

# ASSEMBLY, No. 3381

## STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED JUNE 9, 2014

**Sponsored by:**

**Assemblyman REED GUSCIORA**

**District 15 (Hunterdon and Mercer)**

**Assemblywoman L. GRACE SPENCER**

**District 29 (Essex)**

**Co-Sponsored by:**

**Assemblyman Eustace, Assemblywoman Tucker and Assemblyman  
C.A.Brown**

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 12/12/2014)**

A3381 GUSCIORA, SPENCER

2

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,  
10 abuse, 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  
13 creature, any of the acts described in paragraph (1) of this  
14 subsection to be done;

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

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

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

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

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

43 (3) A person who violates subsection a. of this section shall also  
44 be subject to the provisions of subsections e. and f. and, if  
45 appropriate, 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 c. It shall be unlawful to purposely, knowingly, or recklessly:

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

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

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

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

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

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

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

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

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

38 f. The court also shall require any violator of this section to  
39 pay restitution, including but not limited to, the monetary cost of  
40 replacing the animal if the animal died or had to be euthanized  
41 because of the extent of the animal's injuries, or otherwise  
42 reimburse any costs for food, drink, shelter, or veterinary care or  
43 treatment, or other costs, incurred by the owner of the animal, if the  
44 owner is not the person committing the act of cruelty, or incurred  
45 by any agency, entity, or organization investigating the violation,  
46 including but not limited to the New Jersey Society for the  
47 Prevention of Cruelty to Animals, a county society for the  
48 prevention of cruelty to animals, any other recognized organization

1 concerned with the prevention of cruelty to animals or the humane  
2 treatment and care of animals, a local or State governmental entity,  
3 or a kennel, shelter, pound, or other facility providing for the shelter  
4 and care of the animal or animals involved in the violation.

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

12 (cf: P.L.2013, c.88, s.2)

13

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

15 4:22-26. A person who shall:

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

21 (2) Torment, torture, maim, hang, poison, unnecessarily or  
22 cruelly beat, cruelly abuse, or needlessly mutilate a living animal or  
23 creature, or 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, any such acts to be done;

26 (3) Cause the death of, or serious bodily injury to, a living  
27 animal or creature from commission of any act described in  
28 paragraph (2), (4), (5), or (6) of this subsection, by any direct or  
29 indirect means, including but not limited to through the use of  
30 another living animal or creature, or otherwise cause or procure any  
31 such acts to be done;

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

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

39 (6) Commit theft of a living animal or creature or release a  
40 living animal or creature from the residence or other real property  
41 of the owner or person otherwise charged with the care of the living  
42 animal or creature during an act of burglary.

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

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

- 1 conditions adverse to the health or welfare of the living animal or  
2 creature;
- 3 d. Receive or offer for sale a horse that is suffering from abuse  
4 or neglect, or which by reason of disability, disease, abuse or  
5 lameness, or any other cause, could not be worked, ridden or  
6 otherwise used for show, exhibition or recreational purposes, or  
7 kept as a domestic pet without violating the provisions of this  
8 article;
- 9 e. Keep, use, be connected with or interested in the  
10 management of, or receive money or other consideration for the  
11 admission of a person to, a place kept or used for the purpose of  
12 fighting or baiting a living animal or creature;
- 13 f. Be present and witness, pay admission to, encourage, aid or  
14 assist in an activity enumerated in subsection e. of this section;
- 15 g. Permit or suffer a place owned or controlled by him to be  
16 used as provided in subsection e. of this section;
- 17 h. Carry, or cause to be carried, a living animal or creature in  
18 or upon a vehicle or otherwise, in a cruel or inhumane manner;
- 19 i. Use a dog or dogs for the purpose of drawing or helping to  
20 draw a vehicle for business purposes;
- 21 j. Impound or confine or cause to be impounded or confined in  
22 a pound or other place a living animal or creature, and shall fail to  
23 supply the living animal or creature during such confinement with a  
24 sufficient quantity of good and wholesome food and water;
- 25 k. Abandon a maimed, sick, infirm or disabled animal or  
26 creature to die in a public place;
- 27 l. Willfully sell, or offer to sell, use, expose, or cause or permit  
28 to be sold or offered for sale, used or exposed, a horse or other  
29 animal having the disease known as glanders or farcy, or other  
30 contagious or infectious disease dangerous to the health or life of  
31 human beings or animals, or who shall, when any such disease is  
32 beyond recovery, refuse, upon demand, to deprive the animal of  
33 life;
- 34 m. Own, operate, manage or conduct a roadside stand or market  
35 for the sale of merchandise along a public street or highway; or a  
36 shopping mall, or a part of the premises thereof; and keep a living  
37 animal or creature confined, or allowed to roam in an area whether  
38 or not the area is enclosed, on these premises as an exhibit; except  
39 that this subsection shall not be applicable to: a pet shop licensed  
40 pursuant to P.L.1941, c.151 (C.4:19-15.1 et seq.); a person who  
41 keeps an animal, in a humane manner, for the purpose of the  
42 protection of the premises; or a recognized breeders' association, a  
43 4-H club, an educational agricultural program, an equestrian team, a  
44 humane society or other similar charitable or nonprofit organization  
45 conducting an exhibition, show or performance;
- 46 n. Keep or exhibit a wild animal at a roadside stand or market  
47 located along a public street or highway of this State; a gasoline  
48 station; or a shopping mall, or a part of the premises thereof;

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

1 knowingly accept or publish newspaper advertising that includes the  
2 offering for sale, trade, or distribution of any such item for human  
3 consumption;

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

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

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

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

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

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

20 Shall forfeit and pay a sum according to the following schedule,  
21 to be sued for and recovered, with costs, in a civil action by any  
22 person in the name of the New Jersey Society for the Prevention of  
23 Cruelty to Animals or a county society for the prevention of cruelty  
24 to animals, as appropriate, or, in the name of the municipality if  
25 brought by a certified animal control officer or animal cruelty  
26 investigator:

27 For a violation of subsection e., f., g., u., v., w., or z. of this  
28 section or of paragraph (3) of subsection a. of this section, or for a  
29 second or subsequent violation of paragraph (2) or (5) of subsection  
30 a. of this section, a sum of not less than \$3,000 nor more than  
31 \$5,000;

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

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

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

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

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

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

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

9 (cf: P.L.2013, c.88, s.3)

10

11 3. This act shall take effect immediately.

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13

14

#### STATEMENT

15

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

21 This bill additionally expands civil acts of animal cruelty to  
22 include the theft or release of a living animal or creature during an  
23 act of burglary. A violator of this offense is subject to a civil  
24 penalty of \$250 to \$1,000, as well as costs for the civil action,  
25 brought by any person in the name of the New Jersey Society for  
26 the Prevention of Cruelty to Animals or a county society for the  
27 prevention of cruelty to animals, as appropriate, or, in the name of  
28 the municipality if brought by a certified animal control officer or  
29 animal cruelty investigator.

30 This bill is being introduced in response to the heartache and  
31 emotional distress suffered by pet owners whose pets have been  
32 killed, injured or gone missing as a result of a burglary. For many  
33 individuals, pets are not simply considered pieces of property that  
34 can be replaced if stolen or lost, but rather are considered a part of  
35 the family. Moreover, even those pets that are successfully reunited  
36 with their owners may suffer physical or other injuries as a result of  
37 having been wrongfully taken or released during a burglary.

38 The purpose of this bill is to help prevent the theft or otherwise  
39 unlawful release of pets during an act of burglary.