

# ASSEMBLY, No. 3638

## STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED APRIL 14, 2016

**Sponsored by:**

**Assemblywoman VALERIE VAINIERI HUTTLE**

**District 37 (Bergen)**

**Assemblyman ERIC HOUGHTALING**

**District 11 (Monmouth)**

**Co-Sponsored by:**

**Assemblywoman Downey**

**SYNOPSIS**

Establishes animal cruelty offense of animal hoarding; requires mental health counseling for all animal cruelty offenders.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/17/2016)**

1 AN ACT concerning animal cruelty and mental health counseling for  
2 offenders, and amending R.S.4:22-15, R.S.4:22-17, and  
3 R.S.4:22-26, and supplementing article 2 of chapter 22 of Title 4  
4 of the Revised Statutes.

5

6 **BE IT ENACTED** by the Senate and General Assembly of the State  
7 of New Jersey:

8

9 1. (New section) a. A person is guilty of hoarding animals if the  
10 person cares for or has possession of animals in a quantity such that  
11 the person fails or is unable to provide necessary care for all of the  
12 animals and, due to the failure or inability to provide necessary care, at  
13 least some of the animals experience death, bodily injury, or other  
14 serious adverse health consequences. Animal hoarding is a crime of  
15 the fourth degree.

16 b. The number of animals a person has possession of shall not be  
17 determinative of whether there has been a violation of this section, but  
18 may be considered as a factor in determining whether animals have  
19 been provided necessary care.

20 c. Each course of conduct involving the hoarding of animals, not  
21 each animal involved, shall constitute a separate offense.

22

23 2. R.S.4:22-15 is amended to read as follows:

24 4:22-15. As used in this article:

25 "Animal" **【**or "creature"**】** includes the whole brute creation.

26 "Bodily injury" means physical pain, illness or any impairment  
27 of physical condition.

28 "Necessary care" means care sufficient to preserve the health and  
29 well-being of an animal, and includes, but is not limited to: food of  
30 sufficient quantity and quality to allow for normal growth or  
31 maintenance of body weight; adequate access to water in sufficient  
32 quantity and quality to satisfy the animal's needs; access to  
33 adequate protection from the weather; and veterinary care to  
34 alleviate suffering and maintain health.

35 **【**"Owner" or "person" includes a corporation, and the knowledge  
36 and acts of an agent or employee of a corporation in regard to  
37 animals transported, owned, employed, or in the custody of the  
38 corporation shall be imputed to the corporation.**】**

39 "Owner of the animal" means a person who has the legal right of  
40 possession of the animal and any legal title to its ownership.

41 "Possession" means having physical or legal custody of, being in  
42 charge of, or having physical control over an animal, whether  
43 temporarily or as an owner of the animal.

44 "Serious bodily injury" means bodily injury which creates a  
45 substantial risk of death or which causes serious, permanent

**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    disfigurement, or protracted loss or impairment of the function of  
2    any bodily member or organ.

3    (cf: P.L.2013, c.88, s.1)

4

5        3. R.S.4:22-17 is amended to read as follows:

6        4:22-17. a. It shall be unlawful to:

7        (1) Overdrive, overload, drive when overloaded, overwork,  
8    abuse, or needlessly kill a living animal **【or creature】**;

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

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

19       (4) Fail, as the owner of the animal or as a person otherwise  
20   charged with the care of a living animal **【or creature】**, to provide  
21   the living animal **【or creature】** with necessary care.

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

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

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

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

41       (1) Torment, torture, maim, hang, poison, unnecessarily or  
42   cruelly beat, cruelly abuse, or needlessly mutilate a living animal  
43   **【or creature】**;

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

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

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

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

20 (a) the animal **【or creature】** dies as a result of the violation;

21 (b) the animal **【or creature】** suffers serious bodily injury as a  
22 result of the violation; or

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

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

29 e. For a violation of this section, in addition to imposing any  
30 other appropriate penalties established for a crime of the third  
31 degree, crime of the fourth degree, or disorderly persons offense, as  
32 the case may be, pursuant to Title 2C of the New Jersey Statutes,  
33 the court shall:

34 (1) impose a term of community service of up to 30 days, and  
35 may direct that the term of community service be served in  
36 providing assistance to the New Jersey Society for the Prevention of  
37 Cruelty to Animals, a county society for the prevention of cruelty to  
38 animals, or any other recognized organization concerned with the  
39 prevention of cruelty to animals or the humane treatment and care  
40 of animals, or to a municipality's animal control or animal  
41 population control program; and

42 (2) order the violator to receive a mental health evaluation by a  
43 licensed psychologist or therapist named by the court, and  
44 subsequent mental health counseling, if warranted by the  
45 evaluation, for a period of time to be prescribed by the licensed  
46 psychologist or therapist. The cost of the mental health evaluation  
47 and any required mental health counseling shall be paid by the  
48 violator. The court shall order the violator to submit the results of

1 the mental health evaluation to the court, and if subsequent  
2 counseling is ordered, the court may order the violator to provide  
3 documentation of attendance to the court.

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

19 g. If a juvenile is adjudicated delinquent for an act which, if  
20 committed by an adult, would constitute a disorderly persons  
21 offense, crime of the fourth degree, or crime of the third degree  
22 pursuant to this section, the court also shall order the juvenile to  
23 receive a mental health evaluation by a licensed psychologist or  
24 therapist named by the court, and subsequent mental health  
25 counseling **【**by a licensed psychologist or therapist named by the  
26 court】, if warranted by the evaluation, for a period of time to be  
27 prescribed by the licensed psychologist or therapist. The cost of the  
28 mental health evaluation and any required mental health counseling  
29 shall be paid by the parents or legal guardian of the juvenile. The  
30 court shall order the parents or legal guardian to submit the results  
31 of the mental health evaluation to the court, and if counseling is  
32 ordered subsequently, the court may order the parents or legal  
33 guardian to provide documentation of attendance to the court.

34 h. The Administrative Office of the Courts shall, with the  
35 assistance of the Attorney General, municipal prosecutors, and  
36 county prosecutors, maintain a record of any requirements or  
37 conditions imposed pursuant to this section or as a result of any  
38 conviction pursuant to this section, including, but not limited to,  
39 mental health evaluations and documentation of mental health  
40 counseling attendance.

41 (cf: P.L.2015, c.133, s.1).

42

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

44 4:22-26. A person who shall:

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

- 1 to through the use of another living animal **【or creature】**, any such  
2 acts to be done;
- 3 (2) Torment, torture, maim, hang, poison, unnecessarily or  
4 cruelly beat, cruelly abuse, or needlessly mutilate a living animal  
5 **【or 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), (5), or (6) of this subsection, by any direct or  
11 indirect means, including but not limited to through the use of  
12 another living animal **【or creature】**, or otherwise cause or procure  
13 any such acts to be done;
- 14 (4) Fail, as the owner of the animal or a person otherwise  
15 charged with the care of a living animal **【or creature】**, to provide  
16 the living animal **【or creature】** with necessary care, or otherwise  
17 cause or procure such an 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**  
22 **creature】**, by any direct or indirect means, including but not limited  
23 to through the use of another living animal **【or creature】**; or leave  
24 the living animal **【or creature】** unattended in a vehicle under  
25 inhumane conditions adverse to the health or welfare of the living  
26 animal **【or 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 this  
32 article;
- 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 to be  
40 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

- 1 to supply the living animal **【or creature】** during such confinement  
2 with a 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  
16 whether or not the area is enclosed, on these premises as an exhibit;  
17 except that this subsection shall not be applicable to: a pet shop  
18 licensed pursuant to P.L.1941, c.151 (C.4:19-15.1 et seq.); a person  
19 who 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  
10 baiting 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; or
- 46 dd. Care for or have possession of animals in a quantity such that  
47 the person fails or is unable to provide necessary care for all of the  
48 animals and, due to the failure or inability to provide necessary care, at



1 least some of the animals experience death, bodily injury, or other  
2 serious adverse health consequences --

3 Shall forfeit and pay a sum according to the following schedule,  
4 to be sued for and recovered, with costs, in a civil action by any  
5 person in the name of the New Jersey Society for the Prevention of  
6 Cruelty to Animals or a county society for the prevention of cruelty  
7 to animals, as appropriate, or, in the name of the municipality if  
8 brought by a certified animal control officer or animal cruelty  
9 investigator:

10 For a violation of subsection e., f., g., u., v., w., or z. of this  
11 section or of paragraph (3) of subsection a. of this section, or for a  
12 second or subsequent violation of paragraph (2) or (5) of subsection  
13 a. of this section, a sum of not less than \$3,000 nor more than  
14 \$5,000;

15 For a violation of subsection l. of this section, for a first violation  
16 of paragraph (2) or (5) of subsection a. of this section, or for a  
17 violation of subsection dd. of this section, a sum of not less than  
18 \$1,000 nor more than \$3,000;

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

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

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

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

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

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

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

42

43 5. This act shall take effect immediately.

STATEMENT

1

2

3       This bill establishes the animal cruelty offense of animal  
4 hoarding and expands the mental health counseling required  
5 pursuant to R.S.4:22-17 under the State animal cruelty statutes.  
6 Under the bill, animal hoarding would be a crime of the fourth  
7 degree and carry a civil penalty of \$1,000 to \$3,000. This bill also  
8 amends current law to require a mental health evaluation for any  
9 animal cruelty offender, including an animal hoarder, whether the  
10 offender is an adult or a juvenile, to be followed by mental health  
11 counseling if warranted by the evaluation.

12       Animal hoarding is defined in the bill to be when a person cares  
13 for or has possession of animals in a quantity such that the person fails  
14 or is unable to provide necessary care for all of the animals and, due to  
15 the failure or inability to provide necessary care, at least some of the  
16 animals experience death, bodily injury, or other serious adverse  
17 health consequences. However, the bill also specifies that the number  
18 of animals in the person's possession would not be the determining  
19 factor of animal hoarding, but could be a factor in determining whether  
20 animals have been provided necessary care.