

SENATE, No. 3294

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED JANUARY 15, 2019

Sponsored by:

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

SYNOPSIS

Expands acts of animal cruelty to include theft or release of animal during burglary.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning theft or release of an animal during burglary
2 and amending 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.4:22-17 is amended to read as follows:

8 4:22-17. a. It shall be unlawful to:

9 (1) Overdrive, overload, drive when overloaded, overwork, abuse,
10 or needlessly kill a living animal or creature;

11 (2) Cause or procure, by any direct or indirect means, including
12 but not limited to through the use of another living animal or creature,
13 any of the acts described in paragraph (1) of this subsection to be
14 done;

15 (3) Inflict unnecessary cruelty upon a living animal or creature, by
16 any direct or indirect means, including but not limited to through the
17 use of another living animal or creature; or leave the living animal or
18 creature unattended in a vehicle under inhumane conditions adverse to
19 the health or welfare of the living animal or creature; **[or]**

20 (4) Fail, as the owner or as a person otherwise charged with the
21 care of a living animal or creature, to provide the living animal or
22 creature with necessary care; or

23 (5) Commit theft of a living animal or creature or release a living
24 animal or creature from the residence or other real property of the
25 owner or person otherwise charged with the care of the living animal
26 or creature during an act of burglary.

27 b. (1) A person who violates subsection a. of this section shall be
28 guilty of a disorderly persons offense. Notwithstanding the provisions
29 of N.J.S.2C:43-3 to the contrary, for every conviction of an offense
30 pursuant to paragraph (1) **[or]**, (2) , or (5) of subsection a. of this
31 section, the person shall be fined not less than \$250 nor more than
32 \$1,000, or be imprisoned for a term of not more than six months, or
33 both, in the discretion of the court; and for every conviction of an
34 offense pursuant to paragraph (3) or (4) of subsection a. of this section,
35 the person shall be fined not less than \$500 nor more than \$2,000, or
36 be imprisoned for a term of not more than six months, or both, in the
37 discretion of the court.

38 (2) If the person who violates subsection a. of this section has a
39 prior conviction for an offense that would constitute a violation of
40 subsection a. of this section, the person shall be guilty of a crime of the
41 fourth degree.

42 (3) A person who violates subsection a. of this section shall also be
43 subject to the provisions of subsections e. and f. and, if appropriate,
44 subsection g., of this section.

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 (4) The action for the penalty prescribed in this subsection shall be
2 brought in the municipal court of the municipality wherein the
3 defendant resides or where the offense was committed, except that the
4 municipality may elect to refer the offense to the county prosecutor to
5 determine if the offense should be handled in the Superior Court or in
6 municipal court.

7 c. It shall be unlawful to purposely, knowingly, or recklessly:

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

10 (2) Cause bodily injury to a living animal or creature by failing to
11 provide the living animal or creature with necessary care, whether as
12 the owner or as a person otherwise charged with the care of the living
13 animal or creature;

14 (3) Cause or procure an act described in paragraph (1) or (2) of this
15 subsection to be done, by any direct or indirect means, including but
16 not limited to through the use of another living animal or creature; or

17 (4) Use, or cause or procure the use of, an animal or creature in
18 any kind of sexual manner or initiate any kind of sexual contact with
19 the animal or creature, including, but not limited to, sodomizing the
20 animal or creature. As used in this paragraph, "sexual contact" means
21 any contact between a person and an animal by penetration of the
22 penis or a foreign object into the vagina or anus, contact between the
23 mouth and genitalia, or by contact between the genitalia of one and the
24 genitalia or anus of the other. This term does not include any medical
25 procedure performed by a licensed veterinarian practicing veterinary
26 medicine or an accepted animal husbandry practice.

27 d. (1) A person who violates paragraph (1), (2), (3) or (4) of
28 subsection c. of this section shall be guilty of a crime of the fourth
29 degree, except that the person shall be guilty of a crime of the third
30 degree if:

31 (a) the animal or creature dies as a result of the violation;

32 (b) the animal or creature suffers serious bodily injury as a result
33 of the violation; or

34 (c) the person has a prior conviction for an offense that would
35 constitute a violation of paragraph (1), (2), (3) or (4) of subsection c.
36 of this section.

37 (2) A person who violates any provision of subsection c. of this
38 section shall also be subject to the provisions of subsections e. and f.
39 and, if appropriate, subsection g., of this section.

40 (3) The action for the penalty prescribed in this subsection shall be
41 brought in the Superior Court.

42 e. For a violation of this section, in addition to imposing any
43 other appropriate penalties established for a crime of the third degree,
44 crime of the fourth degree, or disorderly persons offense, as the case
45 may be, pursuant to Title 2C of the New Jersey Statutes, the court shall
46 impose a term of community service of up to 30 days, and may direct
47 that the term of community service be served in providing assistance
48 to a county society for the prevention of cruelty to animals or any

1 other recognized organization concerned with the prevention of cruelty
2 to animals or the humane treatment and care of animals, or to a
3 municipality's animal control or animal population control program.

4 f. The court also shall require any violator of this section to pay
5 restitution, including but not limited to, the monetary cost of replacing
6 the animal if the animal died or had to be euthanized because of the
7 extent of the animal's injuries, or otherwise reimburse any costs for
8 food, drink, shelter, or veterinary care or treatment, or other costs,
9 incurred by the owner of the animal, if the owner is not the person
10 committing the act of cruelty, or incurred by any agency, entity, or
11 organization investigating the violation, or providing shelter or care for
12 the animal or animals, including but not limited to a county society for
13 the prevention of cruelty to animals, any other recognized organization
14 concerned with the prevention of cruelty to animals or the humane
15 treatment and care of animals, a local or State governmental entity, or
16 a kennel, shelter, pound, or other facility providing for the shelter and
17 care of the animal or animals involved in the violation.

18 g. If a juvenile is adjudicated delinquent for an act which, if
19 committed by an adult, would constitute a disorderly persons offense,
20 crime of the fourth degree, or crime of the third degree pursuant to this
21 section, the court also shall order the juvenile to receive mental health
22 counseling by a licensed psychologist or therapist named by the court
23 for a period of time to be prescribed by the licensed psychologist or
24 therapist.

25 (cf: P.L.2017, c.331, s.10)

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

28 4:22-26. A person who shall:

29 a. (1) Overdrive, overload, drive when overloaded, overwork,
30 abuse, or needlessly kill a living animal or creature, or cause or
31 procure, by any direct or indirect means, including but not limited to
32 through the use of another living animal or creature, any such acts to
33 be done;

34 (2) Torment, torture, maim, hang, poison, unnecessarily or cruelly
35 beat, cruelly abuse, or needlessly mutilate a living animal or creature,
36 or cause or procure, by any direct or indirect means, including but not
37 limited to through the use of another living animal or creature, any
38 such acts to be done;

39 (3) Cause the death of, or serious bodily injury to, a living animal
40 or creature from commission of any act described in paragraph (2), (4),
41 or (5) of this subsection, by any direct or indirect means, including but
42 not limited to through the use of another living animal or creature, or
43 otherwise cause or procure any such acts to be done;

44 (4) Fail, as the owner or a person otherwise charged with the care
45 of a living animal or creature, to provide the living animal or creature
46 with necessary care, or otherwise cause or procure such an act to be
47 done; **[or]**

1 (5) Cause bodily injury to a living animal or creature from
2 commission of the act described in paragraph (4) of this subsection; or

3 (6) Commit theft of a living animal or creature or release a living
4 animal or creature from the residence or other real property of the
5 owner or person otherwise charged with the care of the living animal
6 or creature during an act of burglary;

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

8 c. Inflict unnecessary cruelty upon a living animal or creature, by
9 any direct or indirect means, including but not limited to through the
10 use of another living animal or creature; or leave the living animal or
11 creature unattended in a vehicle under inhumane conditions adverse to
12 the health or welfare of the living animal or creature;

13 d. Receive or offer for sale a horse that is suffering from abuse or
14 neglect, or which by reason of disability, disease, abuse or lameness,
15 or any other cause, could not be worked, ridden or otherwise used for
16 show, exhibition or recreational purposes, or kept as a domestic pet
17 without violating the provisions of article 2 of chapter 22 of Title 4 of
18 the Revised Statutes;

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

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

25 g. Permit or suffer a place owned or controlled by him to be used
26 as provided in subsection e. of this section;

27 h. Carry, or cause to be carried, a living animal or creature in or
28 upon a vehicle or otherwise, in a cruel or inhumane manner;

29 i. Use a dog or dogs for the purpose of drawing or helping to
30 draw a vehicle for business purposes;

31 j. Impound or confine or cause to be impounded or confined in a
32 pound or other place a living animal or creature, and shall fail to
33 supply the living animal or creature during such confinement with a
34 sufficient quantity of good and wholesome food and water;

35 k. Abandon a maimed, sick, infirm or disabled animal or creature
36 to die in a public place;

37 l. Willfully sell, or offer to sell, use, expose, or cause or permit to
38 be sold or offered for sale, used or exposed, a horse or other animal
39 having the disease known as glanders or farcy, or other contagious or
40 infectious disease dangerous to the health or life of human beings or
41 animals, or who shall, when any such disease is beyond recovery,
42 refuse, upon demand, to deprive the animal of life;

43 m. Own, operate, manage or conduct a roadside stand or market
44 for the sale of merchandise along a public street or highway; or a
45 shopping mall, or a part of the premises thereof; and keep a living
46 animal or creature confined, or allowed to roam in an area whether or
47 not the area is enclosed, on these premises as an exhibit; except that
48 this subsection shall not be applicable to: a pet shop licensed pursuant

- 1 to P.L.1941, c.151 (C.4:19-15.1 et seq.); a person who keeps an
2 animal, in a humane manner, for the purpose of the protection of the
3 premises; or a recognized breeders' association, a 4-H club, an
4 educational agricultural program, an equestrian team, a humane
5 society or other similar charitable or nonprofit organization conducting
6 an exhibition, show or performance;
- 7 n. Keep or exhibit a wild animal at a roadside stand or market
8 located along a public street or highway of this State; a gasoline
9 station; or a shopping mall, or a part of the premises thereof;
- 10 o. Sell, offer for sale, barter or give away or display live baby
11 chicks, ducklings or other fowl or rabbits, turtles or chameleons which
12 have been dyed or artificially colored or otherwise treated so as to
13 impart to them an artificial color;
- 14 p. Use any animal, reptile, or fowl for the purpose of soliciting
15 any alms, collections, contributions, subscriptions, donations, or
16 payment of money except in connection with exhibitions, shows or
17 performances conducted in a bona fide manner by recognized breeders'
18 associations, 4-H clubs or other similar bona fide organizations;
- 19 q. Sell or offer for sale, barter, or give away living rabbits, turtles,
20 baby chicks, ducklings or other fowl under two months of age, for use
21 as household or domestic pets;
- 22 r. Sell, offer for sale, barter or give away living baby chicks,
23 ducklings or other fowl, or rabbits, turtles or chameleons under two
24 months of age for any purpose not prohibited by subsection q. of this
25 section and who shall fail to provide proper facilities for the care of
26 such animals;
- 27 s. Artificially mark sheep or cattle, or cause them to be marked,
28 by cropping or cutting off both ears, cropping or cutting either ear
29 more than one inch from the tip end thereof, or half cropping or cutting
30 both ears or either ear more than one inch from the tip end thereof, or
31 who shall have or keep in the person's possession sheep or cattle,
32 which the person claims to own, marked contrary to this subsection
33 unless they were bought in market or of a stranger;
- 34 t. Abandon a domesticated animal;
- 35 u. For amusement or gain, cause, allow, or permit the fighting or
36 baiting of a living animal or creature;
- 37 v. Own, possess, keep, train, promote, purchase, or knowingly
38 sell a living animal or creature for the purpose of fighting or baiting
39 that animal or creature;
- 40 w. Gamble on the outcome of a fight involving a living animal or
41 creature;
- 42 x. Knowingly sell or barter or offer for sale or barter, at wholesale
43 or retail, the fur or hair of a domestic dog or cat or any product made
44 in whole or in part from the fur or hair of a domestic dog or cat, unless
45 such fur or hair for sale or barter is from a commercial grooming
46 establishment or a veterinary office or clinic or is for use for scientific
47 research;

1 y. (1) Knowingly sell or barter, or offer for sale or barter, at
2 wholesale or retail, for human consumption, the flesh of a domestic
3 dog or cat, or any product made in whole or in part from the flesh of a
4 domestic dog or cat;

5 (2) Knowingly slaughter a horse for human consumption;

6 (3) Knowingly sell or barter, or offer for sale or barter, at
7 wholesale or retail, for human consumption, the flesh of a horse, or
8 any product made in whole or in part from the flesh of a horse, or
9 knowingly accept or publish newspaper advertising that includes the
10 offering for sale, trade, or distribution of any such item for human
11 consumption;

12 (4) Knowingly transport a horse for the purpose of slaughter for
13 human consumption;

14 (5) Knowingly transport horsemeat, or any product made in whole
15 or in part from the flesh of a horse, for the purpose of human
16 consumption;

17 z. Surgically debark or silence a dog in violation of section 1 or 2
18 of P.L.2002, c.102 (C.4:19-38 or C.4:19-39);

19 aa. Use a live pigeon, fowl or other bird for the purpose of a target,
20 or to be shot at either for amusement or as a test of skill in
21 marksmanship, except that this subsection and subsections bb. and cc.
22 shall not apply to the shooting of game;

23 bb. Shoot at a bird used as described in subsection aa. of this
24 section, or is a party to such shooting; or

25 cc. Lease a building, room, field or premises, or knowingly permit
26 the use thereof for the purposes of subsection aa. or bb. of this section

27 --

28 Shall forfeit and pay a sum according to the following schedule, to
29 be sued for and recovered, with costs, in a civil action by any person in
30 the name of the municipality or county wherein the defendant resides
31 or where the offense was committed.

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

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

39 For a violation of paragraph (4) of subsection a. of this section, or
40 subsection c. of this section, a sum of not less than \$500 nor more than
41 \$2,000;

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

46 For a violation of paragraph (2), (3), (4), or (5) of subsection y. of
47 this section, a sum of not less than \$500 nor more than \$1,000 for each
48 horse slaughtered or transported for the purpose of slaughter for

1 human consumption, or for each horse carcass or meat product
2 transported, sold or bartered, or offered or advertised for sale or barter;

3 For a violation of subsection t. of this section, a sum of not less than
4 \$500 nor more than \$1,000, but if the violation occurs on or near a
5 highway, a mandatory sum of \$1,000;

6 For a violation of subsection d., h., j., k., aa., bb., or cc. of this
7 section or of paragraph (1) or 6 of subsection a. of this section, a sum
8 of not less than \$250 nor more than \$1,000; and

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

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

12

13 3. This act shall take effect immediately.

14

15

16

STATEMENT

17

18 This bill expands criminal acts of animal cruelty to include the
19 theft or release of a living animal or creature during an act of
20 burglary. A violator of this offense is guilty of a disorderly persons
21 offense, subject to a fine of between \$250 and \$1,000, or a jail term
22 of up to six months, or both.

23 This bill additionally expands civil acts of animal cruelty to
24 include the theft or release of a living animal or creature during an
25 act of burglary. A violator of this offense is subject to a civil
26 penalty of \$250 to \$1,000, as well as costs for the civil action
27 brought pursuant to R.S.4:22-26.