GUIDE TO PREVENTION OF ANIMAL CRUELTY LAWS

Amendments to the Prevention of Cruelty to Animals Act (hereinafter "the Act"), N.J.S.A. 4:22-17 et seq., were recently signed into law. The new legal requirements set forth in the Act apply to any individual who owns or has custody or control (hereinafter "caretaker") of a dog, service animal or an animal that is a pet.

To ensure all dog, pet and service animal owners and caretakers have a basic understanding of these newly enacted legal requirements, a brief, general description of the requirements and prohibitions and a guide to compliance is provided below. The description below also includes a short synopsis of prohibited acts that apply to animals in general, which is provided to ensure that the general public is aware of these restrictions. This brief overview is intended to be a helpful guideline and is not intended to be a substitute for reading the law in its entirety.

Unlawful Treatment of Animals

It is unlawful to expose a dog, pet, or service animal to harsh weather conditions, such as freezing temperatures (32 degrees Fahrenheit or below), excessive heat (90 degrees Fahrenheit or above), rain or snow, for more than thirty minutes when the owner or caretaker of the animal is not with the animal and exposed to same conditions. An owner or caretaker who violates this requirement could be subject to a fine, imprisonment, community service, ordered to pay restitution, and/or possibly have his or her animal seized.

To avoid a violation of this section of the Act, an owner or caretaker must provide his/her animal with appropriate shelter if the animal will be out in harsh weather for longer than thirty minutes. A proper shelter is a structure that is soundly built, in good repair and provides the animal with adequate ventilation, water, light, and space to move and sit. In addition to these standard requirements, the shelter must also be enclosed, have a solid roof, solid walls with a single opening, a floor that is not the ground, insulation, dry bedding, and a windbreak at the entrance that is sufficient to keep the animal dry and maintain the animal's normal body temperature when the animal is exposed to freezing temperatures and/or inclement weather. When the animal is exposed to excessive heat, the structure must also have adequate shade or a cooling area by natural or artificial means to allow the animal to maintain a normal body temperature.

See N.J.S.A. 4:22-17.2 and 17.5.

Evacuation Orders

When State or local officials issue an order of evacuation due to emergency conditions, the owner or caretaker of a dog, pet or service animal must make every effort to evacuate with the animal. An owner or caretaker who violates this requirement could be subject to a fine, imprisonment, community service, ordered to pay restitution, and/or possibly have his or her animal seized.

To avoid this violation, the owner or caretaker must make reasonable efforts to evacuate with his or her animal. If it is not possible to evacuate with the animal, the owner or caretaker should (1) deliver the animal to a safe area not impacted by the emergency, or (2) secure the animal in an indoor area that is clear of hazards and is as protective of the dog, pet, or service animal as possible under the circumstances and alert local emergency responders to the animal's location.

See N.J.S.A. 4:22-17.2

Cruelly Restraining a Dog

It is unlawful for any person to cruelly restrain a dog. An owner or caretaker who violates this requirement could be subject to a fine, imprisonment, community service, ordered to pay restitution, and/or possibly have his or her animal seized.

To avoid a violation, an owner or caretaker cannot tether:

(1) a nursing female dog or a dog less than four months old;

(2) a dog that is outdoors between the hours of 11 p.m. and 5 a.m.;

(3) a dog in an unoccupied building or in a vacant property;

(4) a dog in a manner that does not permit the dog continuous access to water;

(5) a dog in a manner that exposes the dog to harsh weather conditions, including, but not limited to, freezing temperatures, excessive heat, rain or snow, for more than 30 minutes;

(6) a dog by means of a choke collar, prong collar, head harness, or any other type of collar, harness, or similar device other than a properly fitted body harness or buckle-type collar;

(7) a dog by using a chain with metal links that are more than one-quarter of an inch thick, or a tether, collar, or harness that is attached to a weight;

(8) a dog with another dog;

(9) a dog with a tether that is less than 15 feet in length or does not permit the dog to walk at least 15 feet in any one direction, except when the dog is indoors with its owner or caretaker; or

(10) a dog with a tether that permits the dog to reach another dog or an object or location that poses a risk of entanglement, strangulation, drowning, or other harm to the health or safety of the dog.

Please note that paragraphs 2, 9, and 10 above shall not apply if the dog's owner or caretaker is in the presence of the dog and can see the dog at all times while the dog is tethered.

Additionally, enforcement of paragraph 2 will begin in February 2019.

See N.J.S.A. 4:22-17.3.

Unlawful Confinement

The Act prohibits an owner or caretaker of a dog, pet or service animal from confining the animal in any structure, room, area, or container that is not a proper shelter. An owner or caretaker who violates this requirement could be subject to a fine, imprisonment, community service, ordered to pay restitution, and/or possibly have his or her animal seized.

To avoid a violation of this requirement, an owner or caretaker must provide his or her animal with a shelter that is soundly built, in good repair and provides the animal with adequate ventilation, water, light, and space to move and sit.

Proper shelter does not include a crawl space under a building, such as under steps, a deck, or a stoop, or space under a vehicle. Proper shelter also does not include the inside of a vehicle for a length of time that a person should reasonably know poses an adverse risk to the health or safety of the animal. Additionally, a proper shelter cannot be made from pressure treated wood containing the chemicals arsenic or chromium, have a floor consisting of wire or chain-link, have openings that a paw, hoof or foot of an animal can pass through, or be made of cardboard or other materials that are easily degraded by the elements.

Please note that a person may confine a dog, pet or service animal temporarily in an animal carrier or crate for the purpose of transporting, exhibiting or training the animal so long as the animal is inside the vehicle when being transported, the animal can easily turn around in a full circle and lie down in the carrier or crate, and the top of the animal's head does not touch the ceiling of the crate or carrier.

See N.J.S.A. 4:22-17.4 and 17.5.

Prohibited Acts

It is unlawful to:

- directly or indirectly abuse, torment, overwork, torture, maim, poison, cause serious bodily injury or the death of a living animal or creature;
- fail to provide the living animal or creature in one's custody with necessary care;
- receive or sell a horse that is suffering from abuse or neglect or that cannot be ridden or worked due to a disability or disease;
- arrange, witness, gamble on or assist with animal fighting or baiting;
- carry an animal or leave an animal unattended in a vehicle under inhumane conditions adverse to the health of the animal;
- own, operate, manage or conduct a roadside stand or market that is along a public street or highway or a shopping mall and confine an animal or allow an animal to roam for exhibit purposes*;
- keep or exhibit a wild animal at a roadside stand or market that is along a public street or highway, a gas station or shopping mall;
- sell or give away live baby chicks, ducklings, rabbits, turtles or chameleons that have been dyed or that are under two months old;

- own, possess, keep, train, promote, purchase, or sell an animal for fighting or baiting purposes
- sell dog, cat or horse meat or the fur of a dog or cat (unless the fur is from a groomer or veterinary office or for scientific research);
- surgically debark a dog;
- use a live pigeon, fowl, or other bird for the purpose of a target or to be shot, except in the shooting of game;
- use a dog for drawing a vehicle for business purposes;
- abandon a domesticated animal or abandon a sick or disabled animal to die in a public place;
- confine an animal without providing the animal with food and water or fail to provide an animal with necessary care;
- sell an animal with a contagious or infectious disease;
- use an animal, reptile or bird for purposes of solicitation**; or
- artificially mark sheep or cattle.

A person who violates this statute is subject to a fine ranging from $250 to $5000. To avoid a fine, individuals should not engage in the above-listed prohibited acts.

* This section does not apply to pet shops, individuals who keep these animals for protection of the premises, breeder associations, 4-H clubs, educational agricultural programs, equestrian teams, or charitable organizations conducting exhibits.

** This section does not apply to exhibits conducted by 4-H clubs or breeder associations.

See N.J.S.A. 4:22-26.

4:22-17 Cruelty; certain acts, crime; degrees.

a. It shall be unlawful to:

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

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

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

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

b. (1) A person who violates subsection a. of this section shall be guilty of a disorderly persons offense. Notwithstanding the provisions of N.J.S.2C:43-3 to the contrary, for every conviction of an offense pursuant to paragraph (1) or (2) of subsection a. of this section, the person shall be fined not less than $250 nor more than $1,000, or be imprisoned for a term of not more than six months, or both, in the discretion of the court; and for every conviction of an offense pursuant to paragraph (3) or (4) of subsection a. of this section, the person shall be fined not less than $500 nor more than $2,000, or be imprisoned for a term of not more than six months, or both, in the discretion of the court.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

e. For a violation of this section, in addition to imposing any other appropriate penalties established for a crime of the third degree, crime of the fourth degree, or disorderly persons offense, as the case may be, pursuant to Title 2C of the New Jersey Statutes, the court shall impose a term of community service of up to 30 days, and may direct that the term of community service be served in providing assistance to a county society for the prevention of cruelty to animals or any other recognized organization concerned with the prevention of cruelty to animals or the humane treatment and care of animals, or to a municipality's animal control or animal population control program.

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

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

amended 1995, c.355, s.2; 1996, c.64, s.1; 2000, c.162, s.1; 2001, c.229, s.1; 2003, c.232, s.1; 2005, c.105, s.1; 2013, c.88, s.2; 2015, c.133; 2017, c.331, s.10.

Penalties for various acts constituting cruelty.
4:22-26 A person who shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

m. Own, operate, manage or conduct a roadside stand or market for the sale of merchandise along a public street or highway; or a shopping mall, or a part of the premises thereof; and keep a living animal or creature confined, or allowed to roam in an area whether or not the area is enclosed, on these premises as an exhibit; except that this subsection shall not be applicable to: a pet shop licensed pursuant to P.L.1941, c.151 (C.4:19-15.1 et seq.); a person who keeps an animal, in a humane manner, for the purpose of the protection of the premises; or a recognized breeders' association, a 4-H club, an educational agricultural program, an equestrian team, a humane society or other similar charitable or nonprofit organization conducting an exhibition, show or performance;

n. Keep or exhibit a wild animal at a roadside stand or market located along a public street or highway of this State; a gasoline station; or a shopping mall, or a part of the premises thereof;

o. Sell, offer for sale, barter or give away or display live baby chicks, ducklings or other fowl or rabbits, turtles or chameleons which have been dyed or artificially colored or otherwise treated so as to impart to them an artificial color;

p. Use any animal, reptile, or fowl for the purpose of soliciting any alms, collections, contributions, subscriptions, donations, or payment of money except in connection with exhibitions, shows or performances conducted in a bona fide manner by recognized breeders' associations, 4-H clubs or other similar bona fide organizations;

q. Sell or offer for sale, barter, or give away living rabbits, turtles, baby chicks, ducklings or other fowl under two months of age, for use as household or domestic pets;

r. Sell, offer for sale, barter or give away living baby chicks, ducklings or other fowl, or rabbits, turtles or chameleons under two months of age for any purpose not prohibited by subsection q. of this section and who shall fail to provide proper facilities for the care of such animals;

s. Artificially mark sheep or cattle, or cause them to be marked, by cropping or cutting off both ears, cropping or cutting either ear more than one inch from the tip end thereof, or half cropping or cutting both ears or either ear more than one inch from the tip end thereof, or who shall have or keep in the person's possession sheep or cattle, which the person claims to own, marked contrary to this subsection unless they were bought in market or of a stranger;

t. Abandon a domesticated animal;

u. For amusement or gain, cause, allow, or permit the fighting or baiting of a living animal or creature;

v. Own, possess, keep, train, promote, purchase, or knowingly sell a living animal or creature for the purpose of fighting or baiting that animal or creature;

w. Gamble on the outcome of a fight involving a living animal or creature;

x. Knowingly sell or barter or offer for sale or barter, at wholesale or retail, the fur or hair of a domestic dog or cat or any product made in whole or in part from the fur or hair of a domestic dog or cat, unless such fur or hair for sale or barter is from a commercial grooming establishment or a veterinary office or clinic or is for use for

scientific research;

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

(2) Knowingly slaughter a horse for human consumption;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

amended 1949, c.294; 1951, c.270; 1953, c.5, s.63; 1954, c.175; 1974, c.18; 1977, c.229, s.2; 1983, c.103; 1989, c.35, s.2; 1991, c.108, s.2; 1998, c.105, s.3; 1999, c.307, s.3; 2000, c.162, s.2; 2001, c.229, s.4; 2002, c.102, s.8; 2003, c.232, s.3; 2005, c.105, s.2; 2005, c.372, s.16; 2012, c.52, s.2; 2013, c.88, s.3; 2017, c.331, s.13.