

AN ACT

ENTITLED, An Act to revise certain provisions regarding humane societies.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 40-2-1 be amended to read as follows:

40-2-1. Any three or more citizens of this state organized as a nonprofit corporation in this state, for the purpose of preventing cruelty to animals, may avail themselves of the privileges of this chapter through an animal control officer subject to the limitations in sections 2 and 3 of this Act. The board of county commissioners in each county may grant authority to exercise the privileges and authority granted by this section to one or more qualified nonprofit corporations for a period of up to three years based upon ability to fulfill the purposes of this chapter.

Section 2. That chapter 40-2 be amended by adding thereto a NEW SECTION to read as follows:

The board of directors of a humane society incorporated pursuant to § 40-2-1 may appoint society members to act as animal control officers. The appointment shall be in writing. The appointment is effective in a particular county only if an appointee obtains written authorization from a circuit court judge having jurisdiction in the county in which the appointee seeks to enforce this chapter or chapter 40-1. To obtain judicial authorization, an appointee seeking judicial authorization shall provide evidence satisfactory to the judge that the appointee has experience, education, or training that has prepared the appointee to assume the powers granted to animal control officers pursuant to section 3 of this Act. The board of directors shall review appointments every three years and may revoke an appointment at any time by filing a certified revocation with the circuit court that approved the appointment. Any authorization may not exceed three years or trustee termination, whichever occurs first.

Section 3. That chapter 40-2 be amended by adding thereto a NEW SECTION to read as follows:

Any law enforcement agency may enforce the provisions of this chapter or chapter 40-1. An

animal care and control agency may enforce the provisions of this chapter or chapter 40-1 in a county or municipality if the legislative authority of the county or municipality has entered into a contract with the agency to enforce the provisions of this chapter and chapter 40-1. An animal control officer enforcing this chapter or chapter 40-1 shall comply with the same constitutional and statutory restrictions concerning the execution of police powers imposed on a law enforcement officer who enforces this chapter, chapter 40-1, and other criminal laws. An animal control officer has the following enforcement powers when enforcing this chapter:

- (1) The power to issue citations based on probable cause to offenders for misdemeanor and felony violations of this chapter or chapter 40-1;
- (2) The power to request that a law enforcement officer arrest and take into custody any person the animal control officer has probable cause to believe has committed or is committing a violation of this chapter or chapter 40-1. An animal control officer may make an oral complaint to a prosecuting attorney or a law enforcement officer to initiate an arrest. The animal control officer causing the arrest shall file with the arresting agency a written complaint within twenty-four hours of the arrest, excluding Sundays and legal holidays, stating the alleged act or acts constituting a violation;
- (3) The power to carry protective devices, other than firearms, for personal protection;
- (4) The power to prepare affidavits in support of search warrants and to execute search warrants when accompanied by law enforcement officers to investigate violations of this chapter or chapter 40-1, and to seize evidence of those violations.

Section 4. That chapter 40-2 be amended by adding thereto a NEW SECTION to read as follows:

For the purposes of this chapter and chapter 40-1, an animal care and control agency is any municipal or county animal control agency or authority authorized to enforce municipal or county ordinances regulating the care, control, licensing, or treatment of animals within the municipality or

county, and any nonprofit corporation organized under § 40-2-1 that contracts with a municipality or county to enforce the municipal or county ordinances governing animal care and control.

Section 5. That chapter 40-2 be amended by adding thereto a NEW SECTION to read as follows:

For the purposes of this chapter and chapter 40-1, an animal control officer is any person employed, contracted, or appointed pursuant to section 3 of this Act by an animal care and control agency or humane society to aid in the enforcement of ordinances or laws regulating the care and control of animals.

Section 6. That § 40-2-3 be repealed.

Section 7. That chapter 40-1 be amended by adding thereto a NEW SECTION to read as follows:

A veterinarian licensed in the State of South Dakota shall be in attendance during any portion of an investigation of a commercial breeding operation that is conducted on the premises of the commercial breeding operation. For purposes of this section the term, commercial breeding operation, means any person engaged in the business of breeding dogs or cats who sells, exchanges, or leases dogs or cats in return for consideration or who offers to do so, whether or not the dogs or cats are bred, raised, trained, groomed, or boarded by the person. Any person who owns or harbors three or fewer unaltered dogs or cats for breeding purposes that are at least six months of age is not a commercial breeding operation. Any person who sells, exchanges, or leases thirty or fewer dogs or cats in a twelve-month period is not a commercial breeding operation if all such dogs or cats are sold, exchanged, or leased to a final owner rather than for later retail sale or brokered trading. Any person knowingly selling, exchanging, or leasing any dogs or cats for later retail sale or for brokered trading is a commercial breeding operation.

Section 8. That § 40-1-5 be amended to read as follows:

40-1-5. Any peace officer, agent of the board, or agent or officer of any humane society finding an animal inhumanely treated, as defined in § 40-1-2.4, shall, pursuant to a warrant or court order,

cause the animal to be impounded or otherwise properly cared for, and the expenses of such impoundment or care shall be a lien on the animal to be paid before the animal may be lawfully recovered. However, a warrant or court order is not necessary if the animal is severely injured, severely diseased, or suffering and any delay in impounding the animal would continue to cause the animal extreme suffering or if other exigent circumstances exist. If any animal is impounded or subjected to other action under this section without a warrant or court order, the officer or agent shall subsequently show cause for the impoundment or other action to the court, and the court shall issue an order ratifying the impoundment or action; or, if sufficient cause for the impoundment or action is not shown, the court shall order the return of the animal to the owner or other appropriate remedy.

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I certify that the attached Act
originated in the
HOUSE as Bill No. 1181

Chief Clerk
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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1181
File No. _____
Chapter No. _____

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Received at this Executive Office
this ____ day of _____ ,
20__ at _____ M.

By _____
for the Governor
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The attached Act is hereby
approved this _____ day of
_____, A.D., 20__

Governor

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STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20__
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State