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## **States' Animal Cruelty Statutes**

**State of Vermont**

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UNIVERSITY of ARKANSAS  
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### STATE OF VERMONT

*Current with all laws effective upon passage through No. 82 of the Adjourned Session of the 2009-2010 session (2010) of the Vermont General Assembly.*

#### **§ 351. Definitions**

As used in this chapter:

- (1) "Animal" means all living sentient creatures, not human beings.
- (2) "Secretary" means the secretary of agriculture, food and markets.
- (3) "Horse" means the entire family of equidae.
- (4) "Humane officer" or "officer" means any law enforcement officer as defined in 23 V.S.A. § 4(11), auxiliary state police officers, deputy game wardens, humane society officer, employee or agent, local board of health officer or agent, or any officer authorized to serve criminal process.
- (5) "Humane society" or "society for prevention of cruelty to animals" means the Vermont Humane Federation, Inc., or its successor, or any incorporated humane society which, through its agents has the lawful authority to interfere with acts of cruelty to animals.
- (6) "Local board of health" means the town or city health officer and the boards of selectmen or aldermen.
- (7) "Necessary medical attention" shall include but not be limited to medical treatment for illness, injury, disease, excessive parasitism, or malformed or overgrown hoof.
- (8) "Person" means any individual, firm, partnership or corporation, or authorized agent or representative of a person, partnership or corporation.
- (9) "Sanitation" means the maintenance of clean conditions for indoor and outdoor enclosures to minimize health hazards, including periodic cleanings to remove excretions or other waste materials, dirt and trash.
- (10) "Torture" or "torment" means omission, neglect, or an act by an animal owner or other person, whereby physical pain, suffering or death is caused or permitted to be caused to an animal.
- (11) "Livestock" means cattle, bison, horses, sheep, goats, swine, cervidae, ratites and camelids.

(12) "Poultry" means meat and egg producing chickens, exhibition (fancy) chickens, turkeys, domestic ducks, geese, pheasants, chicken partridge and cotarnix quail.

(13) "Livestock and poultry husbandry practices" means the raising, management and using of animals to provide humans with food, fiber or transportation in a manner consistent with:

(A) husbandry practices recommended for the species by agricultural colleges and the U.S. Department of Agriculture Extension Service;

(B) husbandry practices modified for the species to conform to the Vermont environment and terrain; and

(C) husbandry practices that minimize pain and suffering.

(14) "Agricultural or sporting association" means an organization or association determined by the secretary.

(15) "Living space" means any cage, crate, or other structure used to confine an animal that serves as its principal, primary housing. Living space does not include a structure, such as a doghouse, in which an animal is not confined, or a cage, crate, or other structure in which the animal is temporarily confined.

(16) "Adequate food" means food that is not spoiled or contaminated and is of sufficient quantity and quality to meet the normal daily requirements for the condition and size of the animal and the environment in which it is kept. An animal shall be fed or have food available at least once each day, unless a licensed veterinarian instructs otherwise, or withholding food is in accordance with accepted agricultural or veterinarian practices.

(17) "Adequate water" means fresh, potable water provided at suitable intervals for the species, and which, in no event, shall exceed 24 hours at any interval. The animal must have access to the water.

(18) "Adequate shelter" means shelter which protects the animal from injury and environmental hazards.

### **§ 351a. Purpose of subchapter**

The purpose of this subchapter is to prevent cruelty to animals. In implementing this subchapter, enforcement officers are encouraged to educate the public on requirements of the subchapter and, when appropriate, to seek voluntary resolution of violations.

### **§ 351b. Scope of subchapter**

This subchapter shall not apply to:

(1) activities regulated by the department of fish and wildlife pursuant to part 4 of Title 10;

(2) scientific research governed by accepted procedural standards subject to review by an institutional animal care and use committee;

(3) livestock and poultry husbandry practices for raising, management and use of animals;

(4) veterinary medical or surgical procedures; and

(5) the killing of an animal as provided by sections 3809 and 3545 of Title 20.

## **§ 352. Cruelty to animals**

A person commits the crime of cruelty to animals if the person:

- (1) intentionally kills or attempts to kill any animal belonging to another person without first obtaining legal authority or consent of the owner;
- (2) overworks, overloads, tortures, torments, abandons, administers poison to, cruelly beats or mutilates an animal, or exposes a poison with intent that it be taken by an animal;
- (3) ties, tethers, or restrains an animal, either a pet or livestock, in a manner that is inhumane or is detrimental to its welfare. Livestock and poultry husbandry practices are exempted;
- (4) deprives an animal which a person owns, possesses or acts as an agent for, of adequate food, water, shelter, rest, sanitation, or necessary medical attention, or transports an animal in overcrowded vehicles;
- (5) owns, possesses, keeps or trains an animal engaged in an exhibition of fighting, or possesses, keeps or trains any animal with intent that it be engaged in an exhibition of fighting, or permits any such act to be done on premises under his or her charge or control;
- (6) acts as judge or spectator at events of animal fighting or bets or wagers on the outcome of such fight;
- (7) as poundkeeper, officer, agent of a humane society or as an owner or employee of an establishment for treatment, board or care of an animal, knowingly receives, sells, transfers or otherwise conveys an animal in his or her care for the purpose of research or vivisection;
- (8) intentionally torments or harasses an animal owned or engaged by a police department or public agency of the state or its political subdivisions, or interferes with the lawful performance of a police animal;
- (9) knowingly sells, offers for sale, barter or displays living baby chicks, ducklings or other fowl which have been dyed, colored or otherwise treated so as to impart to them an artificial color, or fails to provide poultry with proper brooder facilities;
- (10) uses a live animal as bait or lure in a race, game or contest or in training animals in a manner inconsistent with Part 4 of Title 10 or the rules adopted thereunder.

## **§ 352a. Aggravated cruelty to animals**

A person commits the crime of aggravated cruelty to animals if the person:

- (1) kills an animal by intentionally causing the animal undue pain or suffering; or
- (2) intentionally, maliciously, and without just cause tortures, mutilates, or cruelly beats an animal.

### **§ 352b. Rules; affirmative defense**

(a) An enforcement officer implementing the provisions of section 352 or 352a of this title shall be guided by rules established by the secretary.

(b) Except as provided in subsection (c) of this section, an affirmative defense to prosecution under section 352 or 352a of this title may be raised when:

- (1) except for vivisection or research under section 352(7) of this title, the defendant was a veterinarian whose conduct conformed to accepted veterinary practice for the area, or was a scientist whose conduct was a part of scientific research governed by accepted procedural standards subject to review by an institutional care and use committee;
- (2) the defendant's conduct was designed to control or eliminate rodents, ants or other common pests on the defendant's own property;
- (3) the defendant was a person appropriately licensed to utilize pesticides under chapter 87 of Title 6;
- (4) the defendant humanely euthanized any animal as a representative of a duly organized humane society, animal shelter or town pound according to rules of this subchapter, or as a veterinarian destroying animals under chapter 193 or sections 3511 and 3513 of Title 20; or
- (5) a state agency was implementing a rabies control program.

(c) An affirmative defense to a charge of abandonment under section 352 of this title shall not be recognized where a person abandons an animal at or near an animal shelter or veterinary clinic, farm or other place of shelter, without making reasonable arrangements for the care of the animal.

(d) The authority to enforce this chapter shall not be construed in a manner inconsistent with the animal control or disease control eradication programs in Title 6, or chapters 191, 193, 194 and 195 of Title 20 or the provisions of part 4 of Title 10, or the rules adopted thereunder.

### **§ 353. Degree of offense; sentencing upon conviction**

(a) Penalties.

- (1) Except as provided in subdivision (3) or (4) of this subsection, cruelty to animals under section 352 of this title shall be punishable by a sentence of imprisonment of not more than one year, or a fine of not more than \$2,000.00, or both. Second and subsequent convictions shall be punishable by a sentence of imprisonment of not more than two years or a fine of not more than \$5,000.00, or both.
- (2) Aggravated cruelty under section 352a of this title shall be punishable by a sentence of imprisonment of not more than three years or a fine of not more than \$5,000.00, or both. Second and subsequent offenses shall be punishable by a sentence of imprisonment of not more than five years or a fine of not more than \$7,500.00, or both.
- (3) An offense committed under subdivisions 352(5) and (6) of this title shall be punishable by a sentence of imprisonment of not more than 5 years, or a fine of not more than \$5,000.00, or both.
- (4)(A) Except as provided in subdivision (B) of this subdivision (4), a person found in violation of subdivision 352(3), (4), or (9) of this title pursuant to this subdivision shall be imprisoned not more than one year or fined not more than \$2,000.00, or both. Second and subsequent convictions shall be punishable by a sentence of imprisonment of not more than two years or a fine of not more than \$5,000.00, or both.
- (B) A law enforcement officer shall issue a civil citation to a person who violates subdivision 352(3), (4), or (9) of this title if the person has not been previously

adjudicated in violation of this chapter. A person adjudicated in violation of subdivision 352(3), (4), or (9) of this title pursuant to this subdivision shall be assessed a civil penalty of not more than \$500.00. At any time prior to the person admitting the violation and paying the assessed penalty, the state's attorney may withdraw the complaint filed with the judicial bureau and file an information charging a violation of subdivision 352(3), (4), or (9) of this title in district court.

(b) In addition to any other sentence the court may impose, the court may require a defendant convicted of a violation under section 352 or 352a of this title to:

- (1) Forfeit any rights to the animal subjected to cruelty, and to any other animal, except livestock or poultry owned, possessed, or in the custody of the defendant.
- (2) Repay the reasonable costs incurred by any person, municipality or agency for providing care for the animal prior to judgment. If the court does not order a defendant to pay all the applicable costs incurred or orders only partial payment, it shall state on the record the reasons for that action.
- (3) Forfeit any future right to own, possess, or care for any animal for a period which the court deems appropriate.
- (4) Participate in available animal cruelty prevention programs or educational programs, or both, or obtain psychiatric or psychological counseling, within a reasonable distance from the defendant's residence. If a juvenile is adjudicated delinquent under section 352 or 352a of this title, the court may order the juvenile to undergo a psychiatric or psychological evaluation and to participate in treatment that the court determines to be appropriate after due consideration of the evaluation. The court may impose the costs of such programs or counseling upon the defendant when appropriate.
- (5) Permit periodic unannounced visits for a period up to one year by a humane officer to inspect the care and condition of any animal permitted by the court to remain in the care, custody, or possession of the defendant. Such period may be extended by the court upon motion made by the state.

(c) Upon an order of forfeiture of an animal under this section or section 354 of this title, the court shall order custody of the animal remanded to a humane society or other individual deemed appropriate by the court, for further disposition in accordance with accepted practices for humane treatment of animals. A transfer of rights under this section constitutes a transfer of ownership, and shall not constitute or authorize any limitation upon the right of the humane society, individual, or other entity, to whom rights are granted to dispose of the animal.

#### **§ 354. Enforcement; possession of abused animal; searches and seizures; forfeiture**

(a) The secretary of agriculture, food and markets shall be consulted prior to any enforcement action brought pursuant to this chapter which involves livestock and poultry.

(b) Any humane officer as defined in section 351 of this title may enforce this chapter. As part of an enforcement action, a humane officer may seize an animal being cruelly treated in violation of this chapter.

- (1) Voluntary surrender. A humane officer may accept animals voluntarily surrendered by the owner anytime during the cruelty investigation. The humane officer shall have a surrendered animal examined and assessed within 72 hours by a veterinarian licensed to practice in the state of Vermont.
- (2) Search and seizure using a search warrant. A humane officer having probable cause to believe an animal is being subjected to cruel treatment in violation of this subchapter may apply for a search warrant pursuant to the Rules of Criminal Procedure to authorize the officer to enter the premises where the animal is kept and seize the animal. The application and affidavit for the search warrant shall be reviewed and authorized by an attorney for the state when sought by an officer other than an enforcement officer

defined in 23 V.S.A. § 4(11). A veterinarian licensed to practice in Vermont must accompany the humane officer during the execution of the search warrant.

(3) Seizure without a search warrant. If the humane officer witnesses a situation in which the humane officer determines that an animal's life is in jeopardy and immediate action is required to protect the animal's health or safety, the officer may seize the animal without a warrant. The humane officer shall immediately take an animal seized under this subdivision to a licensed veterinarian for medical attention to stabilize the animal's condition and to assess the health of the animal.

(c) A humane officer shall provide suitable care at a reasonable cost for an animal seized under this section, and have a lien on the animal for all expenses incurred. A humane officer may arrange for the euthanasia of a severely injured, diseased, or suffering animal upon the recommendation of a licensed veterinarian. A humane officer may arrange for euthanasia of an animal seized under this section when the owner is unwilling or unable to provide necessary medical attention required while the animal is in custodial care or when the animal cannot be safely confined under standard housing conditions. An animal not destroyed by euthanasia shall be kept in custodial care until final disposition of the criminal charges except as provided in subsections (d) through (h) of this section. The custodial caregiver shall be responsible for maintaining the records applicable to all animals seized, including identification, residence, location, medical treatment, and disposition of the animals.

(d) If an animal is seized under this section, the state may institute a civil proceeding for forfeiture of the animal in the territorial unit of the district court where the offense is alleged to have occurred. The proceeding shall be instituted by a motion for forfeiture, which shall be filed with the court and served upon the animal's owner.

(e) The court shall set a hearing to be held within 21 days after institution of a forfeiture proceeding under this section. Time limits under this subsection shall not be construed as jurisdictional.

(f) At the hearing on the motion for forfeiture, the state shall have the burden of establishing by clear and convincing evidence that the animal was subjected to cruelty, neglect or abandonment in violation of section 352 or 352a of this title. The court shall make findings of fact and conclusions of law and shall issue a final order. If the state meets its burden of proof, the motion shall be granted and the court shall order the immediate forfeiture of the animal in accordance with the provisions of subsection 353(c) of this title.

(g)(1) If the defendant is convicted of criminal charges under this chapter or if an order of forfeiture is entered against an owner under this section, the defendant or owner shall be required to repay all reasonable costs incurred by the custodial caregiver for caring for the animal, including veterinary expenses.

(2)(A) If the defendant is acquitted of criminal charges under this chapter and a civil forfeiture proceeding under this section is not pending, an animal that has been taken into custodial care shall be returned to the defendant unless the state institutes a civil forfeiture proceeding under this section within seven days of the acquittal.

(B) If the court rules in favor of the owner in a civil forfeiture proceeding under this section and criminal charges against the owner under this chapter are not pending, an animal that has been taken into custodial care shall be returned to the owner unless the state files criminal charges under this section within seven days after the entry of final judgment.

(C) If an animal is returned to a defendant or owner under this subdivision, the defendant or owner shall not be responsible for the costs of caring for the animal.

(h) An order of the district court under this section may be appealed as a matter of right to the supreme court. The order shall not be stayed pending appeal.

(i) The provisions of this section are in addition to and not in lieu of the provisions of section 353 of this title.

(j) It is unlawful for a person to interfere with a humane officer or the secretary of agriculture, food and markets engaged in official duties under this chapter. A person who violates this subsection shall be prosecuted under section 3001 of this title.

### **§ 361. Interference with domestic animals**

(a) A person commits the crime of interference with domestic animals if the person confines or secretes a domestic animal owned by another, with the intention of concealing its identity or the identity of its owner. A person also commits the crime of interference with domestic animals if he or she conceals the fact that the animal is licensed by removing the collar, harness or identification, or defaces a tattoo or brand tag from any licensed animal or other domestic animal owned by another.

(b) Interference with domestic animals shall be punishable by a sentence of imprisonment of not more than one year, or a fine of not more than \$2,000.00, or both.

### **§ 362. Exposing poison on the land**

A person who deposits any poison or substance poisonous to animals on his or her premises or on the premise or buildings of another, with the intent that it be taken by an animal, shall be in violation of subdivision 352(2) of this title. This section shall not apply to control of wild pests, protection of crops from insects, mice, and plant diseases, or the department of fish and wildlife and employees and agents of the state forest service in control of destructive wild animals.

### **§ 363. Shooting birds for amusement**

Except for the taking of game pursuant to Title 10, any person who keeps or uses any live bird for release to be shot for amusement or as a test of marksmanship or provides buildings, sheds, yards, rooms, fields, or other areas to be used for such shooting purposes, shall be in violation of subdivision 352(1) of this title.

### **§ 364. Animal fights**

(a) A person who participates in a fighting exhibition of animals shall be in violation of subdivisions 352(5) and (6) of this title.

(b) In addition to seizure of fighting birds or animals involved in a fighting exhibition, a law enforcement officer or humane officer may seize any equipment associated with that activity.

(c) In addition to the imposition of a penalty under this chapter, conviction under this section shall result in forfeiture of all seized fighting animals and equipment. The animals may be destroyed humanely or otherwise disposed of as directed by the court.

### **§ 365. Shelter of animals**

(a) All livestock and animals which are to be predominantly maintained out-of-doors must be provided with adequate shelter to prevent direct exposure to the elements.

(b) Adequate natural shelter, or a three-sided, roofed building with exposure out of the prevailing wind and of sufficient size to adequately accommodate all livestock maintained out-of-doors shall be provided. The building opening size and height must, at a minimum, extend one foot above the withers of the largest animal housed and must be maintained at that level even with manure and litter build-up. Nothing in this section shall control dairy herd housing facilities, either loose housing, comfort stall or stanchion ties, or other housing under control of the department of agriculture, food and markets. This section shall not apply to any accepted housing or grazing practices for any livestock industry.

(c)(1) A dog, whether chained or penned, shall be provided living space no less than three feet by four feet for 25 pound and smaller dogs, four feet by four feet for 26-35 pound dogs, four feet by five feet for 36-50 pound dogs, five feet by five feet for 51-99 pound dogs, and six feet by five feet for 100 pound and larger dogs.

(2) The specifications required by subdivision (c)(1) of this section shall apply to each dog, regardless of whether the dog is housed individually or with other animals.

(d) A dog or cat confined in a living space shall be permitted outside the cage, crate, or structure for an opportunity of at least one hour of daily exercise, unless otherwise modified or restricted by a licensed veterinarian. Separate space for exercise is not required if an animal's living space is at least three times larger than the minimum requirements set forth in subdivision (c)(1) of this section.

(e) A dog maintained out-of-doors must be provided with suitable housing that assures that the dog is protected from wind and draft, and from excessive sun, rain, and other environmental hazards throughout the year.

(f) A dog chained to a shelter must be on a tether chain at least four times the length of the dog as measured from the tip of its nose to the base of its tail, and shall allow the dog access to the shelter.

(g) A cat, over the age of two months, shall be provided minimum living space of nine square feet, provided the primary structure shall be constructed and maintained so as to provide sufficient space to allow the cat to turn about freely, stand, sit, and lie down. Each primary enclosure housing cats must be at least 24 inches high. These specifications shall apply to each cat regardless of whether the cat is housed individually or with other animals.

(h) Notwithstanding the provisions of this section, animals may be temporarily confined in a space sufficient for them to stand and turn about freely, provided that they are exercised in accordance with accepted agricultural or veterinarian practices, and are provided sufficient food, water, shelter, and proper ventilation.

(i) Failure to comply with this section shall be a violation of subdivision 352(3) or (4) of this title.

(j) Notwithstanding the provisions of this section, an animal may be sheltered, chained, confined, or maintained out-of-doors if doing so is directed by a licensed veterinarian or is in accordance with accepted agricultural or veterinarian practices.

### **§ 366. Prohibited use of animals**

(a) No live animal shall be used as a fund-raising device or award in a contest, lottery, game, or promotion by any person or entity other than at an event recognized by an agricultural or sporting association. An alternative cash prize shall be offered. A person or entity shall not

transfer or award an animal without reasonable assurance that the person receiving the animal will provide proper transportation and adequate care.

(b) No live fowl, turtles or rabbits under eight weeks of age in lots of less than six shall be offered for sale or sold, displayed or given away.

(c) No dog, puppy, cat or kitten shall be offered for sale, sold, displayed or given away on the side of any highway, as defined in 19 V.S.A. § 1, except by the owner or lessor of the abutting land. It shall be an affirmative defense under this subsection that a transaction involving a sale or giving away of a dog, puppy, cat or kitten was previously arranged by the parties, and the sale or giving away on the side of the highway was only for the convenient transfer of the animal.

(d) A person who violates this section shall be subject to a fine of not more than \$250.00.