

SENATE, No. 1396

STATE OF NEW JERSEY
213th LEGISLATURE

INTRODUCED MARCH 3, 2008

Sponsored by:

Senator JEFF VAN DREW

District 1 (Cape May, Atlantic and Cumberland)

SYNOPSIS

Clarifies failure to provide minimum care to an animal constitutes animal cruelty.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning animal cruelty and amending R.S.4:22-15,
2 R.S.4:22-17, and R.S.4:22-26.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. R.S.4:22-15 is amended to read as follows:

8 4:22-15. As used in this article:

9 "Animal" or "creature" includes the whole brute creation.

10 "Minimum care" means care sufficient to preserve the health and
11 well-being of an animal and, except for emergencies or
12 circumstances beyond the reasonable control of the person
13 responsible for the care of the animal, providing the following: (1)
14 food of sufficient quantity and quality to allow for normal growth
15 or maintenance of body weight; (2) open or adequate access to
16 drinkable water of an appropriate temperature in sufficient quantity
17 to satisfy the needs of the animal; (3) access to an enclosed non-
18 hazardous structure sufficient to protect the animal from the
19 weather that has adequate bedding to protect against cold and
20 dampness; (4) adequate protection from extreme or excessive
21 sunlight and from overexposure to the sun, heat and other weather
22 conditions; (5) veterinary care deemed necessary by a reasonably
23 prudent person to prevent or relieve injury, neglect or disease, or
24 distress from these conditions; and (6) reasonable access to a clean
25 and adequate exercise area.

26 "Owner" or "person" includes a corporation, and the knowledge
27 and acts of an agent or employee of a corporation in regard to
28 animals transported, owned, employed or in the custody of the
29 corporation shall be imputed to the corporation.

30 (cf: R.S.4:22-15)

31

32 2. R.S.4:22-17 is amended to read as follows:

33 4:22-17. a. A person who shall:

34 (1) Overdrive, overload, drive when overloaded, overwork,
35 deprive of necessary sustenance or minimum care , abuse, or
36 needlessly kill a living animal or creature;

37 (2) Cause or procure, by any direct or indirect means, including
38 but not limited to through the use of another living animal or
39 creature, any such acts to be done; or

40 (3) Inflict unnecessary cruelty upon a living animal or creature,
41 by any direct or indirect means, including but not limited to through
42 the use of another living animal or creature; or unnecessarily fail to
43 provide a living animal or creature of which the person has charge
44 either as an owner or otherwise with proper food, drink, shelter or
45 protection from the weather; or leave it unattended in a vehicle

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 under inhumane conditions adverse to the health or welfare of the
2 living animal or creature--

3 Shall be guilty of a disorderly persons offense, and
4 notwithstanding the provisions of N.J.S.2C:43-3 to the contrary, for
5 every such offense shall be fined not less than \$250 nor more than
6 \$1,000, or be imprisoned for a term of not more than six months, or
7 both, in the discretion of the court. A violator of this subsection
8 shall also be subject to the provisions of subsection c. and, if
9 appropriate, subsection d. of this section.

10 b. A person who shall purposely, knowingly, or recklessly:

11 (1) Torment, torture, maim, hang, poison, unnecessarily or
12 cruelly beat, or needlessly mutilate a living animal or creature; or

13 (2) Cause or procure, by any direct or indirect means, including
14 but not limited to through the use of another living animal or
15 creature, any such acts to be done --

16 Shall be guilty of a crime of the fourth degree.

17 If the animal or creature is cruelly killed or dies as a result of a
18 violation of this subsection, or the person has a prior conviction for
19 a violation of this subsection, the person shall be guilty of a crime
20 of the third degree.

21 A violator of this subsection shall also be subject to the
22 provisions of subsection c. and, if appropriate, subsection d. of this
23 section.

24 c. For a violation of subsection a. or b. of this section, in
25 addition to imposing any other appropriate penalties established for
26 a crime of the third degree, crime of the fourth degree, or
27 disorderly persons offense, as the case may be, pursuant to Title 2C
28 of the New Jersey Statutes, the court shall impose a term of
29 community service of up to 30 days, and may direct that the term of
30 community service be served in providing assistance to the New
31 Jersey Society for the Prevention of Cruelty to Animals, a district
32 (county) society for the prevention of cruelty to animals, or any
33 other recognized organization concerned with the prevention of
34 cruelty to animals or the humane treatment and care of animals, or
35 to a municipality's animal control or animal population control
36 program. The court also may require the violator to pay restitution
37 or otherwise reimburse any costs for food, drink, shelter, or
38 veterinary care or treatment, or other costs, incurred by any agency,
39 entity, or organization investigating the violation, including but not
40 limited to the New Jersey Society for the Prevention of Cruelty to
41 Animals, a district (county) society for the prevention of cruelty to
42 animals, any other recognized organization concerned with the
43 prevention of cruelty to animals or the humane treatment and care
44 of animals, or a local or State governmental entity.

45 d. If a juvenile is adjudicated delinquent for an act which, if
46 committed by an adult, would constitute a disorderly persons
47 offense pursuant to subsection a. of this section or a crime of the
48 third degree or crime of the fourth degree pursuant to subsection b.

1 of this section, the court also shall order the juvenile to receive
2 mental health counseling by a licensed psychologist or therapist
3 named by the court for a period of time to be prescribed by the
4 licensed psychologist or therapist.

5 (cf: P.L. 2005, c.105, s.1)

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7 3. R.S.4:22-26 is amended to read as follows:

8 4:22-26. A person who shall:

9 a. (1) Overdrive, overload, drive when overloaded, overwork,
10 deprive of necessary sustenance or minimum care, abuse, or
11 needlessly kill a living animal or creature, or cause or procure, by
12 any direct or indirect means, including but not limited to through
13 the use of another living animal or creature, any such acts to be
14 done;

15 (2) Torment, torture, maim, hang, poison, unnecessarily or
16 cruelly beat, or needlessly mutilate a living animal or creature, or
17 cause or procure, by any direct or indirect means, including but not
18 limited to through the use of another living animal or creature, any
19 such acts to be done;

20 (3) Cruelly kill, or cause or procure, by any direct or indirect
21 means, including but not limited to through the use of another living
22 animal or creature, the cruel killing of, a living animal or creature,
23 or otherwise cause or procure, by any direct or indirect means,
24 including but not limited to through the use of another living animal
25 or creature, the death of a living animal or creature from
26 commission of any act described in paragraph (2) of this subsection;

27 b. (Deleted by amendment, P.L.2003, c.232).

28 c. Inflict unnecessary cruelty upon a living animal or creature,
29 by any direct or indirect means, including but not limited to through
30 the use of another living animal or creature; or unnecessarily fail to
31 provide a living animal or creature of which the person has charge
32 either as an owner or otherwise with proper food, drink, shelter or
33 protection from the weather; or leave it unattended in a vehicle
34 under inhumane conditions adverse to the health or welfare of the
35 living animal or creature;

36 d. Receive or offer for sale a horse that is suffering from abuse
37 or neglect, or which by reason of disability, disease, abuse or
38 lameness, or any other cause, could not be worked, ridden or
39 otherwise used for show, exhibition or recreational purposes, or
40 kept as a domestic pet without violating the provisions of this
41 article;

42 e. Keep, use, be connected with or interested in the
43 management of, or receive money or other consideration for the
44 admission of a person to, a place kept or used for the purpose of
45 fighting or baiting a living animal or creature;

46 f. Be present and witness, pay admission to, encourage, aid or
47 assist in an activity enumerated in subsection e. of this section;

- 1 g. Permit or suffer a place owned or controlled by him to be
2 used as provided in subsection e. of this section;
- 3 h. Carry, or cause to be carried, a living animal or creature in
4 or upon a vehicle or otherwise, in a cruel or inhumane manner;
- 5 i. Use a dog or dogs for the purpose of drawing or helping to
6 draw a vehicle for business purposes;
- 7 j. Impound or confine or cause to be impounded or confined in
8 a pound or other place a living animal or creature, and shall fail to
9 supply it during such confinement with a sufficient quantity of good
10 and wholesome food and water;
- 11 k. Abandon a maimed, sick, infirm or disabled animal or
12 creature to die in a public place;
- 13 l. Willfully sell, or offer to sell, use, expose, or cause or permit
14 to be sold or offered for sale, used or exposed, a horse or other
15 animal having the disease known as glanders or farcy, or other
16 contagious or infectious disease dangerous to the health or life of
17 human beings or animals, or who shall, when any such disease is
18 beyond recovery, refuse, upon demand, to deprive the animal of
19 life;
- 20 m. Own, operate, manage or conduct a roadside stand or market
21 for the sale of merchandise along a public street or highway; or a
22 shopping mall, or a part of the premises thereof; and keep a living
23 animal or creature confined, or allowed to roam in an area whether
24 or not the area is enclosed, on these premises as an exhibit; except
25 that this subsection shall not be applicable to: a pet shop licensed
26 pursuant to P.L.1941, c.151 (C.4:19-15.1 et seq.); a person who
27 keeps an animal, in a humane manner, for the purpose of the
28 protection of the premises; or a recognized breeders' association, a
29 4-H club, an educational agricultural program, an equestrian team, a
30 humane society or other similar charitable or nonprofit organization
31 conducting an exhibition, show or performance;
- 32 n. Keep or exhibit a wild animal at a roadside stand or market
33 located along a public street or highway of this State; a gasoline
34 station; or a shopping mall, or a part of the premises thereof;
- 35 o. Sell, offer for sale, barter or give away or display live baby
36 chicks, ducklings or other fowl or rabbits, turtles or chameleons
37 which have been dyed or artificially colored or otherwise treated so
38 as to impart to them an artificial color;
- 39 p. Use any animal, reptile, or fowl for the purpose of soliciting
40 any alms, collections, contributions, subscriptions, donations, or
41 payment of money except in connection with exhibitions, shows or
42 performances conducted in a bona fide manner by recognized
43 breeders' associations, 4-H clubs or other similar bona fide
44 organizations;
- 45 q. Sell or offer for sale, barter, or give away living rabbits,
46 turtles, baby chicks, ducklings or other fowl under two months of
47 age, for use as household or domestic pets;

- 1 r. Sell, offer for sale, barter or give away living baby chicks,
2 ducklings or other fowl, or rabbits, turtles or chameleons under two
3 months of age for any purpose not prohibited by subsection q. of
4 this section and who shall fail to provide proper facilities for the
5 care of such animals;
- 6 s. Artificially mark sheep or cattle, or cause them to be
7 marked, by cropping or cutting off both ears, cropping or cutting
8 either ear more than one inch from the tip end thereof, or half
9 cropping or cutting both ears or either ear more than one inch from
10 the tip end thereof, or who shall have or keep in the person's
11 possession sheep or cattle, which the person claims to own, marked
12 contrary to this subsection unless they were bought in market or of
13 a stranger;
- 14 t. Abandon a domesticated animal;
- 15 u. For amusement or gain, cause, allow, or permit the fighting
16 or baiting of a living animal or creature;
- 17 v. Own, possess, keep, train, promote, purchase, or knowingly
18 sell a living animal or creature for the purpose of fighting or baiting
19 that animal or creature;
- 20 w. Gamble on the outcome of a fight involving a living animal
21 or creature;
- 22 x. Knowingly sell or barter or offer for sale or barter, at
23 wholesale or retail, the fur or hair of a domestic dog or cat or any
24 product made in whole or in part from the fur or hair of a domestic
25 dog or cat, unless such fur or hair for sale or barter is from a
26 commercial grooming establishment or a veterinary office or clinic
27 or is for use for scientific research;
- 28 y. Knowingly sell or barter or offer for sale or barter, at
29 wholesale or retail, for human consumption, the flesh of a domestic
30 dog or cat or any product made in whole or in part from the flesh of
31 a domestic dog or cat;
- 32 z. Surgically debark or silence a dog in violation of section 1
33 or 2 of P.L.2002, c.102 (C.4:19-38 or C.4:19-39);
- 34 aa. Use a live pigeon, fowl or other bird for the purpose of a
35 target, or to be shot at either for amusement or as a test of skill in
36 marksmanship, except that this subsection and subsections bb. and
37 cc. shall not apply to the shooting of game;
- 38 bb. Shoot at a bird used as described in subsection aa. of this
39 section, or is a party to such shooting; or
- 40 cc. Lease a building, room, field or premises, or knowingly
41 permit the use thereof for the purposes of subsection aa. or bb. of
42 this section --
- 43 Shall forfeit and pay a sum according to the following schedule,
44 to be sued for and recovered, with costs, in a civil action by any
45 person in the name of the New Jersey Society for the Prevention of
46 Cruelty to Animals or a county society for the prevention of cruelty
47 to animals, as appropriate, or, in the name of the municipality if

1 brought by a certified animal control officer or animal cruelty
2 investigator:

3 For a violation of subsection e., f., g., u., v., w., or z. of this
4 section or of paragraph (3) of subsection a. of this section, or for a
5 second or subsequent violation of paragraph (2) of subsection a. of
6 this section, a sum of not less than \$3,000 nor more than \$5,000;

7 For a violation of subsection l. of this section or for a first
8 violation of paragraph (2) of subsection a. of this section, a sum of
9 not less than \$1,000 nor more than \$3,000;

10 For a violation of subsection x. or y. of this section, a sum of not
11 less than \$500 nor more than \$1,000 for each domestic dog or cat
12 fur or fur or hair product or domestic dog or cat carcass or meat
13 product;

14 For a violation of subsection t. of this section, a sum of not less
15 than \$500 nor more than \$1,000, but if the violation occurs on or
16 near a highway, a mandatory sum of \$1,000;

17 For a violation of subsection c., d., h., j., k., aa., bb., or cc. of this
18 section or of paragraph (1) of subsection a. of this section, a sum of
19 not less than \$250 nor more than \$1,000; and

20 For a violation of subsection i., m., n., o., p., q., r., or s. of this
21 section, a sum of not less than \$250 nor more than \$500.

22 (cf: P.L.2005, c.372, s.16)

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24 4. This act shall take effect immediately.

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STATEMENT

28

29 This bill amends current animal cruelty law to clarify that failure
30 to provide minimum care, as defined by the bill, is a criminal
31 offense and a civil offense under the State animal cruelty laws.
32 Minimum care is defined by the bill as care sufficient to preserve
33 the health and well-being of an animal and, except for emergencies
34 or circumstances beyond the reasonable control of the person
35 responsible for the care of the animal, providing the following: (1)
36 food of sufficient quantity and quality to allow for normal growth
37 or maintenance of body weight; (2) open or adequate access to
38 drinkable water of an appropriate temperature in sufficient quantity
39 to satisfy the needs of the animal; (3) access to an enclosed non-
40 hazardous structure sufficient to protect the animal from the
41 weather that has adequate bedding to protect against cold and
42 dampness; (4) adequate protection from extreme or excessive
43 sunlight and from overexposure to the sun, heat and other weather
44 conditions; (5) veterinary care deemed necessary by a reasonably
45 prudent person to prevent or relieve injury, neglect or disease, or
46 distress from these conditions; and (6) reasonable access to a clean
47 and adequate exercise area.