

ASSEMBLY, No. 1334

STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Assemblyman REED GUSCIORA
District 15 (Hunterdon and Mercer)
Assemblyman TIM EUSTACE
District 38 (Bergen and Passaic)

Co-Sponsored by:

Assemblywoman Tucker

SYNOPSIS

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

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



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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 be
29 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
32 a. of this section, the person shall be fined not less than \$250 nor
33 more 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;
- 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; or
- 13 (4) Use, or cause or procure the use of, an animal or creature in
14 any kind of sexual manner or initiate any kind of sexual contact
15 with the animal or creature, including, but not limited to,
16 sodomizing the animal or creature. As used in this paragraph,
17 "sexual contact" means any contact between a person and an animal
18 by penetration of the penis or a foreign object into the vagina or
19 anus, contact between the mouth and genitalia, or by contact
20 between the genitalia of one and the genitalia or anus of the other.
21 This term does not include any medical procedure performed by a
22 licensed veterinarian practicing veterinary medicine or an accepted
23 animal husbandry practice.
- 24 d. (1) A person who violates paragraph (1), (2), (3) or (4) of
25 subsection c. of this section shall be guilty of a crime of the fourth
26 degree, except that the person shall be guilty of a crime of the third
27 degree if:
- 28 (a) the animal or creature dies as a result of the violation;
- 29 (b) the animal or creature suffers serious bodily injury as a
30 result of the violation; or
- 31 (c) the person has a prior conviction for an offense that would
32 constitute a violation of paragraph (1), (2), (3) or (4) of subsection
33 c. of this section.
- 34 (2) A person who violates any provision of subsection c. of this
35 section shall also be subject to the provisions of subsections e. and
36 f. and, if appropriate, subsection g., of this section.
- 37 e. For a violation of this section, in addition to imposing any
38 other appropriate penalties established for a crime of the third
39 degree, crime of the fourth degree, or disorderly persons offense, as
40 the case may be, pursuant to Title 2C of the New Jersey Statutes,
41 the court shall impose a term of community service of up to 30
42 days, and may direct that the term of community service be served
43 in providing assistance to the New Jersey Society for the Prevention
44 of Cruelty to Animals, a county society for the prevention of cruelty
45 to animals, or any other recognized organization concerned with the
46 prevention of cruelty to animals or the humane treatment and care
47 of animals, or to a municipality's animal control or animal
48 population control program.

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

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

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

24

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

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

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

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

37 (3) Cause the death of, or serious bodily injury to, a living
38 animal or creature from commission of any act described in
39 paragraph (2), (4), or (5) **], or (6)]** of this subsection, by any direct
40 or indirect means, including but not limited to through the use of
41 another living animal or creature, or otherwise cause or procure any
42 such acts to be done;

43 (4) Fail, as the owner or a person otherwise charged with the
44 care of a living animal or creature, to provide the living animal or
45 creature with necessary care, or otherwise cause or procure such an
46 act to be 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;
3 or
4 (6) Commit theft of a living animal or creature or release a
5 living animal or creature from the residence or other real property
6 of the owner or person otherwise charged with the care of the living
7 animal or creature during an act of burglary;
8 b. (Deleted by amendment, P.L.2003, c.232)
9 c. Inflict unnecessary cruelty upon a living animal or creature,
10 by any direct or indirect means, including but not limited to through
11 the use of another living animal or creature; or leave the living
12 animal or creature unattended in a vehicle under inhumane
13 conditions adverse to the health or welfare of the living animal or
14 creature;
15 d. Receive or offer for sale a horse that is suffering from abuse
16 or neglect, or which by reason of disability, disease, abuse or
17 lameness, or any other cause, could not be worked, ridden or
18 otherwise used for show, exhibition or recreational purposes, or
19 kept as a domestic pet without violating the provisions of this
20 article;
21 e. Keep, use, be connected with or interested in the
22 management of, or receive money or other consideration for the
23 admission of a person to, a place kept or used for the purpose of
24 fighting or baiting a living animal or creature;
25 f. Be present and witness, pay admission to, encourage, aid or
26 assist in an activity enumerated in subsection e. of this section;
27 g. Permit or suffer a place owned or controlled by him to be
28 used as provided in subsection e. of this section;
29 h. Carry, or cause to be carried, a living animal or creature in
30 or upon a vehicle or otherwise, in a cruel or inhumane manner;
31 i. Use a dog or dogs for the purpose of drawing or helping to
32 draw a vehicle for business purposes;
33 j. Impound or confine or cause to be impounded or confined in
34 a pound or other place a living animal or creature, and shall fail to
35 supply the living animal or creature during such confinement with a
36 sufficient quantity of good and wholesome food and water;
37 k. Abandon a maimed, sick, infirm or disabled animal or
38 creature to die in a public place;
39 l. Willfully sell, or offer to sell, use, expose, or cause or permit
40 to be sold or offered for sale, used or exposed, a horse or other
41 animal having the disease known as glanders or farcy, or other
42 contagious or infectious disease dangerous to the health or life of
43 human beings or animals, or who shall, when any such disease is
44 beyond recovery, refuse, upon demand, to deprive the animal of
45 life;
46 m. Own, operate, manage or conduct a roadside stand or market
47 for the sale of merchandise along a public street or highway; or a
48 shopping mall, or a part of the premises thereof; and keep a living

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

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- 1 product made in whole or in part from the fur or hair of a domestic
2 dog or cat, unless such fur or hair for sale or barter is from a
3 commercial grooming establishment or a veterinary office or clinic
4 or is for use for scientific research;
- 5 y. (1) Knowingly sell or barter, or offer for sale or barter, at
6 wholesale or retail, for human consumption, the flesh of a domestic
7 dog or cat, or any product made in whole or in part from the flesh of
8 a domestic dog or cat;
- 9 (2) Knowingly slaughter a horse for human consumption;
- 10 (3) Knowingly sell or barter, or offer for sale or barter, at
11 wholesale or retail, for human consumption, the flesh of a horse, or
12 any product made in whole or in part from the flesh of a horse, or
13 knowingly accept or publish newspaper advertising that includes the
14 offering for sale, trade, or distribution of any such item for human
15 consumption;
- 16 (4) Knowingly transport a horse for the purpose of slaughter for
17 human consumption;
- 18 (5) Knowingly transport horsemeat, or any product made in
19 whole or in part from the flesh of a horse, for the purpose of human
20 consumption;
- 21 z. Surgically debark or silence a dog in violation of section 1
22 or 2 of P.L.2002, c.102 (C.4:19-38 or C.4:19-39);
- 23 aa. Use a live pigeon, fowl or other bird for the purpose of a
24 target, or to be shot at either for amusement or as a test of skill in
25 marksmanship, except that this subsection and subsections bb. and
26 cc. shall not apply to the shooting of game;
- 27 bb. Shoot at a bird used as described in subsection aa. of this
28 section, or is a party to such shooting; or
- 29 cc. Lease a building, room, field or premises, or knowingly
30 permit the use thereof for the purposes of subsection aa. or bb. of
31 this section --
- 32 Shall forfeit and pay a sum according to the following schedule,
33 to be sued for and recovered, with costs, in a civil action by any
34 person in the name of the New Jersey Society for the Prevention of
35 Cruelty to Animals or a county society for the prevention of cruelty
36 to animals, as appropriate, or, in the name of the municipality if
37 brought by a certified animal control officer or animal cruelty
38 investigator:
- 39 For a violation of subsection e., f., g., u., v., w., or z. of this
40 section or of paragraph (3) of subsection a. of this section, or for a
41 second or subsequent violation of paragraph (2) or (5) of subsection
42 a. of this section, a sum of not less than \$3,000 nor more than
43 \$5,000;
- 44 For a violation of subsection l. of this section, for a first violation
45 of paragraph (2) or (5) of subsection a. of this section, a sum of not
46 less than \$1,000 nor more than \$3,000;

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

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

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

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

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

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

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

24

25 3. This act shall take effect immediately.

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STATEMENT

29

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

35 This bill additionally expands civil acts of animal cruelty to
36 include the theft or release of a living animal or creature during an
37 act of burglary. A violator of this offense is subject to a civil
38 penalty of \$250 to \$1,000, as well as costs for the civil action,
39 brought by any person in the name of the New Jersey Society for
40 the Prevention of Cruelty to Animals or a county society for the
41 prevention of cruelty to animals, as appropriate, or, in the name of
42 the municipality if brought by a certified animal control officer or
43 animal cruelty investigator.

44 This bill is being introduced in response to the heartache and
45 emotional distress suffered by pet owners whose pets have been
46 killed, injured or gone missing as a result of a burglary. For many
47 individuals, pets are not simply considered pieces of property that
48 can be replaced if stolen or lost, but rather are considered a part of

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1 the family. Moreover, even those pets that are successfully reunited
2 with their owners may suffer physical or other injuries as a result of
3 having been wrongfully taken or released during a burglary.

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