

Law and Suggested Approaches to Improving Captive Bird Welfare (as of 2017)

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I. CURRENT LAW (as of 2017)

Generally

The sale and possession of captive birds are regulated by a patchwork of federal and state laws.

A. Federal Laws

There are several federal laws which regulate captive birds: the Wild Bird Conservation Act, the Endangered Species Act, and the Lacey Act. However, these three laws primarily regulate the importation of birds into the United States and not the care and treatment.

Under the **Wild Bird Conservation Act** it is illegal to import into the United States exotic birds as pets. However persons returning to the United States after being out of the country for more than one year who bring personally owned birds with them may import no more than two exotic birds as pets per year.

Under the **Endangered Species Act** (ESA) it is illegal to possess, sell, or buy an endangered species regardless of whether it's over the internet or not, unless a person obtains a captive-bred wildlife permit. The ESA does not regulate private possession of birds, it merely allows the Fish and Wildlife Service to prosecute individuals who are in possession of endangered species illegally.

The **Lacey Act** allows the U.S. government to prosecute persons who possess of an animal illegally obtained in a foreign country or another state. Again, this Act does not regulate private possession of birds; it merely allows the Fish and Wildlife Service to prosecute individuals who have illegally obtained birds.

B. State Laws

Some protection for captive "pet" birds exists in state law. These protections appear in a variety of locations in state codes and regulations. Following is a summary of state laws that impact captive "pet" birds.

1. Possession

Exotic animal possession laws generally do not apply to birds commonly held as "pets" in the United States. However, some of the exotic animal possession laws do apply to the larger birds, "game" birds, and birds not commonly kept as pets which may present a public health or safety threat. Some examples of species covered by exotic possession laws are quails, eagles, hawks, owls, etc. There are too many species to list under each state -- see www.exotic-pets.org for more information.

States which prohibit private possession of specific bird species include:

- Alaska
- California
- Colorado
- Georgia
- Hawaii
- Kentucky
- New Hampshire
- Vermont
- Virginia

2. Pet stores

The following 17 states (and the District of Columbia) require that pet stores provide a defined level of humane care for animal, including birds, in their custody:

- California
- Colorado
- Connecticut
- District of Columbia
- Georgia
- Hawaii
- Illinois
- Iowa
- Kansas
- Maine
- Maryland
- Massachusetts
- Minnesota
- New Jersey
- Oregon
- Rhode Island
- Vermont
- Virginia

The humane care requirements designated by pet shop laws change with each state. Common requirements are sufficient wholesome food and water, and sanitized conditions. Less frequently, laws require that sick animals receive necessary veterinary care and provide

minimum housing requirements. Detailed information about each state's pet shop law is provided elsewhere.

Both Colorado and Massachusetts have specific language defining housing requirements for birds in laws regulating pet shops. Massachusetts law requires that enclosures used for birds in a pet shop allow the birds inside to fly, hop or otherwise move about, individually spread their wings and simultaneously and freely from obstruction perch in a normal position. Colorado law includes both space and density requirements. The pertinent parts of these laws are provided below.

3. Breeding/Dealing

The following 11 states have regulations that require a license or recordation to breed, import, export, sell or trade birds in the psittacene family:

- Colorado
- Delaware
- Florida
- Georgia
- Maryland
- Mississippi
- Missouri
- New Hampshire
- Pennsylvania
- Rhode Island
- Washington

These regulations are motivated predominantly by human health and safety concerns. Notably absent are laws which establish humane care standards applicable to bird breeders or dealers.

4. Animal Care Provisions

In addition to animal cruelty provisions, 6 states have statutes or regulations which establish minimum care standards for animals, including birds, kept in any situation whether commercial or a private home:

- Florida
- Hawaii
- Maine
- Oregon
- Virginia
- Washington

Although most of the states listed above establish standards of care specific to all animals, including birds, Minnesota has a statute which establishes standards specific to pet birds. This statute is unique ([see text below](#)).

In addition to animal care statutes some inhumane treatment of captive birds may be prohibited by each state's animal cruelty statutes. This information is contained on the animal cruelty summary for each state provided on the Born Free USA web site.

5. Transportation

Frequently states have laws that require humane treatment of animals during transportation. These standards are included in different code sections in different states, for example agriculture, consumer protection or animal welfare. A careful reading of each states provision would be necessary to establish whether the standards are applicable to captive birds.

Specific State Laws

The following statutory language illustrates the most comprehensive state law protections for captive birds kept as pets:

A. COLORADO:

Colorado law establishes extensive regulations regarding the care of animals in animals care facilities, including the following requirements which govern enclosures for birds.

8 CCR 1201-11

RULES AND REGULATIONS PERTAINING TO THE ADMINISTRATION AND ENFORCEMENT OF THE PET ANIMAL CARE AND FACILITIES ACT

b. bird Cages. Primary enclosures for birds (cages) shall be maintained in good repair and constructed of metal or other water resistant material which can be cleaned and sanitized.

(1) Minimum Space Requirements

(a) The cage must be large enough to provide full body extension without contact with the confines. The cage must be wide enough in at least one direction to accommodate completely stretched wings.

(b) A single well-placed perch may be adequate for Psittacines ie., the bird can stand completely upright on the perch without having the head contact the ceiling of the cage and at the same time not having the tail contact the floor or grate. For those species, such as Finches, Canaries, etc. that prefer flying or jumping to climbing, two perches, one at each end of the cage, must be provided. Perches must be strategically placed to prevent droppings from contaminating other birds and the birds' food and water and to also prevent the bird's tail from coming into contact with the food and water.

(c) Minimum space requirements for multiple birds housed temporarily depends on the calculated Housing Density Factor and the overall length of the bird as measured from the tip of the tail to the top of the head.

The following calculation will be used to determine the number of birds that can be housed in a given cage:

$L \times W \times H \div \text{Density Factor} = \text{total length of birds permitted.}$

$\text{Total length of birds permitted} \div \text{length of bird} = \text{number of birds allowed in that size cage}$

Housing Density Factor Table:

Species: Each bird's overall length (in.) Density Factor

Finch	3	60
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Parakeet	8	50
Cockatiel	9-12	60
Cockatiel-type	9-12 (heavier body)	75
Amazon	13-24	325
Cockatoo	25-35	800
Macaw	34-45	1400

Cage measurements are based on the actual living space and do not include T-stands or perches attached to the outside of the cage or the space below the cage grate.

(d) For birds housed over 60 days, the Density Factor should be doubled for birds 12 inches in overall length or less. For birds housed over 90 days, the Density Factor shall be doubled for birds 12 inches in overall length or less.

(e) All cage accessories (ladders, toys, perches, etc.) made of unsealed wood shall be cleaned daily and replaced as often as necessary to maintain sanitary conditions.

(f) For regulations pertaining to breeding birds see Section 13.00.

c. Outdoor Aviaries. The size, shape, and design of the cages shall be appropriate for the species being housed and shall allow space, without overcrowding, for the normal exercise requirements of each bird. Flight cages shall be constructed to prevent injury to birds. A covered portion of each cage shall be provided where birds can avoid direct sunlight or adverse weather conditions and commingling with noncaptive <animals>.

B. MASSACHUSETTS:

Pet shops must obtain a license annually (Mass. Ann. Ch 129, 39A).

All licensees are bound by Code of Massachusetts Regulations:

12.03: Facilities.

(1) General Facilities. All licensees shall:

(a) Maintain all buildings and premises in good repair and in a sanitary condition;

(b) Maintain and use equipment in a manner which ensures the proper storage or disposal of wastes or disease-contaminated material for the purpose of controlling vermin, insects, the spread of disease and obnoxious odors;

(c) Take effective control measures to prevent infestation of animals and premises with external parasites and vermin; and

(d) Provide and maintain artificial illumination in all areas and rooms in which animals are kept. The artificial illumination shall be well distributed and adequate to provide efficient inspection and cleaning of facilities, enclosures, cages and animals. All cages and enclosures in use shall be placed in a manner which protects the animals contained from excessive or stressful illumination.

(2) Quarantine/Isolation Rooms. All licensees shall:

(a) Provide a room to be used for the purposes of quarantining sick or diseased animals as required by 330 CMR 12.06(2) and (3) or isolating newly acquired dogs and cats as required by 330 CMR 12.07;

(b) Ensure that quarantined sick or diseased animals and isolated newly acquired dogs and cats are not maintained in the quarantine/isolation room simultaneously;

(c) Ensure that quarantine/isolation rooms in addition to complying with the requirements of 330 CMR 12.03(1) and (3) are:

1. Physically separated from rooms used to maintain other animals;
2. Completely enclosed by walls that extend from floor to ceiling;
3. Equipped with an exhaust fan that serves to efficiently remove air from the room to an area outside the building;
4. Equipped with a sink having hot and cold running water used exclusively for the cleaning and maintenance of the quarantine/isolation room, all equipment and utensils used therein, and animals housed within the room;
5. Not used to house or maintain other animals;
6. Thoroughly cleaned and disinfected after quarantined or isolated animals have been removed and prior to the placement of additional animals into the room; and
7. Not used for storage of food, containers, bowls, dishes, cages or other equipment that come in contact with other animals;

(d) Ensure that any person who feeds, waters, cleans, treats or handles quarantined or isolated animals or disease-contaminated equipment or material shall, before handling healthy animals or uncontaminated equipment or materials, thoroughly wash their hands with a disinfectant detergent. Contaminated outerwear shall be removed prior to handling healthy animals or uncontaminated equipment or material; and

(e) Ensure that any employee restroom or public access area is not used as a quarantine/isolation room.

(3) Animal Facilities. Any area where an animal is housed or maintained shall be:

(a) Cleaned and disinfected daily or more often if necessary to maintain a sanitary condition;

(b) Of adequate size and space to permit:

1. The animal(s) housed therein to stand, sit, lie down, turn around and make other normal postural adjustments without obstruction, interference or impediment by the presence of food and water bowls or cage mates; and

2. The bird(s) within to fly, hop or otherwise move about, individually spread their wings and simultaneously and freely from obstruction perch in a normal position;

(c) Appropriate to provide the ambient temperature required for the animal considering its species, health, and age;

(d) Constructed in accordance with the following provisions:

1. Any wall shall be impervious to moisture from the floor to a height of four feet;
2. The floor shall be impervious to moisture;
3. Any material used shall be resistant to rusting;
4. If the cage or enclosure has a wire floor, then the wire used shall be of adequate gauge to prevent sagging or injury to an animal's feet, and the mesh shall be small enough to prevent an animal's feet from falling through the bottom; and

(e) Designed to permit the unimpeded access of the animal(s) to clean, fresh food and water.

12.04: General Care of Animals

All licensees shall ensure that:

(1) Sufficient fresh food of a type consistent with the dietary requirements and age of the species is offered to each animal daily, or at intervals commonly appropriate to a species and age of the animal(s);

(2) Sufficient fresh and clean water is available to each animal at all times;

(3) Bowls, dishes and other containers used for the feeding and watering of animals are cleaned daily or more often if necessary to maintain them free from contamination of excrement or urine;

(4) The licensee or agent is present for general care and maintenance of the animals at least once daily;

(5) If animals are group housed, they are maintained in compatible groups without overcrowding;

(6) No female dog, cat or rabbit in season is maintained in a cage, run, pen or other enclosure with any male dog or cat, other than for breeding purposes;

(7) Food and water containers for birds are designed to permit easy access to the contents. These containers shall be either designed or located within the cage in a manner that serves to minimize their contamination from excrement; and

(8) The animals are kept clean and dry unless species-specific requirements dictate an aquatic or semiaquatic environment. Animals that fall within either of the latter two classifications shall be maintained in an environment that contains both aquatic and terrestrial features. Each feature shall be of sufficient size and space to permit the animal the option of submerging or soaking in clean water or remaining completely dry.

C. MINNESOTA:

Police Regulations CHAPTER 346 STRAY ANIMALS; COMPANION ANIMALS PET AND COMPANION ANIMAL WELFARE ACT

346.40 Pet birds

Subdivision 1. Food. Birds must be fed at least once each day except as otherwise required to provide adequate health care. The food must be wholesome, palatable, and of sufficient quantity and nutritive value to meet the normal daily requirements for the condition and size of the bird, and must be free from contamination.

Subd. 2. Water. Except for birds in shipment for less than four hours, all birds must be provided with clean, potable water in sufficient quantity to satisfy the bird's needs or supplied by free choice. Snow or ice is not an adequate water source.

Subd. 3. Transportation. Birds may be transported only in containers constructed of a smooth, durable material. Containers must:

- (a) be suitable for the species being shipped;
- (b) be constructed to prevent escape or chewing of the container by the bird that may be injurious to the health of the bird;
- (c) have ventilation on only one side to prevent cross drafts;
- (d) provide enough space for the bird to stand up, turn around, and obtain necessary food, water, and roosting space;
- (e) have fresh food and water available to the bird at all times if the shipping period exceeds four hours.

Subd. 4. Shelter or cage construction. A shelter or cage for a bird must be constructed of materials that are impervious to moisture and can be readily cleaned. Perches or other space must be provided to allow the bird to roost without physical harassment from other birds.

Subd. 5. Exercise. Room must be provided for a bird to obtain exercise to maintain itself in good health.

Subd. 6. Temperature. A confinement area must be maintained at a temperature suitable for the bird involved.

Subd. 7. Ventilation. A bird shelter or cage must provide ventilation with minimized drafts, odors, and moisture condensation.

Subd. 8. Lighting. Shelters or cages for birds must have at least eight hours of either natural or artificial light to allow for intake of food and water. Lighting must be of sufficient intensity and distribution to permit routine inspection and cleaning on a regular basis.

Subd. 9. Sanitation. Excreta must be removed from the bottom of a bird cage on a regular basis to prevent the contamination of the caged bird. The cage, perches, and food and water receptacles must be cleaned on a regular basis.

D. NEW JERSEY:

TITLE 7. DEPARTMENT OF ENVIRONMENTAL PROTECTION CHAPTER 25. DIVISION OF FISH AND WILDLIFE RULES SUBCHAPTER 4. ENDANGERED, NONGAME AND EXOTIC WILDLIFE

§ 7:25-4.2 Permit required

(a) Except as hereinafter provided, no person shall possess any nongame species or exotic species of any mammal, bird, reptile or amphibian unless such person has first received **both** the appropriate permit from the Department as listed in N.J.A.C. 7:25-4.6(a) as well as any other state, municipal, or Federal permits or licenses which may be required to possess such species. Any permit issued to an applicant by the Department for the possession of any animal shall not exempt that applicant from compliance with any other law of the State of New Jersey or any municipal or Federal law ...

§ 7:25-4.3 Exotic species and nongame species requiring a permit for possession

(a) Exotic species and nongame species requiring a permit for possession include, but are not limited to the following:

1. Birds:
 - i. Red-fronted parrot -- *Amazona viridigenalis*;
 - ii. Turquoise-fronted parrot -- *Amazona aestiva*;
 - iii. Yellow-cheeked parrot -- *Amazona a. autumnalis*;
 - iv. Half-moon conjure -- *Aratinga canicularis eburnirostrum*;
 - v. Jenday parrot -- *Aratinga jendays*;
 - vi. African gray parrot -- *Psittacus erithacus*;
 - vii. Macaws -- *Ara* spp. & *Anodorhynchus* spp. (Except endangered forms).

§ 7:25-4.4 Exempted species

(a) The following listed species of exotic or nongame mammals, birds, reptiles or amphibians may be possessed in this State without a permit.

1. Birds:
 - i. Budgerigar -- *Melopsittacus undulatus*;
 - ii. Cockatiel -- *Nymphicus hollandicus*;
 - iii. Peafowl -- *Pavo cristatus*;
 - iv. Rock dove -- *Columba livia*;
 - v. Canary -- *Serinus canaria*;
 - vi. House sparrow -- *Passer domesticus*;
 - vii. European starling -- *Sturnis vulgaris*;
 - viii. Zebra finch -- *Poephila guttatus*;
 - ix. Society finch -- *Lonchura domesticus*.

§ 7:25-4.5 Additional species

A permit shall be required for any other exotic mammals, birds, reptiles or amphibians or nongame species not specifically exempted by N.J.A.C. 7:25-4.4.

§ 7:25-4.6 Categories of permits, expiration, fees, sales receipts required, records and reports required

(a) The Division may issue, but shall not be limited to, the following categories of permits:

1. Individual hobby -- issued to persons holding exotic mammals, birds, reptiles or amphibians or nongame species for hobby purposes or as pets.
2. Scientific holding -- issued to qualified persons holding exotic mammals, birds, reptiles or amphibians or nongame species for scientific observation, captive breeding attempts and other scientific or educational study.
3. Zoological holding -- issued to private and public institutions which exhibit exotic mammals, birds, reptiles or amphibians or nongame species, including possession, importation, exportation and sale of species listed in the permit.
4. Pet shop -- issued to individuals and establishments engaged in the retail sale of exotic mammals, birds, reptiles or amphibians or nongame species, including importation, exportation and sale of species listed in the permit.
5. Animal Dealer -- issued to individuals and establishments engaged in the wholesale of exotic mammals, birds, reptiles or amphibians or nongame species, including importation, exportation and sale of species listed in the permit.
6. Animal Exhibitor -- issued to exhibitors of exotic mammals, birds, reptiles or amphibians or nongame species other than zoos. Traveling exhibits, small exhibitions not qualifying as zoos, and circuses are included, including importation, exportation, and sale of species listed in the permit.
7. Animal Theatrical Agencies -- issued to persons owning exotic mammals, birds, reptiles or amphibians or nongame species to be hired for advertising, acting or theatrical appearances, including importation, exportation and sale of species listed in the permit.
8. Scientific Collecting -- issued to persons to collect nongame species or escaped exotic mammals, birds, reptiles or amphibians for scientific studies or other approved purposes, when such activity is shown to have a beneficial effect on the conservation of the species, the public welfare or the environment.
9. Special Purpose Salvage -- issued to persons or institutions to salvage dead migratory birds or parts thereof for scientific or educational purposes.
10. Special Wildlife Salvage -- issued to persons or institutions to salvage dead nongame species or parts thereof, other than migratory birds, for scientific or educational purposes.
11. Endangered Species -- issued to persons or institutions for the possession of endangered species for conservation or research purposes.
12. Depredation Control -- issued to persons or establishments to control nongame species which are creating a hazard to public safety, crops, livestock or similar concerns.
13. Rehabilitation -- issued to persons to rescue, rehabilitate and release nongame and endangered birds.
14. Bird Breeder -- issued to persons meeting the regulatory criteria for possessing wild-caught bird species to acquire birds for use as new breeding stock to increase genetic variety (see N.J.A.C. 7:25-4.19). This permit does not authorize the resale of wild-caught birds acquired under this permit except with the permission of the Department to another

holder of a bird breeder permit. Those engaged in the retailing or wholesaling of birds must also have a pet shop or animal dealer permit.

(b) All possession permits shall expire on December 31 of the year of issue, unless otherwise indicated.

(c) The possession permits shall require an annual application and inspection fee as listed.

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(k) Pet shops or other establishments dealing in birds other than canary, budgerigar and cockatiel shall prominently display a sign visible to the public on the premises where such birds are offered for sale, which states: After December 10, 1991, only captive-bred birds or birds legally in possession pursuant to New Jersey regulations prior to December 10, 1991 may be offered for sale or purchased in New Jersey. All birds offered for sale except those exempted by New Jersey regulations, must also be marked with a band or micro-chip approved by the New Jersey Division of Fish and Wildlife. To report violations, or questions, call (908) 735-5450.

§ 7:25-4.7 General possession criteria

(a) Prior to the issuance of any permit permitted by these regulations, every applicant shall, on the forms provided by the Department, demonstrate that:

1. The animal will be fed an adequate diet; and
2. The animal is housed or caged in a manner that:
 - i. Allows the animal to perform the normal behavior patterns of its species; and
 - ii. Prevents disease, liberation or accidental injury to the animal and the public; and
3. The method of acquisition did not violate the laws and regulations of this State, any other state or the Federal Government; and
4. The animal shall receive prompt treatment for any illness or injury from a licensed veterinarian; and
5. The animal is free of infectious diseases and parasites which may be dangerous to the animal, livestock or people of the State, provided that the Division may request certification that the animal for which the permit is being sought is free from infectious diseases and parasites from a licensed New Jersey veterinarian or a person recognized as qualified to make such certification by the Director of the Division of Fish, Game and Shellfisheries.

E. OREGON:

Oregon Administrative Rules:

CHAPTER 603 DEPARTMENT OF AGRICULTURE
DIVISION 15 CARE OF PET AND CAPTIVE ANIMALS

603-015-0035 General Requirements

(1) Any person who is engaged in the business of a boarding kennel, commercial kennel, pet shop, animal pounds, animal shelters, or grooming parlors, shall comply with the provisions of OAR 603-015-0025 to 603-015-0060. All such provisions apply to such businesses and to the owners or operators thereof.

(2) An individual, family, or groups of associations who do not fall within the meaning and definition of a boarding kennel, commercial kennel, pet shop, animal pound, or animal shelter or grooming parlor, owner or operator, shall also reasonably comply with the provisions of OAR 603-015-0025 to 603-015-0060, in the handling, care, and keeping of pet animals under their ownership care, or custody.

603-015-0040 Facilities -- Indoors

(1) Structural strength of facilities for housing pet animals shall be sound, in good repair to prevent injuries, contain the animal, and prevent the entrance of other animals.

(2) Electric power and a potable water supply shall be available. Lighting, artificial and natural, shall be of good quality and well distributed.

(3) Isolation -- Facilities must be available for the isolation and treatment of pet animals suspected of harboring communicable diseases.

(4) Storage -- Facilities shall be provided for the storage of equipment and to protect food and bedding against vermin infestation and contamination.

(5) Waste Disposal: Provision for the removal and disposal of excreta, bedding, dead animals, shall be made. Disposal facilities shall be constructed and operated in such manner as to minimize disease hazards, offensive odors, and vermin infestation.

(6) Facilities for wash rooms: Basins and sinks shall be provided for cleanliness of caretakers, and sanitization of feeding utensils.

(7) Ventilation: Provisions and facilities for adequate ventilation to insure the exhausting of stale air, excess humidity, and kennel odors, shall be made and maintained. Temperatures of 70 degrees to 75 degrees F. are recommended within practical limits.

603-015-0045 Facilities -- Outdoors

Shall offer shade against sun, shelter against rain, snow, and wind; sufficient protection for pet animals against cold and inclement weather, and adequate drainage to eliminate excessive water in the runs. Adequate space should be allowed in outside houses and cages to permit the animal to stand, turn around, and lie down, without obstructing freedom of movement.

603-015-0050 Health and Husbandry Practices

(1) Pet animals shall be fed a food that is palatable, wholesome, and meets minimal daily nutritional requirements. Ground or kennel surface feeding is not permitted. Feed pans and receptacles shall be washed and sanitized after each feeding. Self feeders will be cleaned and sanitized as often as necessary to prevent molding or deterioration of the contents.

(2) Fresh potable water will be offered at least twice daily and more often if weather conditions warrant. More water is required in hot weather.

(3) Sanitation: Excreta will be removed from runs, cages, pens, daily and more often if necessary. Runs and enclosures will be sanitized once weekly by cleaning and using a safe and effective disinfectant and changing soil or litter as often as it becomes soiled. Premises will be kept clean and free from trash and facilities will be maintained in good order to prevent injury to animals and offer them proper protection against inclement weather.

(4) Sick animals. Pet animals that are quarantined or under treatment for communicable diseases shall be isolated in such place that healthy animals are not exposed.

(5) Importation: In accordance with OAR 603-011-0250 through 603-011-0382 and ORS 596.341 and other laws or regulations thereunder.

603-015-0055 Animals in Transit

(1) Pet animals when required to be shipped in crates shall be transported in crates constructed of a smooth, durable material which is easily cleaned and shall:

(a) Have a solid floor which may have a false bottom;

(b) Be so constructed as to provide maximum safety for the particular animal or animals being transported;

(c) Have openings on two sides to assure adequate ventilation;

(d) Crates shall be so constructed that food or water may be put through a small-type door without removing the animal from the crate in order that caretakers may feed and water when required;

(e) Care and feeding instructions should be written out by the shipper and attached to the crate. Other precautions in handling the animal should also be given in case it becomes necessary to move the animal from the crate.

(2) In all cases the crates shall be large enough to provide space for the pet animals to lie down in extended position and to allow ease of movement when standing or turning around. When the temperature is over 85 degrees F., increased space shall be provided to within reason.

(3) The crate shall be cleaned before use for each trip.

(4) Food and water containers shall be cleaned and sanitized before each trip.

(5) If bedding is used it shall be clean, dry, and dust free.

(6) The person or persons responsible for the welfare of the pet animal or animals while in transit shall:

(a) Offer the pet animal food at least once every 24 hours;

(b) Offer all pet animals water at 12 hour intervals at least, except that water shall be offered at four-hour intervals when the temperature reaches 90 degrees F. or above;

(c) Inspect each pet animal at four-hour intervals or oftener.

F. VIRGINIA:

TITLE 3.1. AGRICULTURE, HORTICULTURE AND FOOD CHAPTER 27.4. COMPREHENSIVE ANIMAL LAWS ARTICLE 1. GENERAL PROVISIONS

§ 3.1-796.66. Definitions

The following words as used in this chapter shall have the following meanings:

"Adequate care" or "care" means the responsible practice of good animal husbandry, handling, production, management, confinement, feeding, watering, protection, shelter, transportation, treatment, and, when necessary, euthanasia, appropriate for the age, species, condition, size and type of the animal and the provision of veterinary care when needed to prevent suffering or impairment of health.

"Adequate exercise" or "exercise" means the opportunity for the animal to move sufficiently to maintain normal muscle tone and mass for the age, species, size, and condition of the animal.

"Adequate feed" means access to and the provision of food which is of sufficient quantity and nutritive value to maintain each animal in good health; is accessible to each animal; is prepared so as to permit ease of consumption for the age, species, condition, size and type of each animal; is provided in a clean and sanitary manner; is placed so as to minimize contamination by excrement and pests; and is provided at suitable intervals for the species, age, and condition of the animal, but at least once daily, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species.

"Adequate shelter" means provision of and access to shelter that is suitable for the species, age, condition, size, and type of each animal; provides adequate space for each animal; is safe and protects each animal from injury, rain, sleet, snow, hail, direct sunlight, the adverse effects of heat or cold, physical suffering, and impairment of health; is properly lighted; is properly cleaned; enables each animal to be clean and dry, except when detrimental to the species; and, for dogs and cats, provides a solid surface, resting platform, pad, floormat, or similar device that is large enough for the animal to lie on in a normal manner and can be maintained in a sanitary manner. Under this chapter, shelters whose wire, grid, or slat floors (i) permit the animals' feet to pass through the openings, (ii) sag under the animals' weight, or (iii) otherwise do not protect the animals' feet or toes from injury are not adequate shelter.

"Adequate space" means sufficient space to allow each animal to (i) easily stand, sit, lie, turn about, and make all other normal body movements in a comfortable, normal position for the animal and (ii) interact safely with other animals in the enclosure. When an animal is tethered, "adequate space" means a tether that permits the above actions and is appropriate to the age and size of the animal; is attached to the animal by a properly applied collar, halter, or harness configured so as to protect the animal from injury and prevent the animal or tether from becoming entangled with other objects or animals, or from extending over an object or edge that

could result in the strangulation or injury of the animal; and is at least three times the length of the animal, as measured from the tip of its nose to the base of its tail, except when the animal is being walked on a leash or is attached by a tether to a lead line. When freedom of movement would endanger the animal, temporarily and appropriately restricting movement of the animal according to professionally accepted standards for the species is considered provision of adequate space.

"Adequate water" means provision of and access to clean, fresh, potable water of a drinkable temperature which is provided in a suitable manner, in sufficient volume, and at suitable intervals, but at least once every twelve hours, to maintain normal hydration for the age, species, condition, size and type of each animal, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species; and is provided in clean, durable receptacles which are accessible to each animal and are placed so as to minimize contamination of the water by excrement and pests or an alternative source of hydration consistent with generally accepted husbandry practices.

"Ambient temperature" means the temperature surrounding the animal.

"Animal" means any nonhuman vertebrate species except fish. For the purposes of § 3.1-796.98, animal means any species susceptible to rabies. For the purposes of § 3.1-796.122, animal means any nonhuman vertebrate species including fish except those fish captured and killed or disposed of in a reasonable and customary manner.

"Animal shelter" means a facility which is used to house or contain animals and which is owned, operated, or maintained by a duly incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, animal rescue group, or any other organization devoted to the welfare, protection, and humane treatment of animals.

"Companion animal" means any domestic or feral dog, domestic or feral cat, non-human primate, guinea pig, hamster, rabbit not raised for human food or fiber, exotic or native animal, reptile, exotic or native bird, or any feral animal or any animal under the care, custody, or ownership of a person or any animal which is bought, sold, traded, or bartered by any person. Agricultural animals, game species, or any animals regulated under federal law as research animals shall not be considered companion animals for the purposes of this chapter.

"Consumer" means any natural person purchasing an animal from a dealer or pet shop or hiring the services of a boarding establishment. The term "consumer" shall not include a business or corporation engaged in sales or services.

"Dealer" means any person who in the regular course of business for compensation or profit buys, sells, transfers, exchanges, or barter companion animals. Any person who transports companion animals in the regular course of business as a common carrier shall not be considered a dealer.

"Direct and immediate threat" means any clear and imminent danger to an animal's health, safety or life.

"Emergency veterinary treatment" means veterinary treatment to stabilize a life-threatening condition, alleviate suffering, prevent further disease transmission, or prevent further disease progression.

"Enclosure" means a structure used to house or restrict animals from running at large.

"Housing facility" means any room, building, or area used to contain a primary enclosure or enclosures.

"Humane" means any action taken in consideration of and with the intent to provide for the animal's health and well-being.

"Owner" means any person who: (i) has a right of property in an animal, (ii) keeps or harbors an animal, (iii) has an animal in his care, or (iv) acts as a custodian of an animal.

"Pet shop" means an establishment where companion animals are bought, sold, exchanged, or offered for sale or exchange to the general public.

"Primary enclosure" means any structure used to immediately restrict an animal or animals to a limited amount of space, such as a room, pen, cage, compartment, or hutch. For tethered animals, the term includes the shelter and the area within reach of the tether.

"Properly cleaned" means that carcasses, debris, food waste and excrement are removed from the primary enclosure with sufficient frequency to minimize the animals' contact with the above-mentioned contaminants; the primary enclosure is sanitized with sufficient frequency to minimize odors and the hazards of disease; and the primary enclosure is cleaned so as to prevent the animals confined therein from being directly or indirectly sprayed with the stream of water, or directly or indirectly exposed to hazardous chemicals or disinfectants.

"Properly lighted" means sufficient illumination to permit routine inspections, maintenance, cleaning, and housekeeping of the housing facility, and observation of the animal; to provide regular diurnal lighting cycles of either natural or artificial light, uniformly diffused throughout the animal facilities; and to promote the well-being of the animals.

"Sanitize" means to make physically clean and to remove and destroy, to a practical minimum, agents injurious to health.

"State Veterinarian" means the veterinarian employed by the Commissioner of Agriculture and Consumer Services as provided in § 3.1-723.

"State Veterinarian's representative" means an employee of the Department of Agriculture and Consumer Services who is under the direction of the State Veterinarian.

"Treatment" or "adequate treatment" means the responsible handling or transportation of animals in the person's ownership, custody or charge, appropriate for the age, species, condition, size and type of the animal.

§ 3.1-796.67:2. State Veterinarian's power to inspect premises where animals are kept

The State Veterinarian and each State Veterinarian's representative shall have the power to conduct inspections of animal shelters and inspect any business premises where animals are housed or kept, including any boarding establishment, kennel, pet shop, pound, or the business premises of any dealer, exhibitor or groomer, at any reasonable time, for the purposes of

determining if a violation of (i) this chapter; (ii) any other state law governing the care, control or protection of animals; or (iii) any other state law governing property rights in animals has occurred.

§ 3.1-796.68. Care of animals by owner; penalty

A. Each owner shall provide for each of his companion animals:

1. Adequate feed;
2. Adequate water;
3. Adequate shelter that is properly cleaned;
4. Adequate space in the primary enclosure for the particular type of animal depending upon its age, size, species, and weight;
5. Adequate exercise;
6. Adequate care, treatment, and transportation; and
7. Veterinary care when needed or to prevent suffering or disease transmission.

The provisions of this section shall also apply to every animal shelter, pound, dealer, pet shop, exhibitor, kennel, groomer, and boarding establishment

Concerns arising from current law

Many laws which are designed as animal protective measures provide that animals confiscated because of inhumane treatment can be euthanized.

e.g.

Virginia Code § 3.1-796.71. Failure of dealer or pet shop to provide adequate care, etc.; penalty

Any dealer or pet shop that fails to adequately house, feed, water, exercise or care for animals in his or its possession or custody as provided for under this chapter shall be guilty of a Class 3 misdemeanor. Such animals shall be subject to seizure and impoundment, and upon conviction of such person the animals may be sold, euthanized, or disposed of ...

Although euthanasia is sometimes the appropriate option when animals are ill, injured or dangerous euthanasia should be legislatively framed as the last resort.

II. POTENTIAL AVENUES FOR PROMOTING THE WELFARE OF CAPTIVE BIRDS

- Enact laws which require humane care of animals in pet shops.
- Ensure that existing pet shop laws include birds as protected animals.
- Ensure that pet shop laws are comprehensive and include provisions requiring: sufficient wholesome food, sufficient potable water, adequate space, ventilation, temperature control, enough hours of light to enable normal animal behavior, humane housing and handling, and veterinary care.
- Prohibit any animal dealer from selling unweaned animals -- including specific language that prohibits the sale of unweaned birds. Define "unweaned bird" to include any bird

that has not become accustomed to taking solid food and has done so, without nursing, for a period of at least five days.

- Extend laws which apply to pet shops to all bird breeders and dealers.
- Require a license for the possession of exotic birds. Empower animal control officers to inspect licensed premises to ensure that birds are kept in legislatively defined humane conditions.
- Change laws which give authority to euthanize animals which are confiscated from noncompliant parties. Provide instead that wherever possible animals should be surrendered to a sanctuary, humane society or some other organization equipped to house or find homes for confiscated animals.
- Devise model language relating to care, housing, and treatment of birds, which possessors must comply with and introduce the bill as an amendment to the state's animal cruelty statute (assuming of course that the state's animal cruelty statute covers birds).