

# HOUSE BILL 1299

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By: **Delegate Shank**

Introduced and read first time: February 13, 2009

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Mistreated Animals – Seizure Requirements and Procedures**

3 FOR the purpose of providing that, if the owner or custodian of an animal that is  
4 removed from certain property under certain circumstances fails lawfully to  
5 regain possession of the animal within a certain time period, the person who  
6 removed the animal may petition the District Court for a certain disposition of  
7 the animal; authorizing the seizure and removal of an animal from certain  
8 property by a law enforcement officer or humane society officer or agent or the  
9 impoundment of the animal on the property if there is probable cause to believe  
10 the animal is being mistreated; requiring the local animal control agency or  
11 humane society to provide care for an animal impounded on the property;  
12 providing for the posting of the property if the animal is seized or impounded;  
13 providing for service of notice of impoundment or seizure; providing for the  
14 contents of the notice; requiring the owner or custodian to request a court  
15 hearing on the seizure or impoundment within a certain period of time;  
16 requiring the hearing to be held as soon as practicable; requiring the court to  
17 make certain findings before returning an animal to its owner or custodian;  
18 providing that the owner or custodian is liable for costs of caring for the animal  
19 if the court finds that the seizure or impoundment was justified; providing that  
20 the owner or custodian is not liable for certain costs if the court finds the seizure  
21 or impoundment was not justified; authorizing an owner of an animal to  
22 surrender ownership of the animal at any time to the seizing or impounding  
23 agency; providing that an owner's liability for the costs of the animal's care  
24 ceases on surrendering ownership; providing that surrender of ownership does  
25 not preclude a criminal prosecution and may not be used as a defense to a  
26 prosecution; requiring the court to order the posting of a bond to cover the costs  
27 of care for the animal if criminal charges are filed; establishing that if an owner  
28 or custodian does not post a certain bond within a certain time period, the  
29 animal is considered abandoned and ownership shall revert to the impounding  
30 agency; providing that the owner or custodian of the animal convicted of a  
31 violation of a crime relating to animals is liable for the costs of caring for the

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 animal; altering the period of time during which reasonable effort shall be used  
2 to ascertain an unknown owner or custodian of an animal before considering the  
3 animal a stray; making conforming changes; and generally relating to animal  
4 seizure and impounding requirements and procedures for mistreated animals.

5 BY repealing and reenacting, with amendments,  
6 Article – Criminal Law  
7 Section 10–615  
8 Annotated Code of Maryland  
9 (2002 Volume and 2008 Supplement)

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

12 **Article – Criminal Law**

13 10–615.

14 (a) If an owner or custodian of an animal is convicted of an act of animal  
15 cruelty, the court may order the removal of the animal or any other animal at the time  
16 of conviction for the protection of the animal.

17 (b) (1) An officer or authorized agent of a humane society, or a police  
18 officer or other public official required to protect animals may seize an animal if  
19 necessary to protect the animal from cruelty.

20 (2) (i) An animal that a medical and scientific research facility  
21 possesses may be removed under this subsection only after review by and a  
22 recommendation from the Department of Health and Mental Hygiene, Center for  
23 Veterinary Public Health.

24 (ii) The Department of Health and Mental Hygiene shall:

25 1. conduct an investigation within 24 hours after  
26 receiving a complaint; and

27 2. within 24 hours after completing the investigation,  
28 report to the State’s Attorney for the county in which the facility is situated.

29 (c) (1) If an animal is impounded, yarded, or confined without necessary  
30 food, water, [or proper attention,] **SHELTER, OR ATTENTION**, is subject to cruelty, or  
31 is neglected, an officer or authorized agent of a humane society, a police officer,  
32 another public official required to protect animals, or any invited and accompanying  
33 veterinarian licensed in the State, may:

34 (i) enter the place where the animal is located and supply the  
35 animal with necessary food, water, **SHELTER**, and attention; or

1 (ii) remove the animal if removal is necessary for the health of  
2 the animal.

3 (2) A person who enters a place under paragraph (1) of this subsection  
4 is not liable because of the entry.

5 (d) (1) A person who removes an animal under subsection (c) of this  
6 section shall notify the animal's owner or custodian of:

7 (i) the removal; and

8 (ii) any administrative remedies that may be available to the  
9 owner or custodian.

10 (2) If an administrative remedy is not available, the owner or  
11 custodian may file a petition for the return of the animal in the District Court of the  
12 county in which the removal occurred within 10 days after the removal.

13 **(3) IF THE OWNER OR CUSTODIAN DOES NOT LAWFULLY REGAIN**  
14 **POSSESSION OF THE ANIMAL WITHIN 10 DAYS AFTER THE REMOVAL OF THE**  
15 **ANIMAL, THE PERSON WHO REMOVED THE ANIMAL MAY FILE A PETITION IN THE**  
16 **DISTRICT COURT TO HAVE THE ANIMAL DECLARED ABANDONED AND DECIDE**  
17 **THE DISPOSITION OF THE ANIMAL.**

18 **(E) (1) IF THERE IS PROBABLE CAUSE TO BELIEVE THAT AN ANIMAL**  
19 **SPECIFIED IN SUBSECTION (B) OR (C) OF THIS SECTION IS IMPOUNDED,**  
20 **YARDED, OR CONFINED WITHOUT NECESSARY FOOD, WATER, SHELTER, OR**  
21 **ATTENTION, IS SUBJECT TO CRUELTY, OR IS NEGLECTED, A LAW ENFORCEMENT**  
22 **OFFICER OR AN OFFICER OR AUTHORIZED AGENT OF A HUMANE SOCIETY MAY:**

23 **(I) SEIZE THE ANIMAL AND REMOVE IT FROM THE PLACE**  
24 **WHERE IT WAS LOCATED TO AN APPROPRIATE HOLDING FACILITY; OR**

25 **(II) IMPOUND THE ANIMAL AT THE PLACE WHERE IT WAS**  
26 **LOCATED AND WHERE THE IMPOUNDING AGENCY SHALL PROVIDE FOR THE**  
27 **CARE OF THE ANIMAL.**

28 **(2) IF THE ANIMAL IS IMPOUNDED UNDER PARAGRAPH (1)(II) OF**  
29 **THIS SUBSECTION, THE LAW ENFORCEMENT OFFICER OR AUTHORIZED OFFICER**  
30 **OR AGENT OF THE HUMANE SOCIETY SHALL:**

31 **(I) GIVE NOTICE TO THE OWNER OF THE PROPERTY IN**  
32 **ACCORDANCE WITH PARAGRAPH (3) OF THIS SUBSECTION;**

1 (II) SECURE THE ANIMAL ON THE PROPERTY; AND

2 (III) POST THE PROPERTY WITH A CONSPICUOUS METAL  
3 SIGN THAT:

4 1. IS AT LEAST 2 FEET BY 2 FEET;

5 2. HAS REFLECTIVE LETTERING THAT STATES  
6 "ANIMAL IMPOUNDED. NO TRESPASSING."; AND

7 3. PROVIDES THE IMPOUNDING AGENCY'S NAME  
8 AND CONTACT TELEPHONE NUMBER.

9 (3) (I) NOTICE THAT THE ANIMAL WAS SEIZED OR IMPOUNDED  
10 SHALL BE SERVED ON THE OWNER OR CUSTODIAN OF THE ANIMAL BY:

11 1. POSTING A COPY OF THE NOTICE AT THE PLACE  
12 WHERE THE ANIMAL WAS SEIZED OR IMPOUNDED;

13 2. MAILING THE NOTICE BY REGULAR AND  
14 CERTIFIED MAIL, RETURN RECEIPT REQUESTED; OR

15 3. DELIVERING THE NOTICE TO A PERSON RESIDING  
16 ON THE PROPERTY FROM WHICH THE ANIMAL WAS SEIZED OR ON WHICH THE  
17 ANIMAL WAS IMPOUNDED.

18 (II) THE NOTICE SHALL INCLUDE:

19 1. A DESCRIPTION OF THE ANIMAL SEIZED OR  
20 IMPOUNDED;

21 2. THE AUTHORITY FOR AND THE PURPOSE OF THE  
22 SEIZURE OR IMPOUNDMENT;

23 3. THE TIME, PLACE, AND CIRCUMSTANCES OF THE  
24 SEIZURE OR IMPOUNDMENT;

25 4. A CONTACT PERSON AND TELEPHONE NUMBER;

26 5. A STATEMENT THAT THE OWNER OR CUSTODIAN  
27 OF THE ANIMAL MAY REQUEST A HEARING CONCERNING THE SEIZURE OR  
28 IMPOUNDMENT;

1                   **6. A STATEMENT THAT FAILURE TO REQUEST A**  
2 **HEARING WITHIN 10 DAYS OF THE DATE OF THE NOTICE WILL RESULT IN THE**  
3 **DETERMINATION THAT THE ANIMAL HAS BEEN ABANDONED AND THAT THE**  
4 **COURT WILL DECIDE ON THE DISPOSITION OF THE ANIMAL; AND**

5                   **7. A STATEMENT THAT, IF THE COURT FINDS THAT**  
6 **THE SEIZURE OR IMPOUNDMENT OF THE ANIMAL WAS JUSTIFIED, THE COSTS OF**  
7 **THE CARE, KEEPING, AND DISPOSITION OF THE ANIMAL ARE THE**  
8 **RESPONSIBILITY OF THE OWNER OR CUSTODIAN OF THE ANIMAL.**

9                   **(4) (I) THE OWNER OR CUSTODIAN OF THE ANIMAL MAY**  
10 **REQUEST A HEARING IN THE DISTRICT COURT WITHIN 10 DAYS OF THE SEIZURE**  
11 **OR IMPOUNDMENT.**

12                   **(II) A HEARING SHALL BE HELD AS SOON AS PRACTICABLE**  
13 **TO DETERMINE THE VALIDITY OF THE SEIZURE OR IMPOUNDMENT AND THE**  
14 **DISPOSITION OF THE ANIMAL.**

15                   **(5) AN ANIMAL THAT IS SEIZED OR IMPOUNDED UNDER THIS**  
16 **SECTION MAY BE RETURNED TO ITS OWNER OR CUSTODIAN ONLY IF THE COURT**  
17 **FINDS THAT:**

18                   **(I) THE ANIMAL HAS NOT BEEN CONFINED WITHOUT**  
19 **NECESSARY FOOD, WATER, SHELTER, OR ATTENTION OR SUBJECTED TO**  
20 **CRUELTY OR NEGLECT; AND**

21                   **(II) THE RETURN OF THE ANIMAL WILL NOT LEAD TO THE**  
22 **ANIMAL BEING CONFINED WITHOUT NECESSARY FOOD, WATER, SHELTER, OR**  
23 **ATTENTION OR SUBJECTED TO CRUELTY OR NEGLECT.**

24                   **(6) (I) IF THE COURT FINDS THAT THE SEIZURE OR**  
25 **IMPOUNDMENT OF THE ANIMAL WAS JUSTIFIED BY LAW, THE OWNER OR**  
26 **CUSTODIAN OF THE ANIMAL IS LIABLE FOR THE COSTS OF CARING FOR AND**  
27 **KEEPING THE ANIMAL AND THE ANIMAL'S DISPOSITION.**

28                   **(II) IF THE COURT FINDS THAT THE SEIZURE OR**  
29 **IMPOUNDMENT OF THE ANIMAL WAS NOT JUSTIFIED, THE OWNER OR**  
30 **CUSTODIAN OF THE ANIMAL IS NOT LIABLE FOR THE COSTS OF CARING FOR AND**  
31 **KEEPING THE ANIMAL.**

32                   **(F) (1) THE OWNER OF AN ANIMAL SEIZED OR IMPOUNDED UNDER**  
33 **THIS SECTION MAY SURRENDER OWNERSHIP OF THE ANIMAL AT ANY TIME TO**  
34 **THE SEIZING OR IMPOUNDING AGENCY.**

1           **(2) THE OWNER'S RESPONSIBILITY FOR THE FUTURE COSTS OF**  
2 **CARING FOR AND KEEPING THE ANIMAL CEASES AT THE SURRENDER OF**  
3 **OWNERSHIP.**

4           **(3) SURRENDERING OWNERSHIP OF THE ANIMAL DOES NOT**  
5 **PRECLUDE AND IS NOT A DEFENSE TO A CRIMINAL PROSECUTION UNDER THIS**  
6 **SUBTITLE.**

7           **(G) (1) (I) IF THE OWNER OR CUSTODIAN OF THE ANIMAL IS**  
8 **CHARGED WITH A VIOLATION OF THIS SUBTITLE, THE COURT SHALL ORDER THE**  
9 **PERSON TO POST BOND TO COVER THE COSTS OF CARING FOR AND KEEPING**  
10 **THE ANIMAL UNTIL THE COMPLETION OF THE CRIMINAL TRIAL.**

11                   **(II) IF THE OWNER OR CUSTODIAN FAILS TO POST BOND**  
12 **WITHIN 30 DAYS OF THE COURT'S ORDER, THE ANIMAL SHALL BE CONSIDERED**  
13 **TO BE ABANDONED AND OWNERSHIP OF THE ANIMAL SHALL REVERT TO THE**  
14 **SEIZING OR IMPOUNDING AGENCY.**

15           **(2) IF THE OWNER OR CUSTODIAN OF THE ANIMAL IS CONVICTED**  
16 **OF A VIOLATION UNDER THIS SUBTITLE, THE PERSON IS LIABLE FOR ALL COSTS**  
17 **OF CARING FOR AND KEEPING THE ANIMAL AND THE ANIMAL'S DISPOSITION.**

18           **[(e)] (H)**     An animal is considered a stray if:

19                   (1)     an owner or custodian of the animal was notified under subsection  
20 (d) of this section and failed to file a petition within 10 days after removal; or

21                   (2)     the owner or custodian of the animal is unknown and cannot be  
22 ascertained by reasonable effort for [20] 10 days to determine the owner or custodian.

23           **[(f)] (I)**     This section does not allow:

24                   (1)     entry into a private dwelling; or

25                   (2)     removal of a farm animal without the prior recommendation of a  
26 veterinarian licensed in the State.

27           **[(g)] (J)**     In Baltimore County, the Baltimore County Department of Health,  
28 Division of Animal Control or an organization that the Baltimore County government  
29 approves shall enforce this section.

30           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
31 October 1, 2009.