

ASSEMBLY, No. 3752

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED APRIL 5, 2018

Sponsored by:

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

Assemblyman REED GUSCIORA

District 15 (Hunterdon and Mercer)

SYNOPSIS

Establishes animal cruelty offense of cruel confinement of a gestating pig.

CURRENT VERSION OF TEXT

As introduced.



A3752 MUKHERJI, GUSCIORA

2

1 AN ACT concerning cruel confinement of gestating sows, and
2 amending and supplementing Title 4 of the Revised Statutes.

3

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

6

7 1. (New section) a. For the purposes of this section:

8 “Crate” means to enclose, or restrict the movement of, a
9 gestating sow by using a box, cage, crate, enclosure, or enclosing
10 device, including devices commonly referred to as gestation crates;
11 or the box, cage, crate, enclosure, or other enclosing device,
12 including a gestation crate, that is used to enclose, or restrict the
13 movement of, a gestating sow.

14 “Farm” means the land and the buildings, support facilities, and
15 equipment thereon, that are wholly or partially used for the
16 commercial production of animals or animal products used for food,
17 fiber, or other goods and services. “Farm” shall not include live
18 animal markets at which live animals are bought and sold in the
19 absence of any breeding operations.

20 “Farrowing crate” means an enclosure or enclosing device
21 commonly used with gestating sows to protect piglets from injury
22 during the birthing process and afterwards while nursing.

23 “Fully extend its limbs” means to lift, stretch, or otherwise move
24 the legs or tail of an animal by the animal, to the fullest extent
25 possible for the animal, without impediment and touching the side
26 or wall of a crate.

27 “Gestating sow” means a pregnant domesticated pig that is kept
28 on a farm for breeding.

29 “Owner or operator” means the person who owns a farm or
30 controls the operations of a farm in a management capacity, but
31 shall not include a non-management employee or a contractor or
32 consultant.

33 “Person” means any individual, firm, partnership, joint venture,
34 association, limited liability company, corporation, estate, trust,
35 receiver or syndicate.

36 “Turn around freely” means to be able to turn in a complete
37 circle without any impediment, including a tether, and without
38 touching the side or wall of a crate.

39 b. Notwithstanding the provisions of section 1 of P.L.1995,
40 c.311 (C.4:22-16.1), or any rules, regulations or standards adopted
41 pursuant thereto, to the contrary and except for the use of farrowing
42 crates as provided in subsection g. of this section, a person who, as
43 the owner or operator of a farm, personally and directly, or
44 indirectly through directions or instructions given to a contractor,
45 consultant or employee of the owner or operator of the farm, crates,

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 confines, or tethers a gestating sow kept on the farm in a manner
2 that prevents the animal from being able to turn around freely, lie
3 down, stand up, or fully extend its limbs shall be guilty of the
4 offense of cruel confinement of a gestating sow. No contractor,
5 consultant or employee of the owner or operator or the farm shall be
6 guilty of the offense of cruel confinement of a gestating sow.

7 c. Cruel confinement of a gestating sow is a disorderly persons
8 offense. Any person found guilty of this offense, in addition to any
9 other penalties applicable pursuant to Title 2C of the New Jersey
10 Statutes, shall be subject to a fine of not less than \$250 nor more
11 than \$1,000 for each offense, or imprisonment for a term of not
12 more than six months, or both. Each gestating sow that is subjected
13 to cruel confinement shall constitute a separate and distinct offense.

14 d. Cruel confinement of a gestating sow shall not include
15 confinement for:

16 (1) medical research;

17 (2) veterinary examination, testing, individual treatment, an
18 operation, or other veterinary procedures;

19 (3) transportation of the animal;

20 (4) an exhibition or educational program, including, but not
21 necessarily limited to, a 4-H program, county or State fair, or rodeo;

22 (5) animal husbandry purposes, provided the confinement is
23 temporary and for no more than eight hours in any 24-hour period;

24 (6) humane slaughtering of the animal in accordance with all
25 applicable laws, and rules and regulations adopted pursuant thereto,
26 concerning the slaughter of animals; and

27 (7) proper care of the gestating sow during the 10-day period
28 prior to the expected date of the gestating sow giving birth.

29 e. Nothing in this section may be construed to supersede or
30 limit the applicability of any other local, federal, or State law, rule,
31 or regulation protecting animal welfare, or to prevent any governing
32 body of a county or municipality from adopting or enacting any
33 ordinances, resolutions, rules or regulations concerning the
34 protection and welfare of animals that are more stringent than State
35 or federal law.

36 f. It is not an affirmative defense to an alleged violation of this
37 section that the gestating sow is domestic livestock, or was kept as
38 part of an agricultural operation or in accordance with customary
39 animal husbandry or farming practices.

40 g. The use of a farrowing crate is exempt from the provisions
41 of this section, and shall not be construed to be a violation of
42 subsection b. of this section.

43

44 2. R.S.4:22-26 is amended to read as follows:

45 4:22-26. A person who shall:

46 a. (1) Overdrive, overload, drive when overloaded,
47 overwork, abuse, or needlessly kill a living animal or creature, or
48 cause or procure, by any direct or indirect means, including but not

- 1 limited to through the use of another living animal or creature, any
2 such acts to be done;
- 3 (2) Torment, torture, maim, hang, poison, unnecessarily or
4 cruelly beat, cruelly abuse, or needlessly mutilate a living animal or
5 creature, or cause or procure, by any direct or indirect means,
6 including but not limited to through the use of another living animal
7 or creature, any such acts to be done;
- 8 (3) Cause the death of, or serious bodily injury to, a living
9 animal or creature from commission of any act described in
10 paragraph (2), (4), or (5) of this subsection, by any direct or indirect
11 means, including but not limited to through the use of another living
12 animal or creature, or otherwise cause or procure any such acts to
13 be done;
- 14 (4) Fail, as the owner or a person otherwise charged with the
15 care of a living animal or creature, to provide the living animal or
16 creature with necessary care, or otherwise cause or procure such an
17 act to be done; or
- 18 (5) Cause bodily injury to a living animal or creature from
19 commission of the act described in paragraph (4) of this subsection;
- 20 b. (Deleted by amendment, P.L.2003, c.232)
- 21 c. Inflict unnecessary cruelty upon a living animal or creature,
22 by any direct or indirect means, including but not limited to through
23 the use of another living animal or creature; or leave the living
24 animal or creature unattended in a vehicle under inhumane
25 conditions adverse to the health or welfare of the living animal or
26 creature;
- 27 d. Receive or offer for sale a horse that is suffering from abuse
28 or neglect, or which by reason of disability, disease, abuse or
29 lameness, or any other cause, could not be worked, ridden or
30 otherwise used for show, exhibition or recreational purposes, or
31 kept as a domestic pet without violating the provisions of article 2
32 of chapter 22 of Title 4 of the Revised Statutes;
- 33 e. Keep, use, be connected with or interested in the
34 management of, or receive money or other consideration for the
35 admission of a person to, a place kept or used for the purpose of
36 fighting or baiting a living animal or creature;
- 37 f. Be present and witness, pay admission to, encourage, aid or
38 assist in an activity enumerated in subsection e. of this section;
- 39 g. Permit or suffer a place owned or controlled by **[him]** the
40 person to be used as provided in subsection e. of this section;
- 41 h. Carry, or cause to be carried, a living animal or creature in
42 or upon a vehicle or otherwise, in a cruel or inhumane manner;
- 43 i. Use a dog or dogs for the purpose of drawing or helping to
44 draw a vehicle for business purposes;
- 45 j. Impound or confine or cause to be impounded or confined in
46 a pound or other place a living animal or creature, and shall fail to

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

- 1 the tip end thereof, or who shall have or keep in the person's
2 possession sheep or cattle, which the person claims to own, marked
3 contrary to this subsection unless they were bought in market or of
4 a stranger;
- 5 t. Abandon a domesticated animal;
- 6 u. For amusement or gain, cause, allow, or permit the fighting
7 or baiting of a living animal or creature;
- 8 v. Own, possess, keep, train, promote, purchase, or knowingly
9 sell a living animal or creature for the purpose of fighting or baiting
10 that animal or creature;
- 11 w. Gamble on the outcome of a fight involving a living animal
12 or creature;
- 13 x. Knowingly sell or barter or offer for sale or barter, at
14 wholesale or retail, the fur or hair of a domestic dog or cat or any
15 product made in whole or in part from the fur or hair of a domestic
16 dog or cat, unless such fur or hair for sale or barter is from a
17 commercial grooming establishment or a veterinary office or clinic
18 or is for use for scientific research;
- 19 y. (1) Knowingly sell or barter, or offer for sale or barter, at
20 wholesale or retail, for human consumption, the flesh of a domestic
21 dog or cat, or any product made in whole or in part from the flesh of
22 a domestic dog or cat;
- 23 (2) Knowingly slaughter a horse for human consumption;
- 24 (3) Knowingly sell or barter, or offer for sale or barter, at
25 wholesale or retail, for human consumption, the flesh of a horse, or
26 any product made in whole or in part from the flesh of a horse, or
27 knowingly accept or publish newspaper advertising that includes the
28 offering for sale, trade, or distribution of any such item for human
29 consumption;
- 30 (4) Knowingly transport a horse for the purpose of slaughter for
31 human consumption;
- 32 (5) Knowingly transport horsemeat, or any product made in
33 whole or in part from the flesh of a horse, for the purpose of human
34 consumption;
- 35 z. Surgically debark or silence a dog in violation of section 1
36 or 2 of P.L.2002, c.102 (C.4:19-38 or C.4:19-39);
- 37 aa. Use a live pigeon, fowl or other bird for the purpose of a
38 target, or to be shot at either for amusement or as a test of skill in
39 marksmanship, except that this subsection and subsections bb. and
40 cc. shall not apply to the shooting of game;
- 41 bb. Shoot at a bird used as described in subsection aa. of this
42 section, or is a party to such shooting; **[or]**
- 43 cc. Lease a building, room, field or premises, or knowingly
44 permit the use thereof for the purposes of subsection aa. or bb. of
45 this section
- 46 dd. Confine a gestating sow in a manner that prevents the animal
47 from being able to turn around freely, lie down, stand up, or fully

1 extend its limbs, except as may be required for (1) medical research,
2 (2) veterinary examination, testing, individual treatment, or an
3 operation, or other veterinary procedures, (3) transportation of the
4 animal, (4) an exhibition or educational program, including but not
5 necessarily limited to, a 4-H program, county or State fair, or rodeo,
6 (5) animal husbandry purposes, provided the confinement is
7 temporary and for no more than eight hours in any 24-hour period,
8 (6) humane slaughtering of the animal in accordance with the laws,
9 and rules and regulations adopted pursuant thereto, concerning the
10 slaughter of animals, and (7) proper care during the 10-day period
11 prior to the expected date of the gestating sow giving birth –

12 Shall forfeit and pay a sum according to the following schedule,
13 to be sued for and recovered, with costs, in a civil action by any
14 person in the name of the municipality or county wherein the
15 defendant resides or where the offense was committed:

16 For a violation of subsection e., f., g., u., v., w., or z. of this
17 section or of paragraph (3) of subsection a. of this section, or for a
18 second or subsequent violation of paragraph (2) or (5) of subsection
19 a. of this section, a sum of not less than \$3,000 nor more than
20 \$5,000;

21 For a violation of subsection l. of this section, for a first violation
22 of paragraph (2) or (5) of subsection a. of this section, a sum of not
23 less than \$1,000 nor more than \$3,000;

24 For a violation of paragraph (4) of subsection a. of this section,
25 or subsection c. of this section, a sum of not less than \$500 nor
26 more than \$2,000;

27 For a violation of subsection x. or paragraph (1) of subsection y.
28 of this section, a sum of not less than \$500 nor more than \$1,000 for
29 each domestic dog or cat fur or fur or hair product or domestic dog
30 or cat carcass or meat product sold, bartered, or offered for sale or
31 barter;

32 For a violation of paragraph (2), (3), (4), or (5) of subsection y.
33 of this section, a sum of not less than \$500 nor more than \$1,000 for
34 each horse slaughtered or transported for the purpose of slaughter
35 for human consumption, or for each horse carcass or meat product
36 transported, sold or bartered, or offered or advertised for sale or
37 barter;

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

41 For a violation of subsection d., h., j., k., aa., bb., **[or]** cc., or dd.
42 of this section or of paragraph (1) of subsection a. of this section, a
43 sum of not less than \$250 nor more than \$1,000; and

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

46 (cf: P.L.2017, c.331, s.13)

1 3. This act shall take effect on December 31, 2018.

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3

4

STATEMENT

5

6 This bill establishes the animal cruelty offense of cruel
7 confinement of a gestating sow as a disorderly persons offense.
8 The bill defines cruel confinement of a gestating sow as crating,
9 confining, or tethering a gestating sow kept on the farm in a manner
10 that prevents the gestating sow from being able to turn around
11 freely (as defined in the bill), lie down, stand up, or fully extend its
12 limbs (as also defined in the bill). The bill exempts the use of
13 farrowing crates as an animal cruelty offense. Farrowing crates, as
14 defined in the bill, are enclosures or enclosing devices commonly
15 used with gestating sows to protect piglets from injury during the
16 birthing process and afterwards while nursing.

17 The bill specifies that an owner or operator of a farm may
18 commit this offense, personally and directly, or indirectly through
19 directions or instructions to a contractor, consultant or employee of
20 the owner or operator or the farm, but that a contractor, consultant,
21 or employee, whether following such directions or instructions or
22 not, would not be guilty of the offense. In addition to any other
23 penalties applicable pursuant to Title 2C of the New Jersey Statutes,
24 the bill provides that a violator would be fined for each offense not
25 less than \$250 nor more than \$1,000, or be imprisoned for a term of
26 not more than six months, or both, and that each gestating sow that
27 is cruelly confined would be a separate and distinct offense.

28 The bill exempts from consideration as cruel confinement of a
29 gestating sow, confinement for the purposes of:

30 1) medical research;

31 2) veterinary examinations, testing, individual treatment, or an
32 operation, or other veterinary procedures;

33 3) transportation of the animal;

34 4) an exhibition or educational program, including, but not
35 necessarily limited to, a 4-H program, county or State fair, or rodeo;

36 5) animal husbandry, provided the confinement is temporary
37 and for no more than eight hours in any 24-hour period;

38 6) humane slaughtering of the animal in accordance with
39 applicable laws, rules, and regulations concerning the slaughter of
40 animals; and

41 7) proper care of the animal during the 10-day period prior to
42 the expected date of the animal giving birth.

43 Finally, the bill specifies that:

44 1) none of the bill's provisions supersede other laws, rules or
45 regulations protecting animal welfare, or abridge the authority of
46 any county or municipality to adopt or enact ordinances,
47 resolutions, rules or regulations that are more stringent than State or
48 federal laws; and

- 1 2) it is not an affirmative defense to an alleged violation of this
- 2 bill that the gestating sow is domestic livestock, or was kept as part
- 3 of an agricultural operation or in accordance with customary animal
- 4 husbandry or farming practices.