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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF AGRICULTURE
AND RURAL DEVELOPMENT

JAMIE CLOVER ADAMS
DIRECTOR

Animal Care

Animal Industry Division Policy Effective January 19, 2016

Background

Since 1969, MDARD and county, city, and other municipal animal control agencies have relied on Public Act 224 of 1969, Use of Dogs and Cats for Research, MCL 287.388 *et seq.*, as authority to provide a humane death for a cat or dog without complying with mandatory hold times if compliance with the hold time would cause the animal to suffer.

MCL 287.388 Disposition of dogs or cats; time; notice; record; exceptions.

Sec. 8. A dealer, a county, city, village, or township operating a dog pound or animal shelter shall not sell or otherwise dispose of a dog or cat within 4 days after its acquisition. If the dog or cat has a collar, license, or other evidence of ownership, the operator of the pound or shelter shall notify the owner in writing and disposition of the animal shall not be made within 7 days from the date of mailing the notice. Each operator of a pound or shelter shall be required to maintain a record on each identifiable dog or cat acquired, indicating a basic description of the animal, the date it was acquired and under what circumstances. The record shall also indicate the date of notice sent to the owner of an animal and subsequent disposition.

This section does not apply to animals which are sick or injured to the extent that the holding period would cause undue suffering, or to animals whose owners request immediate disposal.

In 2014, an organization challenged MDARD's reliance on Public Act 224 to establish mandatory hold times for cats and dogs. The organization questioned whether the hold times found in Section 8 of Public Act 224 applied if an organization did not sell animals for research. As a result, MDARD reviewed the statutory language and explored various enforcement options. Through our exploration and discussion with lawyers and prosecuting attorneys, MDARD has determined we do not have authority to enforce Public Act 224. However, MDARD has relied on the broad application of Public Act 224 for the legal authority to allow euthanasia of animals which are sick or injured to the extent that the holding period would cause undue suffering. MDARD has developed this policy to address this issue.

Policy

1. MDARD expects that all animal control and animal protection shelters will seek the services of a veterinarian for treatment, or euthanasia whenever an animal, including a dog or cat, in their care, custody or control is sick, ill, or injured. If the veterinarian determines euthanasia is warranted for illness or injury, the shelter if licensed to use sodium pentobarbital with the Michigan Department of Licensing and Regulatory Affairs and at least one staff person meets the requirements as outlined in Public Health Code Act (MCL 333.7333), the shelter can conduct the euthanasia rather than the veterinarian.

2. MDARD expects that all animal control and animal protection shelters will maintain compliance with the veterinary care provisions of Regulation 151, Rule 36:
R 285.151.36 Veterinary services.
Rule 36. (1) The services of a licensed veterinarian shall be available, and his name shall appear on the application for license or registration. The director shall be promptly notified of any change of veterinary service.
(2) The licensee or registrant shall seek the services of this veterinarian whenever a health hazard arises.
3. MDARD will enforce Regulation 151 and may seek an administrative fine or misdemeanor charges for violations of the rule pursuant to Public Act 287, Pet Shops, Dog Pounds and Animal Shelters.
4. MDARD expects that all animal shelters and other individuals will provide adequate care as defined in the Michigan Penal Code, Public Act 328 of 1931, MCL 750.50:
"Adequate care" means the provision of sufficient food, water, shelter, sanitary conditions, exercise, and veterinary medical attention in order to maintain an animal in a state of good health.
"State of good health" means freedom from disease and illness, and in a condition of proper body weight and temperature for the age and species of the animal, unless the animal is undergoing appropriate treatment."
5. If euthanasia is performed, animals should be humanely euthanized in accordance with the American Veterinary Medical Association's *.Guidelines for the Euthanasia of Animals.*

 James Averill, DVM, PhD 1-19-16
Date
State Veterinarian and Division Director
Animal Industry Division