIS SUBTITLE.

27 (B) IF THE RELEASING AGENCY PREVAILS IN A CIVIL ACTION BROUGHT
28 UNDER THIS SUBTITLE, THE RELEASING AGENCY SHALL ALSO BE ENTITLED TO
29 AN AWARD OF COURT COSTS AND REASONABLE ATTORNEY'S FEES, TO BE
30 ASSESSED WITHOUT REGARD TO THE ABILITY OF THE ADOPTING PARTY TO PAY.

31 (C) CIVIL PENALTIES COLLECTED UNDER THIS SECTION SHALL BE
32 USED FOR THE PURPOSES LISTED IN § 3-1804(E) OF THIS SUBTITLE.

33 **3-1809.**

34 THE PROCEDURES REQUIRED BY § 3-1806 OF THIS SUBTITLE:

1 (1) APPLY ONLY TO THE EXTENT THAT A RELEASING AGENCY
2 ELECTS TO SEEK RECOVERY OF THE CIVIL PENALTY AVAILABLE UNDER §
3 **3-1805 OF THIS SUBTITLE; AND**

4 (2) DO NOT OTHERWISE LIMIT A RELEASING AGENCY OR OTHER
5 PERSON FROM ELECTING TO PURSUE ANY OTHER CIVIL REMEDY OR CAUSE OF
6 ACTION FOR DAMAGES AGAINST ANY ADOPTING PARTY UNDER THIS SUBTITLE
7 OR OTHERWISE AS PERMITTED BY LAW.

8 **3-1810.**

9 **THE DISTRICT COURT HAS EXCLUSIVE ORIGINAL CIVIL JURISDICTION**
10 **OVER AN ACTION FILED UNDER THIS SUBTITLE.**

11 **3-1811.**

12 **THIS SUBTITLE DOES NOT PREVENT A LOCAL JURISDICTION FROM**
13 **ENACTING LAWS OR ORDINANCES THAT ARE MORE STRINGENT THAN THE**
14 **REQUIREMENTS OF THIS SUBTITLE.**

15 4-401.

16 Except as provided in § 4-402 of this subtitle, and subject to the venue
17 provisions of Title 6 of this article, the District Court has exclusive original civil
18 jurisdiction in:

19 (16) A proceeding for a replacement motor vehicle under §
20 14-1502(c)(1)(i) of the Commercial Law Article; [and]

21 (17) An action for damages for a dishonored check or other instrument
22 under Title 15, Subtitle 8 of the Commercial Law Article, regardless of the amount in
23 controversy[.]; AND

24 **(18) A PROCEEDING TO ENFORCE A CIVIL PENALTY UNDER TITLE**
25 **3, SUBTITLE 18 OF THIS ARTICLE.**

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 2008.