ASSEMBLY, No. 3565

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 25, 2020

Sponsored by:
Assemblyman DANIEL R. BENSON
District 14 (Mercer and Middlesex)

SYNOPSIS

Revises animal cruelty offenses and penalties concerning animal abandonment and failure to report injuring certain animals with motor vehicle; increases civil penalties for certain other animal cruelty offenses.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning abandonment of animals, failure to report injury to certain animals in certain circumstances, increasing civil penalties for certain animal cruelty offenses, and amending various parts of statutory law, supplementing chapter 22 of Title 4 of the Revised Statutes, and repealing R.S.4:22-20 and section 2 of P.L.1939, c.315.

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

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

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

"Animal" **[**or "creature" includes**]** means any member of the whole brute creation. The term "animal" shall not include human beings.

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

"Caretaker" means a person who is in possession of an animal and is the person upon whom the care, health, safety and welfare of the animal is primarily dependent.

"Domestic livestock" means "domestic livestock" as defined pursuant to section 1 of P.L.1995, c.311 (C.4:22-16.1).

"Domesticated animal" means a domestic companion animal as defined pursuant to subsection u. of N.J.S.2C:20-1 or any animal of a species commonly kept as a domestic companion animal. "Domesticated animal" shall not include domestic livestock.

"Necessary care" means care sufficient to preserve the health and well-being of an animal, and except for emergencies or circumstances beyond the reasonable control of the person responsible for the care of the animal, includes, but is not limited to: (1) food of sufficient quantity and quality to allow for normal growth or maintenance of body weight; (2) open or adequate access to drinkable water of an appropriate temperature in sufficient quantity and quality to satisfy the animal's needs; (3) access to adequate protection from the weather **[**; and**]** , including access to an enclosed non-hazardous structure sufficient to protect the animal from the weather that has adequate bedding to protect against cold and dampness, and adequate protection from extreme or excessive sunlight and from overexposure to the sun, heat and other weather conditions; (4) veterinary care deemed necessary by a reasonably prudent person to prevent or relieve injury, neglect or disease, alleviate suffering, and maintain health; and (5) reasonable access to a clean and adequate exercise area.

"Owner" **[**or "person" includes a corporation, and the knowledge and acts of an agent or employee of a corporation in regard to

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.

animals transported, owned, employed, or in the custody of the corporation shall be imputed to the corporation.**]** means a person who is the caretaker of an animal in question and has the legal right of possession of the animal and any legal title to its ownership.

"Person" means "person" as defined under subsection g. of N.J.S.2C:1-14.

"Possess" or "possession" means having physical custody of, having legal custody over, being in charge of, or having physical control over an animal, whether temporarily or as an owner of the animal.

"Serious bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(cf: P.L.2013, c.88, s.1)

2. (New section) a. A person is guilty of animal abandonment if the person, with the purpose of relinquishing possession of the animal and without making provisions for the necessary care of the animal, knowingly leaves, or causes to be left, a domesticated animal or domestic livestock:

(1) in a public place where the animal may die, and the animal is maimed, sick, infirm or disabled; or

(2) in a place beyond the control, custody or possession of the owner or the person relinquishing possession of the animal.

Animal abandonment is a crime of the fourth degree.

b. Each animal abandoned in violation of this section shall constitute a separate and distinct offense.

c. In addition to the penalties and remedies prescribed for violations of this section pursuant to Title 2C of the New Jersey Statutes, a person found guilty of violating subsection a. of this section shall be subject to an additional fine of $1,000 for each animal abandoned that is:

(1) maimed, sick, infirm or disabled; or

(2) left within 200 feet of a roadway.

3. The title to part B of article 2 of chapter 22 of Title 4 of the Revised Statutes is amended to read as follows:

B. **[**MISDEMEANORS AND FINES**]** CRIMINAL OFFENSES AND PENALTIES; PROHIBITED METHODS FOR DESTRUCTION OF ANIMALS.

(cf: Title, part B, article 2, chapter 22, Title 4 of the Revised Statutes)

4. Section 1 of P.L.1939, c.315 (C.4:22-25.1) is amended to read as follows:

1. **[**Each**]** Any person operating a motor vehicle who **[**shall**]** knowingly **[**hit, run over, or cause**]** hits, runs over, or causes injury

to a cat, dog, horse, [or] cattle, or other domesticated animal or domestic livestock shall stop at once, ascertain the extent of injury, and report the incident to the nearest police station, police officer, municipal humane law enforcement officer, chief humane law enforcement officer, or humane law enforcement officer of a county society for the prevention of cruelty to animals [and give his] . When reporting the incident, the person operating the motor vehicle shall provide the person's name, address, [operator's] driver's license number, and motor vehicle registration number, and [also give] the location of the injured animal. Any person who violates any provision of this section shall be guilty of a disorderly persons offense.
(cf: P.L.2017, c.331, s.12)

5. The title to part C of article 2 of chapter 22 of Title 4 of the Revised Statutes is amended to read as follows:

C. CIVIL PENALTIES; RECOVERY.

(cf: Title, part C, article 2, chapter 22, Title 4 of the Revised Statutes)

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

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 person's place owned or controlled by the person 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] <u>Leave, or cause to be left, without making provisions for the necessary care of the animal,</u> a maimed, sick, infirm or disabled <u>domesticated</u> animal [or creature to die] <u>or domestic livestock</u> in a public place <u>where the animal may die</u>;

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**]** Leave, or cause to be left, without making provisions for the minimum care of the animal, a domesticated animal or domestic livestock in a place beyond the control, custody, or possession of the owner or the person relinquishing possession of the 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**]**; or own, possess, buy, sell, transfer, or manufacture animal fighting paraphernalia as defined pursuant to R.S.4:22-24 for the purpose of engaging in or otherwise promoting or facilitating the fighting or baiting of a living 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**]** $1,500 nor more than **[**$1,000**]**, $3,000 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**]** $500 nor more than **[**$1,000**]** $2,500; 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.

(cf: P.L.2019, c.223, s.3)

7. Section 1 of P.L.1995, c.255 (C.4:22-26.1) is amended to read as follows:

1. A certified animal control officer, municipal humane law enforcement officer, humane law enforcement officer of a county society for the prevention of cruelty to animals, chief humane law enforcement officer, or animal cruelty prosecutor designated pursuant to paragraph (1) of subsection a. of section 28 of P.L.2017, c.331 (C.4:22-14.4) may petition a court of competent jurisdiction to have **[**any animal**]** confiscated **[**and forfeited**]** , pending the disposition of an alleged animal cruelty violation, any animal that is owned or possessed by a person charged with the animal cruelty violation, and have the animal forfeited at the time the person is found to be guilty of, or civilly liable for, violating **[**R.S.4:22-17, R.S.4:22-18, R.S.4:22-19, R.S.4:22-20 or R.S.4:22-23**]** any animal cruelty provision of chapter 19 or 22 of Title 4 of the Revised Statutes.

Upon a finding that the continued possession by that person poses a threat to the **[**animal's**]** welfare of the animal, the court may, in addition to any other penalty that may be imposed for a violation of **[**R.S.4:22-17, R.S.4:22-18, R.S.4:22-19, R.S.4:22-20 or R.S.4:22-23**]** chapter 19 or 22 of Title 4 of the Revised Statutes, adjudge an animal forfeited for such disposition as the court deems appropriate.

(cf: P.L.2017, c.331, s.14)

8. R.S.4:22-20 and section 2 of P.L.1939, c.315 (C.4:22-25.2) are hereby repealed.

9. (New section) Notwithstanding the provisions of P.L. , c. (C.) (pending before the Legislature as this bill) to the contrary, any violations or offenses committed, or in the process of being adjudicated under R.S.4:22-20 or section 2 of P.L.1939, c.315 (C.4:22-25.2) on or before the date of enactment of P.L. , c. (C.) (pending before the Legislature as this bill), shall be adjudicated pursuant to those laws, as applicable.

10. This act shall take effect immediately.

STATEMENT

This bill revises the animal cruelty statutes concerning animal abandonment, increases civil penalties for certain animal cruelty offenses, and updates statutes and statutory titles in the animal cruelty law to reflect changes made by the bill and the current allocation of offenses. The bill revises the criminal offense of animal abandonment and establishes it as a crime of the fourth degree, with an additional penalty of $1,000 for each animal abandoned that is maimed, sick, infirm or disabled, or left within 200 feet of a roadway. The civil penalty under the bill would be $500 to $3,000.

Under the bill, a person is guilty of the criminal offense of animal abandonment if the person, with the purpose of relinquishing possession of the animal and without making provisions for the minimum care of the animal, knowingly leaves, or causes to be left, a domesticated animal or domestic livestock:

1) in a public place where the animal may die, and the animal is maimed, sick, infirm or disabled; or

2) in a place beyond the control, custody or possession of the owner or the person relinquishing possession of the animal.

The bill also updates the provisions of current law so that people committing such offenses would be liable for a civil penalty as well.

The bill also revises current law requiring the reporting of hitting, running over, or causing injury to a cat, dog, horse, or cattle. The bill updates the terminology in the statute, upgrades failure to report to a disorderly persons offense, and provides additional options for reporting to include the nearest animal control officer, or humane law enforcement officer or agent of the New Jersey Society for the Prevention of Cruelty to Animals or county society for the prevention of cruelty to animals.

Finally, in addition to revising and increasing the civil penalty for abandoning a maimed, sick, infirm or disabled animal to die in a public place, the bill increases the civil penalty to not less than $500 nor more than $2,500 for all of the offenses that have the same civil penalty under current law as the offense of abandoning a maimed, sick, infirm or disabled animal to die in a public place.