

The National Agricultural  
Law Center



University of Arkansas School of Law

An Agricultural Law Research Project

**States' Animal Cruelty Statutes**  
**State of Kansas**

[www.NationalAgLawCenter.org](http://www.NationalAgLawCenter.org)



UNIVERSITY of ARKANSAS  
SCHOOL of LAW

## States' Animal Cruelty Statutes

### STATE OF KANSAS

*Current through 2009 Regular Session*

#### **21-4310. Cruelty to animals.**

(a) Cruelty to animals is:

- (1) Intentionally and maliciously killing, injuring, maiming, torturing, burning or mutilating any animal;
- (2) intentionally abandoning or leaving any animal in any place without making provisions for its proper care;
- (3) having physical custody of any animal and intentionally failing to provide such food, potable water, protection from the elements, opportunity for exercise and other care as is needed for the health or well-being of such kind of animal;
- (4) intentionally using a wire, pole, stick, rope or any other object to cause an equine to lose its balance or fall, for the purpose of sport or entertainment; or
- (5) intentionally causing any physical injury other than the acts described in subsection (a)(1).

(b) The provisions of this section shall not apply to:

- (1) Normal or accepted veterinary practices;
- (2) bona fide experiments carried on by commonly recognized research facilities;
- (3) killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of chapter 32 or chapter 47 of the Kansas Statutes Annotated;
- (4) rodeo practices accepted by the rodeo cowboys' association;
- (5) the humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by the owner thereof or the agent of such owner residing outside of a city or the owner thereof within a city if no animal shelter, pound or licensed veterinarian is within the city, or by a licensed veterinarian at

the request of the owner thereof, or by any officer or agent of an incorporated humane society, the operator of an animal shelter or pound, a local or state health officer or a licensed veterinarian three business days following the receipt of any such animal at such society, shelter or pound;

(6) with respect to farm animals, normal or accepted practices of animal husbandry, including the normal and accepted practices for the slaughter of such animals for food or by-products and the careful or thrifty management of one's herd or animals, including animal care practices common in the industry or region;

(7) the killing of any animal by any person at any time which may be found outside of the owned or rented property of the owner or custodian of such animal and which is found injuring or posing a threat to any person, farm animal or property;

(8) an animal control officer trained by a licensed veterinarian in the use of a tranquilizer gun, using such gun with the appropriate dosage for the size of the animal, when such animal is vicious or could not be captured after reasonable attempts using other methods;

(9) laying an equine down for medical or identification purposes;

(10) normal or accepted practices of pest control, as defined in subsection (x) of [K.S.A. 2-2438a](#), and amendments thereto; or

(11) accepted practices of animal husbandry pursuant to regulations promulgated by the United States department of agriculture for domestic pet animals under the animal welfare act, public law 89-544, as amended and in effect on July 1, 2006.

(c) As used in this section:

(1) "Equine" means a horse, pony, mule, jenny, donkey or hinny.

(2) "Maliciously" means a state of mind characterized by actual evil-mindedness or specific intent to do a harmful act without a reasonable justification or excuse.

(d)(1) Cruelty to animals as described in subsection (a)(1) is a nonperson felony. Upon conviction of this subsection, a person shall be sentenced to not less than 30 days or more than one year's imprisonment and be fined not less than \$500 nor more than \$5,000. During the mandatory 30 days imprisonment, such offender shall have a psychological evaluation prepared for the court to assist the court in determining conditions of probation. Such conditions shall include, but not be limited to, the completion of an anger management program.

(2) The first conviction of cruelty to animals as described in subsection (a)(2), (a)(3), (a)(4) and (a)(5) is a class A nonperson misdemeanor. The second or subsequent conviction of cruelty to animals as described in subsection (a)(2), (a)(3), (a)(4) and (a)(5) is a non-person felony. Upon such conviction, a person shall be sentenced to not less than five days or more than one year's imprisonment and be fined not less than \$500 nor more than \$2,500.

(e) For purposes of this section, “animal” shall have the meaning ascribed to it in [K.S.A. 21-4313](#), and amendments thereto.

**21-4311. Cruelty to animals; custody of animal; disposition; damages for killing, when; expenses of care assessed owner, when; duty of county or district attorney.**

(a) Any public health officer, law enforcement officer, licensed veterinarian or officer or agent of any incorporated humane society, animal shelter or other appropriate facility may take into custody any animal, upon either private or public property, which clearly shows evidence of cruelty to animals, as defined in K.S.A. 21-4310 and amendments thereto. Such officer, agent or veterinarian may inspect, care for or treat such animal or place such animal in the care of a duly incorporated humane society or licensed veterinarian for treatment, boarding or other care or, if an officer of such humane society or such veterinarian determines that the animal appears to be diseased or disabled beyond recovery for any useful purpose, for humane killing. If the animal is placed in the care of an animal shelter, the animal shelter shall notify the owner or custodian, if known or reasonably ascertainable. If the owner or custodian is charged with a violation of K.S.A. 21-4310, and amendments thereto, the board of county commissioners in the county where the animal was taken into custody shall establish and approve procedures whereby the animal shelter may petition the district court to be allowed to place the animal for adoption or euthanize the animal at any time after 20 days after the owner or custodian is notified or, if the owner or custodian is not known or reasonably ascertainable after 20 days after the animal is taken into custody, unless the owner or custodian of the animal files a renewable cash or performance bond with the county clerk of the county where the animal is being held, in an amount equal to not less than the cost of care and treatment of the animal for 30 days. Upon receiving such petition, the court shall determine whether the animal may be placed for adoption or euthanized. The board of county commissioners in the county where the animal was taken into custody shall review the cost of care and treatment being charged by the animal shelter maintaining the animal.

(b) The owner or custodian of an animal placed for adoption or killed pursuant to subsection (a) shall not be entitled to recover damages for the placement or killing of such animal unless the owner proves that such placement or killing was unwarranted.

(c) Expenses incurred for the care, treatment or boarding of any animal, taken into custody pursuant to subsection (a), pending prosecution of the owner or custodian of such animal for the crime of cruelty to animals, as defined in K.S.A. 21-4310 and amendments thereto, shall be assessed to the owner or custodian as a cost of the case if the owner or custodian is adjudicated guilty of such crime.

(d) Upon the filing of a sworn complaint by any public health officer, law enforcement officer, licensed veterinarian or officer or agent of any incorporated humane society, animal shelter or other appropriate facility alleging the commission of cruelty to animals, as defined in K.S.A. 21-4310 and amendments thereto, the county or district attorney shall determine the validity of the complaint and shall forthwith file charges for the crime if the complaint appears to be valid.

(e) If a person is adjudicated guilty of the crime of cruelty to animals, as defined in K.S.A. 21-4310 and amendments thereto, and the court having jurisdiction is satisfied that an animal owned or possessed by such person would be in the future subjected to such crime, such animal shall not be returned to or remain with such person. Such animal may be turned over to a duly incorporated humane society or licensed veterinarian for sale or other disposition.

**21-4312. Unlawful disposition of animals.**

(1) Unlawful disposition of animals is raffling, giving as a prize or premium or using as an advertising device or promotional display living rabbits or chickens, ducklings or goslings, but

shall not include the giving of such animals to minors for use in agricultural projects under the supervision of commonly recognized youth farm organizations.

(2) Unlawful disposition of animals is a class C misdemeanor.

### **21-4313. Definitions.**

As used in this act [FN\*], unless the context otherwise requires;

(1) "Animal" means every living vertebrate except a human being.

(2) "Farm animal" means an animal raised on a farm or ranch and used or intended for use as food or fiber.

(3) "Retailer" means a person regularly engaged in the business of selling tangible personal property, services or entertainment for use or consumption and not for resale.

(4) "Wild animal" means a living mammal or marsupial which is normally found in the wild state, but shall not include a farm animal.

(5) "Domestic pet" means any domesticated animal which is kept for pleasure rather than utility.

### **21-4315. Unlawful conduct of dog fighting; attending the unlawful conduct of dog fighting.**

(a) Unlawful conduct of dog fighting is: (1) Causing, for amusement or gain, any dog to fight with or injure another dog, (2) knowingly permitting such fighting or injuring on premises under one's ownership, charge or control, or (3) training, owning, keeping, transporting or selling any dog for the purpose or with the intent of having it fight with or injure another dog.

(b) Unlawful conduct of dog fighting is a severity level 10, nonperson felony.

(c) Attending the unlawful conduct of dog fighting is a class B nonperson misdemeanor.

(d) This section and K.S.A. 21-4316 and 21-4317, and amendments thereto, shall be part of and supplemental to the Kansas criminal code.

### **21-4316. Same; disposition of dogs; assessment of expenses of care.**

(a) When a person is arrested under K.S.A. 21-4315 and amendments thereto, a law enforcement agency may take into custody any dog on the premises where the dog fight is alleged to have occurred and any dog owned or kept on the premises of any person arrested for unlawful conduct of dog fighting or for attending the unlawful conduct of dog fighting, under K.S.A. 21-4315 and amendments thereto.

(b) When a law enforcement agency takes custody of a dog under this section, such agency may place the dog in the care of a duly incorporated humane society or licensed veterinarian for boarding, treatment or other care. If it appears to a licensed veterinarian that the dog is diseased or disabled beyond recovery for any useful purpose, such dog may be humanely killed. The dog may be sedated, isolated or restrained if such officer, agent or veterinarian determines it to be in the best interest of the dog, other animals at the animal shelter or personnel of the animal shelter. If the dog is placed in the care of an animal shelter, the board of county commissioners in the county where the animal was taken into custody shall establish and approve procedures whereby the animal shelter may petition the district court to be allowed to place the dog for adoption or euthanize the dog at any time after 20 days after the dog is taken into custody, unless the owner or custodian of the dog files a renewable cash or

performance bond with the county clerk of the county where the dog is being held, in an amount equal to not less than the cost of care and treatment of the dog for 30 days. Upon receiving such petition, the court shall determine whether the dog may be placed for adoption or euthanized. The board of county commissioners in the county where the animal was taken into custody shall review the cost of care and treatment being charged by the animal shelter maintaining the animal. Except as provided in subsection (c), if it appears to the licensed veterinarian by physical examination that the dog has not been trained for aggressive conduct or is a type of dog that is not commonly bred or trained for aggressive conduct, the district or county attorney shall order that the dog be returned to its owner when the dog is not needed as evidence in a case filed under K.S.A. 21-4315 or 21-4310, and amendments thereto. The owner or keeper of a dog placed for adoption or humanely killed under this subsection (b) shall not be entitled to damages unless the owner or keeper proves that such placement or killing was unwarranted.

(c) If a person is convicted of unlawful conduct of dog fighting or attending the unlawful conduct of dog fighting under K.S.A. 21-4315 and amendments thereto, a dog taken into custody pursuant to subsection (a) shall not be returned to such person and the court shall order the owner or keeper to pay to the animal shelter all expenses incurred for the care, treatment and boarding of such dog, including any damages caused by such dog, prior to conviction of the owner or keeper. Disposition of such dog shall be in accordance with K.S.A. 21-4311 and amendments thereto. If no such conviction results, the dog shall be returned to the owner or keeper and the court shall order the county where the dog was taken into custody to pay to the animal shelter all expenses incurred by the shelter for the care, treatment and boarding of such dog, including any damages caused by such dog, prior to its return.

#### **21-4317. Illegal ownership or keeping of an animal.**

(a) Illegal ownership or keeping of an animal is owning or keeping on one's premises an animal by a person convicted of unlawful conduct of dog fighting under K.S.A. 21-4315, and amendments thereto, or cruelty to animals as defined in subsection (a)(1) of K.S.A. 21-4310, and amendments thereto, within five years of the date of such conviction.

(b) Illegal ownership or keeping of an animal is a class B nonperson misdemeanor.

#### **21-4318. Harming or killing certain dogs.**

(a) Inflicting harm, disability or death to a police dog, arson dog, assistance dog, game warden dog or search and rescue dog is knowingly and intentionally, and without lawful cause or justification poisoning, inflicting great bodily harm, permanent disability or death, upon a police dog, arson dog, assistance dog, game warden dog or search and rescue dog.

(b) As used in this section:

(1) 'Arson dog' means any dog which is owned, or the service of which is employed, by the state fire marshal or a fire department for the principal purpose of aiding in the detection of liquid accelerants in the investigation of fires.

(2) 'Assistance dog' has the meaning provided by K.S.A. 2006 Supp. 39-1113, and amendments thereto.

(3) 'Fire department' means a public fire department under the control of the governing body of a city, township, county, fire district or benefit district or a private fire department operated by a nonprofit corporation providing fire protection services for a city, township, county, fire district or benefit district under contract with the governing body of the city, township, county or district.

(4) 'Game warden dog' means any dog which is owned, or the service of which is employed, by the department of wildlife and parks for the purpose of aiding in detection of criminal activity, enforcement of laws, apprehension of offenders or location of persons or wildlife.

(5) 'Police dog' means any dog which is owned, or the service of which is employed, by a law enforcement agency for the principal purpose of aiding in the detection of criminal activity, enforcement of laws or apprehension of offenders.

(6) 'Search and rescue dog' means any dog which is owned or the service of which is employed, by a law enforcement or emergency response agency for the purpose of aiding in the location of persons missing in disasters or other times of need.

(c) Inflicting harm, disability or death to a police dog, arson dog, assistance dog, game warden dog or search and rescue dog is a nonperson felony. Upon conviction of this subsection, a person shall be sentenced to not less than 30 days or more than one year's imprisonment and be fined not less than \$500 nor more than \$5,000. During the mandatory 30 days imprisonment, such offender shall have a psychological evaluation prepared for the court to assist the court in determining conditions of probation. Such conditions shall include, but not be limited to, the completion of an anger management program.

(d) This section shall be part of and supplemental to the Kansas criminal code.

#### **21-4319. Unlawful conduct of cockfighting.**

(a) Unlawful conduct of cockfighting is: (1) Causing, for amusement or gain, any gamecock to fight with or injure another gamecock; (2) knowingly permitting such fighting or injuring on premises under one's ownership, charge or control; (3) training any gamecock for the purpose or with the intent of having it fight with or injure another gamecock; or (4) attending the unlawful conduct of cockfighting as provided in this subsection.

(b) Unlawful conduct of cockfighting is a class A nonperson misdemeanor.

(c) As used in this section, 'gamecock' means a domesticated fowl that is bred, reared or trained for the purpose of fighting with other fowl.

(d) The provisions of this section shall be part of and supplemental to the Kansas criminal code.