



Steven W. Troxler  
Commissioner

North Carolina Department of Agriculture  
and Consumer Services  
*Veterinary Division*

R. Douglas Meckes, DVM  
State Veterinarian

January 30, 2018

Sharon Gadd  
Stanly County Humane Society  
2049 Badin Road  
Albemarle, North Carolina 28001  
Via Hand Delivery

**Notice of Warning**

**Re: Violation of Title 02 N.C. Administrative Code ("NCAC") Chapter 52J Section .0302(a)**

**AWS-WL-2018-2**

Animal Shelter: Stanly County Humane Society  
Registration Number: 144

Dear Ms. Gadd:

The Animal Welfare Section ("AWS") of the Veterinary Division of the N.C. Department of Agriculture and Consumer Services ("NCDA&CS") received information concerning the Stanly County Humane Society ("the shelter"). Based on this information, AWS opened an investigation. The investigation included a review of the information, a site visit, interviews with shelter management, a review of relevant shelter records and review of weather information for the relevant dates.

The investigation findings include:

- 1) On January 9, 2018, Cabarrus County Animal Control responded to a complaint that animals were being left in a van overnight. The Animal Control officer confirmed that the van was holding animals being transported by the shelter and was parked overnight at the residence of a shelter volunteer. The Officer noted that engine of the van was not running and therefore no supplemental heat was being provided to the animals.
- 2) The shelter confirmed that privately owned animals and shelter-owned animals were transported in this manner on January 3, 2018, December 19, 2017, December 12, 2017 and on numerous occasion prior to these dates.
- 3) Weather information for Cabarrus County shows that the overnight low temperatures for those dates were:

December 12, 2017 – 31°F

December 19, 2017 – 30°F

January 3, 2018 – 9°F

January 9, 2018 – 30°F

Based on the results of this investigation, the shelter may have violated 02 NCAC 52J .0302(a).

Therefore, I am directing the shelter to immediately do the following:

- 1) Implement a transportation protocol that is in compliance with 02 NCAC 52J .0301 - .0304; and
- 2) Implement a protocol for accepting privately-owned animals for transportation that is in compliance with 02 NCAC 52J .0201(k); and
- 3) Submit to AWS a copy of these protocols.

This Warning Letter serves as written notice indicating in which respects the shelter may have violated the N.C. Animal Welfare Act and the rules issued pursuant thereto.

Continued or future violation of these statutes or regulations will be considered a willful disregard or violation of the N.C. Animal Welfare Act and the rules issued pursuant thereto. Such willful disregard or violation may result in action against your facility's license pursuant to N.C. General Statute § 19A-30 and/or the assessment of a civil penalty of up to \$5,000.00 per violation under N.C. General Statute § 19A-40.

Your immediate attention to this matter is appreciated.

Sincerely,



Patricia Norris, DVM, MS  
Director of Animal Welfare Section  
Veterinary Division

cc: Dr. R. Douglas Meckes, State Veterinarian  
Joe Reardon, Assistant Commissioner, NCDA&CS  
Tina Hlabse, General Counsel, NCDA&CS  
Christopher R. McLennan, Assistant Attorney General

## Appendix

### REFERENCED STATUTES AND REGULATIONS

#### **§ 19A-30. Refusal, suspension or revocation of certificate or license.**

The Director may refuse to issue or renew or may suspend or revoke a certificate of registration for any animal shelter or a license for any public auction, kennel, pet shop, or dealer, if after an impartial investigation as provided in this Article he determines that any one or more of the following grounds apply:

- (1) Material misstatement in the application for the original certificate of registration or license or in the application for any renewal under this Article;
- (2) Willful disregard or violation of this Article or any rules issued pursuant thereto;
- (3) Failure to provide adequate housing facilities and/or primary enclosures for the purposes of this Article, or if the feeding, watering, sanitizing and housing practices at the animal shelter, public auction, pet shop, or kennel are not consistent with the intent of this Article or the rules adopted under this Article;
- (4) Allowing one's license under this Article to be used by an unlicensed person;
- (5) Conviction of any crime an essential element of which is misstatement, fraud, or dishonesty, or conviction of any felony;
- (6) Making substantial misrepresentations or false promises of a character likely to influence, persuade, or induce in connection with the business of a public auction, commercial kennel, pet shop, or dealer;
- (7) Pursuing a continued course of misrepresentation of or making false promises through advertising, salesmen, agents, or otherwise in connection with the business to be licensed;
- (8) Failure to possess the necessary qualifications or to meet the requirements of this Article for the issuance or holding of a certificate of registration or license.

The Director shall, before refusing to issue or renew and before suspension or revocation of a certificate of registration or a license, give to the applicant or holder thereof a written notice containing a statement indicating in what respects the applicant or holder has failed to satisfy the requirements for the holding of a certificate of registration or a license. If a certificate of registration or a license is suspended or revoked under the provisions hereof, the holder shall have five days from such suspension or revocation to surrender all certificates of registration or licenses issued thereunder to the Director or his authorized representative.

A person to whom a certificate of registration or a license is denied, suspended, or revoked by the Director may contest the action by filing a petition under G.S. 150B-23 within five days after the denial, suspension, or revocation.

Any licensee whose license is revoked under the provisions of this Article shall not be eligible to apply for a new license hereunder until one year has elapsed from the date of the order revoking said license or if an appeal is taken from said order of revocation, one year from the date of the order or final judgment sustaining said revocation. Any person who has been an officer, agent, or employee of a licensee whose license has been revoked or suspended and who is responsible for or participated in the violation upon which the order of suspension or revocation was based, shall not be licensed within the period during which the order of suspension or revocation is in effect. (1977, 2nd Sess., c. 1217, s. 11; 1987, c. 827, s. 67.)

#### **§ 19A-40. Civil Penalties.**

The Director may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Director shall consider the degree and extent of harm caused by the violation. The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1995, c. 516, s. 6; 1998-215, s. 3.)

**02 NCAC 52J .0201 GENERAL**

(k) All animals in a facility are subject to the requirements of the Animal Welfare Act, regardless of ownership.

*History Note: Authority G.S. 19A-24;  
Eff. April 1, 1984;  
Amended Eff. January 1, 2005.*

**SECTION .0300 - TRANSPORTATION STANDARDS**

**02 NCAC 52J .0301 VEHICLES**

(a) Vehicles used in transporting dogs and cats shall be mechanically sound and equipped to provide fresh air to all animals transported without harmful drafts.

(b) The animal cargo space shall be constructed and maintained so as to prevent engine exhaust fumes from getting to the animals.

(c) The interior of the animal cargo space shall be kept clean. It shall be sanitized as deemed necessary.

*History Note: Authority G.S. 19A-24;  
Eff. April 1, 1984.*

**02 NCAC 52J .0302 PRIMARY ENCLOSURES USED IN TRANSPORTING DOGS AND CATS**

(a) Primary enclosures such as compartments or transport cages, cartons, or crates used by persons subject to the Animal Welfare Act to transport cats and dogs shall be constructed, 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 sufficient fresh air for normal breathing.
- (2) The openings of such enclosures are easily accessible for emergency removals at all times.
- (3) The animals are adequately protected from the elements.

The ambient temperature shall be maintained between 50 degrees F and 85 degrees F. A shelter shall be deemed as being in compliance if its vehicles' animal containment units are equipped with operable air-conditioning, forced-air cooling and heating or other temperature control mechanisms.

(b) Animals transported in the same primary enclosure shall be of the same species. Puppies or kittens less than four months of age shall not be transported in the same primary enclosure with adult dogs and cats other than their dams.

(c) Primary enclosures used to transport dogs and cats shall be large enough for each animal to turn about freely, and to easily stand, sit, or lie down in a natural position. Primary enclosures used to transport dogs and cats shall be secured to the vehicle to prevent sliding or tipping of the enclosure during transit.

(d) Animals shall not be placed in primary enclosures over other animals in transit unless such enclosure is constructed so as to prevent animal excreta from entering lower enclosures.

(e) All primary enclosures used to transport dogs and cats shall be sanitized between use for shipments.

*History Note: Authority G.S. 19A-24;  
Eff. April 1, 1984;  
Amended Eff. March 23, 2009; January 1, 2005.*

**02 NCAC 52J .0303 FOOD AND WATER REQUIREMENTS**

If dogs and cats are transported for a period of more than 12 hours:

- (1) The vehicle shall stop at least once every 12 hours for a period of one hour. During the one hour stop, potable water shall be continuously provided for dogs and cats.
- (2) Adult dogs and cats shall be fed at least once during each 24 hour period. Puppies and kittens less than six months of age shall be fed every six hours.
- (3) Dogs shall be removed from the vehicle, given fresh water and given the opportunity for exercise if they have been confined in the vehicle for 36 hours.

*History Note: Authority G.S. 19A-24;  
Eff. April 1, 1984.*

**02 NCAC 52J .0304 CARE IN TRANSIT**

It shall be the responsibility of the attendant or driver to inspect animals frequently enough to assure health and comfort and to determine if they need emergency care and to obtain it if needed.

*History Note: Authority G.S. 19A-24;  
Eff. April 1, 1984.*