

ASSEMBLY, No. 3762

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED APRIL 5, 2018

Sponsored by:

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

Assemblywoman BETTYLOU DECROCE

District 26 (Essex, Morris and Passaic)

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: 5/8/2018)

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
10 the person cares for or has possession of animals in a quantity such
11 that 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
23 be 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 (4) The action for the penalty prescribed in this subsection shall
41 be brought in the municipal court of the municipality wherein the
42 defendant resides or where the offense was committed, except that
43 the municipality may elect to refer the offense to the county
44 prosecutor to determine if the offense should be handled in the
45 Superior Court or in municipal court.

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

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

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

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

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

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

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

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

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

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

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

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

43 (1) impose a term of community service of up to 30 days, and
44 may direct that the term of community service be served in
45 providing assistance to a county society for the prevention of
46 cruelty to animals or any other recognized organization concerned
47 with the prevention of cruelty to animals or the humane treatment

1 and care of animals, or to a municipality's animal control or animal
2 population control program; and

3 (2) order the violator to receive a mental health evaluation by a
4 licensed psychologist or therapist named by the court, and
5 subsequent mental health counseling, if warranted by the
6 evaluation, for a period of time to be prescribed by the licensed
7 psychologist or therapist. The cost of the mental health evaluation
8 and any required mental health counseling shall be paid by the
9 violator. The court shall order the violator to submit the results of
10 the mental health evaluation to the court, and if subsequent
11 counseling is ordered, the court may order the violator to provide
12 documentation of attendance to the court.

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

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

43 h. The Administrative Office of the Courts shall, with the
44 assistance of the Attorney General, municipal prosecutors, and
45 county prosecutors, maintain a record of any requirements or
46 conditions imposed pursuant to this section or as a result of any
47 conviction pursuant to this section, including, but not limited to,

1 mental health evaluations and documentation of mental health
2 counseling attendance.

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

4

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

6 4:22-26. A person who shall:

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

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

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

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

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

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

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

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

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

- 1 f. Be present and witness, pay admission to, encourage, aid or
2 assist in an activity enumerated in subsection e. of this section;
- 3 g. Permit or suffer a place owned or controlled by him to be
4 used as provided in subsection e. of this section;
- 5 h. Carry, or cause to be carried, a living animal **【or creature】** in
6 or upon a vehicle or otherwise, in a cruel or inhumane manner;
- 7 i. Use a dog or dogs for the purpose of drawing or helping to
8 draw a vehicle for business purposes;
- 9 j. Impound or confine or cause to be impounded or confined in
10 a pound or other place a living animal **【or creature】**, and shall fail
11 to supply the living animal **【or creature】** during such confinement
12 with a sufficient quantity of good and wholesome food and water;
- 13 k. Abandon a maimed, sick, infirm or disabled animal **【or**
14 **creature】** to die in a public place;
- 15 l. Willfully sell, or offer to sell, use, expose, or cause or permit
16 to be sold or offered for sale, used or exposed, a horse or other
17 animal having the disease known as glanders or farcy, or other
18 contagious or infectious disease dangerous to the health or life of
19 human beings or animals, or who shall, when any such disease is
20 beyond recovery, refuse, upon demand, to deprive the animal of
21 life;
- 22 m. Own, operate, manage or conduct a roadside stand or market
23 for the sale of merchandise along a public street or highway; or a
24 shopping mall, or a part of the premises thereof; and keep a living
25 animal **【or creature】** confined, or allowed to roam in an area
26 whether or not the area is enclosed, on these premises as an exhibit;
27 except that this subsection shall not be applicable to: a pet shop
28 licensed pursuant to P.L.1941, c.151 (C.4:19-15.1 et seq.); a person
29 who keeps an animal, in a humane manner, for the purpose of the
30 protection of the premises; or a recognized breeders' association, a
31 4-H club, an educational agricultural program, an equestrian team, a
32 humane society or other similar charitable or nonprofit organization
33 conducting an exhibition, show or performance;
- 34 n. Keep or exhibit a wild animal at a roadside stand or market
35 located along a public street or highway of this State; a gasoline
36 station; or a shopping mall, or a part of the premises thereof;
- 37 o. Sell, offer for sale, barter or give away or display live baby
38 chicks, ducklings or other fowl or rabbits, turtles or chameleons
39 which have been dyed or artificially colored or otherwise treated so
40 as to impart to them an artificial color;
- 41 p. Use any animal, reptile, or fowl for the purpose of soliciting
42 any alms, collections, contributions, subscriptions, donations, or
43 payment of money except in connection with exhibitions, shows or
44 performances conducted in a bona fide manner by recognized
45 breeders' associations, 4-H clubs or other similar bona fide
46 organizations;

- 1 q. Sell or offer for sale, barter, or give away living rabbits,
2 turtles, baby chicks, ducklings or other fowl under two months of
3 age, for use as household or domestic pets;
- 4 r. Sell, offer for sale, barter or give away living baby chicks,
5 ducklings or other fowl, or rabbits, turtles or chameleons under two
6 months of age for any purpose not prohibited by subsection q. of
7 this section and who shall fail to provide proper facilities for the
8 care of such animals;
- 9 s. Artificially mark sheep or cattle, or cause them to be
10 marked, by cropping or cutting off both ears, cropping or cutting
11 either ear more than one inch from the tip end thereof, or half
12 cropping or cutting both ears or either ear more than one inch from
13 the tip end thereof, or who shall have or keep in the person's
14 possession sheep or cattle, which the person claims to own, marked
15 contrary to this subsection unless they were bought in market or of
16 a stranger;
- 17 t. Abandon a domesticated animal;
- 18 u. For amusement or gain, cause, allow, or permit the fighting
19 or baiting of a living animal **[or creature]**;
- 20 v. Own, possess, keep, train, promote, purchase, or knowingly
21 sell a living animal **[or creature]** for the purpose of fighting or
22 baiting that animal **[or creature]**;
- 23 w. Gamble on the outcome of a fight involving a living animal
24 **[or creature]**;
- 25 x. Knowingly sell or barter or offer for sale or barter, at
26 wholesale or retail, the fur or hair of a domestic dog or cat or any
27 product made in whole or in part from the fur or hair of a domestic
28 dog or cat, unless such fur or hair for sale or barter is from a
29 commercial grooming establishment or a veterinary office or clinic
30 or is for use for scientific research;
- 31 y. (1) Knowingly sell or barter, or offer for sale or barter, at
32 wholesale or retail, for human consumption, the flesh of a domestic
33 dog or cat, or any product made in whole or in part from the flesh of
34 a domestic dog or cat;
- 35 (2) Knowingly slaughter a horse for human consumption;
- 36 (3) Knowingly sell or barter, or offer for sale or barter, at
37 wholesale or retail, for human consumption, the flesh of a horse, or
38 any product made in whole or in part from the flesh of a horse, or
39 knowingly accept or publish newspaper advertising that includes the
40 offering for sale, trade, or distribution of any such item for human
41 consumption;
- 42 (4) Knowingly transport a horse for the purpose of slaughter for
43 human consumption;
- 44 (5) Knowingly transport horsemeat, or any product made in
45 whole or in part from the flesh of a horse, for the purpose of human
46 consumption;
- 47 z. Surgically debark or silence a dog in violation of section 1
48 or 2 of P.L.2002, c.102 (C.4:19-38 or C.4:19-39);

- 1 aa. Use a live pigeon, fowl or other bird for the purpose of a
2 target, or to be shot at either for amusement or as a test of skill in
3 marksmanship, except that this subsection and subsections bb. and
4 cc. shall not apply to the shooting of game;
- 5 bb. Shoot at a bird used as described in subsection aa. of this
6 section, or is a party to such shooting; **[or]**
- 7 cc. Lease a building, room, field or premises, or knowingly
8 permit the use thereof for the purposes of subsection aa. or bb. of
9 this section; or
- 10 dd. Care for or have possession of animals in a quantity such
11 that the person fails or is unable to provide necessary care for all of
12 the animals and, due to the failure or inability to provide necessary
13 care, at least some of the animals experience death, bodily injury, or
14 other serious adverse health consequences --
- 15 Shall forfeit and pay a sum according to the following schedule,
16 to be sued for and recovered, with costs, in a civil action by any
17 person in the name of the municipality or county wherein the
18 defendant resides or where the offense was committed:
- 19 For a violation of subsection e., f., g., u., v., w., or z. of this
20 section or of paragraph (3) of subsection a. of this section, or for a
21 second or subsequent violation of paragraph (2) or (5) of subsection
22 a. of this section, a sum of not less than \$3,000 nor more than
23 \$5,000;
- 24 For a violation of subsection l. of this section, for a first violation
25 of paragraph (2) or (5) of subsection a. of this section, or for a
26 violation of subsection dd. of this section, a sum of not less than
27 \$1,000 nor more than \$3,000;
- 28 For a violation of paragraph (4) of subsection a. of this section,
29 or subsection c. of this section, a sum of not less than \$500 nor
30 more than \$2,000;
- 31 For a violation of subsection x. or paragraph (1) of subsection y.
32 of this section, a sum of not less than \$500 nor more than \$1,000 for
33 each domestic dog or cat fur or fur or hair product or domestic dog
34 or cat carcass or meat product sold, bartered, or offered for sale or
35 barter;
- 36 For a violation of paragraph (2), (3), (4), or (5) of subsection y.
37 of this section, a sum of not less than \$500 nor more than \$1,000 for
38 each horse slaughtered or transported for the purpose of slaughter
39 for human consumption, or for each horse carcass or meat product
40 transported, sold or bartered, or offered or advertised for sale or
41 barter;
- 42 For a violation of subsection t. of this section, a sum of not less
43 than \$500 nor more than \$1,000, but if the violation occurs on or
44 near a highway, a mandatory sum of \$1,000;
- 45 For a violation of subsection d., h., j., k., aa., bb., or cc. of this
46 section or of paragraph (1) of subsection a. of this section, a sum of
47 not less than \$250 nor more than \$1,000; and

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

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

4

5 5. This act shall take effect immediately.

6

7

8

STATEMENT

9

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

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