

# **New Jersey Animal Cruelty Laws**

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### **Introduction**

In New Jersey, criminal animal protection laws are contained primarily within Title 4, the Cruelty to Animal laws. There are also other laws related to animal cruelty and defined elsewhere within the New Jersey Statutes Annotated. This document lists each animal protection law and the procedural sections of each law with which officers must comply when enforcing a provision of that law. When available, relevant case law from New Jersey follows each law.

This document begins with the general animal cruelty statutes and then addresses related statutes involving use of animals in product testing and horses. The general animal cruelty statutes cover various issues including euthanasia standards, care of impounded animals, prohibitions against abandoning animals, and penalties, punishments, and enforcements. This updated 2021 summary added relevant statutory law concerning humane law enforcement (including duties of animal cruelty prosecutors) and criminal sentencing statutory guidelines.

### **Overview of Statutory Provisions and Case Law**

- 1. Consolidated Animal Cruelty Laws:** N.J. STAT. ANN. §§ 4:22-15 – 25.5
- 2. Penalties:** N.J. STAT. ANN. §§ 4:26, 26.1, 28, 29, 32, 33.
- 3. Arrests Search and Seizure:** N.J. STAT. ANN. §§ 4:44-48.2, 50-54.
- 4. Disposition of Fines:** N.J. STAT. ANN. §§ 4:22-55, 56, 57
- 5. Use of Animals in Product Testing:** N.J. STAT. ANN. §§ 4:22-59 – 60.
- 6. Treatment of Horses:** N.J. STAT. ANN. §§ 39:4-23 & 24
- 7. Humane Law Enforcement:** N.J. STAT. ANN. §§ 4:22-14.2-- 14.10.
- 8. Sentencing:** N.J. STAT. ANN. §§ 26:43-1, 43-6.

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## **1. CONSOLIDATED ANIMAL CRUELTY LAWS**

### **N.J. STAT. ANN. § 4:22-15. Definitions**

As used in this article:

“Animal” or “creature” includes the whole brute creation.

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

“Necessary care” means care sufficient to preserve the health and well-being of an animal, and includes, but is not limited to: food of sufficient quantity and quality to allow for normal growth or maintenance of body weight; adequate access to water in sufficient quantity and quality to satisfy the animal’s needs; access to adequate protection from the weather; and veterinary care to alleviate suffering and maintain health.

“Owner” or “person” includes a corporation, and the knowledge and acts of an agent or employee of a corporation in regard to animals transported, owned, employed, or in the custody of the corporation shall be imputed to the corporation.

“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.

No Applicable Case Law.

### **N.J. STAT. ANN. § 4:22-16. Permitted Activities**

Nothing contained in this article shall be construed to prohibit or interfere with:

a. Properly conducted scientific experiments performed under the authority of the Department of Health or the United States Department of Agriculture. Those departments may authorize the conduct of such experiments or investigations by agricultural stations and schools maintained by the State or federal government, or by medical societies, universities, colleges and institutions incorporated or authorized to do business in this State and having among their corporate purposes investigation into the causes, nature, prevention and cure of diseases in men and animals; and may for cause revoke such authority;

b. The killing or disposing of an animal or creature by virtue of the order of a constituted authority of the State;

c. The shooting or taking of game or game fish in such manner and at such times as is allowed or provided by the laws of this State;

d. The training or engaging of a dog to accomplish a task or participate in an activity or exhibition designed to develop the physical or mental characteristics of that dog. These activities

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shall be carried out in accordance with the practices, guidelines or rules established by an organization founded for the purpose of promoting and enhancing working dog activities or exhibitions; in a manner which does not adversely affect the health or safety of the dog; and may include avalanche warning, guide work, obedience work, carting, dispatching, freight racing, packing, sled dog racing, sledding, tracking, and weight pull demonstrations;

e. The raising, keeping, care, treatment, marketing, and sale of domestic livestock in accordance with the standards developed and adopted therefor pursuant to subsection a. of section 1 of P.L.1995, c. 311 (C. 4:22-16.1); and

f. The killing or disposing, by a reasonable or commercially acceptable method or means, of a Norway or brown rat (*Rattus norvegicus*), black rat (*Rattus rattus*), or house mouse (*Mus musculus*) by any person, or with the permission or at the direction of that person, while the animal is on property either owned or leased by, or otherwise under the control of, that person, provided that the animal is not a pet.

#### **Applicable Case Law:**

*N.J. Soc. of Prevention of Cruelty to Animals. v. Bd. of Educ. of City of East Orange*, 219 A.2d. 200 (1966), *aff'd*, 227 A.2d. 506 (1967).

**Facts:** The New Jersey Society for the Prevention of Cruelty to Animals (“NJSPCA”) sought to recover \$100 per alleged violation from the Board of Education of the City of East Orange in connection with cancer-inducing experiments conducted by a high-school student on live chickens. NJSPCA claimed only the State Department of Health can grant authority for such experiments to the entities listed under § 4:22-16(a) and the board did not obtain this authorization. As an alternative argument, NJSPCA alleged that the nature of the experiment constituted a needless mutilation or killing and an unnecessary cruelty.

**Holding:** The statute permitting the State Department of Health to authorize scientific experiments on animals (§ 4:22-16(a)) does not deny the board the power and discretion to allow high school students to undertake learning experiences involving ostensible pain or suffering of a chicken. Further, there was no unnecessary infliction of cruelty or otherwise needless mutilation or killing of live animals contrary to § 4:22-16(a).

#### **N.J. STAT. ANN. § 4:22-16.1. Rules and regulations; standards for humane treatment of domestic livestock**

a. The State Board of Agriculture and the Department of Agriculture, in consultation with the New Jersey Agricultural Experiment Station and within six months of the date of enactment of this act, shall develop and adopt, pursuant to the “Administrative Procedure Act,” P.L.1968, c. 410 (C. 52:14B-1 et seq.): (1) standards for the humane raising, keeping, care, treatment, marketing, and sale of domestic livestock; and (2) rules and regulations governing the enforcement of those standards.

b. Notwithstanding any provision in this title to the contrary:

(1) there shall exist a presumption that the raising, keeping, care, treatment, marketing, and sale of domestic livestock in accordance with the standards developed and adopted therefor pursuant to subsection a. of this section shall not constitute a violation of any provision of this title involving alleged cruelty to, or inhumane care or treatment of, domestic livestock;

(2) no person may be cited or arrested for a first offense involving a minor or incidental violation, as defined by rules and regulations adopted pursuant to subsection a. of this section, of any provision of this title involving alleged cruelty to, or inhumane care or treatment of, domestic livestock, unless that person has first been issued a written warning.

c. For the purposes of this act, “domestic livestock” means cattle, horses, donkeys, swine, sheep, goats, rabbits, poultry, fowl, and any other domesticated animal deemed by the State Board of Agriculture and the Department of Agriculture, in consultation with the New Jersey Agricultural Experiment Station, to be domestic livestock for such purposes, according to rules and regulations adopted by the department and the board pursuant to the “Administrative Procedure Act.”

#### **Applicable Case Law:**

*N. J. Soc. for Prevention of Cruelty to Animals v. N. J. Dept. of Agric.*, 955 A.2d 886 (N.J. 2008).

**Facts:** In 1996, the Department of Agriculture (“Department”) was given authority relating to the care and welfare of domestic livestock. The Legislature directed the Department to create regulations that would set humane standards governing the raising, keeping, and marketing of domestic livestock. Interest groups later challenged, both generally and specifically, the regulations promulgated by the Department for failing to comply with the humane requirement.

**Holding:** Although the court did not find the regulations generally invalid, the court found some regulations invalid due to impractical standards and an unacceptable delegation of authority to an ill-defined category of experts. The court found that “routine husbandry practices” is not equivalent to the term “humane” and its inclusion by the Department is an abuse of the interpretive process. The court also found that the Department engaged in impermissible subdelegation by allowing any practices commonly taught in veterinary schools and land grant colleges, institutions that might be influenced by private interests. The court further rejected Department regulations allowing cattle tail docking because of a lack of any evidence on this practice. Lastly, the court rejected the inclusion of certain controversial farm practices, such as castration, debeaking, and toe-trimming, because there is no standard against which to judge for whether an individual is “knowledgeable,” whether a method is “sanitary, or whether a procedure was performed in a “way as to minimize pain.”

#### **N.J. STAT. ANN. § 4:22-17. Cruelty; certain acts, crime; degrees**

a. It shall be unlawful to:

(1) Overdrive, overload, drive when overloaded, overwork, abuse, or needlessly kill a living animal or creature;

(2) Cause or procure, by any direct or indirect means, including but not limited to through the

use of another living animal or creature, any of the acts described in paragraph (1) of this subsection to be done;

(3) 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; or

(4) Fail, as the owner or as a person otherwise charged with the care of a living animal or creature, to provide the living animal or creature with necessary care.

b.

(1) A person who violates subsection a. of this section shall be guilty of a disorderly persons offense. Notwithstanding the provisions of N.J.S.2C:43-3 to the contrary, for every conviction of an offense pursuant to paragraph (1) or (2) of subsection a. of this section, the person shall be fined not less than \$250 nor more than \$1,000, or be imprisoned for a term of not more than six months, or both, in the discretion of the court; and for every conviction of an offense pursuant to paragraph (3) or (4) of subsection a. of this section, the person shall be fined not less than \$500 nor more than \$2,000, or be imprisoned for a term of not more than six months, or both, in the discretion of the court.

(2) If the person who violates subsection a. of this section has a prior conviction for an offense that would constitute a violation of subsection a. of this section, the person shall be guilty of a crime of the fourth degree.

(3) A person who violates subsection a. of this section shall also be subject to the provisions of subsections e. and f. and, if appropriate, subsection g., of this section.

(4) The action for the penalty prescribed in this subsection shall be brought in the municipal court of the municipality wherein the defendant resides or where the offense was committed, except that the municipality may elect to refer the offense to the county prosecutor to determine if the offense should be handled in the Superior Court or in municipal court.

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

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

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

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

(4) Use, or cause or procure the use of, an animal or creature in any kind of sexual manner or initiate any kind of sexual contact with the animal or creature, including, but not limited to, sodomizing the animal or creature. As used in this paragraph, "sexual contact" means any contact between a person and an animal by penetration of the penis or a foreign object into the vagina or anus, contact between the mouth and genitalia, or by contact between the genitalia of one and the genitalia or anus of the other. This term does not include any medical procedure performed by a licensed veterinarian practicing veterinary medicine or an accepted animal husbandry practice.

d.

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

(a) the animal or creature dies as a result of the violation;

(b) the animal or creature suffers serious bodily injury as a result of the violation; or

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

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

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

e. For a violation of this section, in addition to imposing any other appropriate penalties established for a crime of the third degree, crime of the fourth degree, or disorderly persons offense, as the case may be, pursuant to Title 2C of the New Jersey Statutes, the court shall impose a term of community service of up to 30 days, and may direct that the term of community service be served in providing assistance to a county society for the prevention of cruelty to animals or any other recognized organization concerned with the prevention of cruelty to animals or the humane treatment and care of animals, or to a municipality's animal control or animal population control program.

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

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

**Applicable Case Law:**

***State v. Jansson, 2008 WL 4867071 (N.J. 2008).***

**Facts:** Matthew Jansson, a former Wall Township resident, was convicted of cruelty towards an animal. A complaint was filed when Jansson's two Rottweiler dogs were running loose and behaving aggressively toward area residents. Officers were dispatched in an attempt to secure the

dogs and one officer was bit in the process. The officer discharged his weapon as a defensive measure, ultimately piercing the attacking male dog's ear. Both dogs then escaped into a heavily wooded area and Jansson received a call from a former neighbor alerting him to the situation. Jansson first located the injured male dog and observed that the dog was soaked in blood and appeared unable to walk. Jansson tethered the male dog to a tree to secure it and left to get help. On his way to the local animal hospital, Jansson found his female dog and stopped to secure it to a nearby tree. A police sergeant then called Jansson requesting immediate proof of the dogs' rabies shots, and Jansson agreed to return to his former residence to meet with the officers.

**Holding:** The Superior Court affirmed the conviction for cruelty towards an animal. It was improper for Jansson to leave the injured male dog in the woods and not provide immediate aid when Jansson knew that his dog was seriously injured. The judge found that Jansson knowingly withheld medical aid in order to hide the dog and out of concern that someone would take the dog. While the applicable statute (§ 4:22-17(a)(3)) does provide certain circumstances that fall within its scope, these circumstances are preceded by the terms "including but not limited to," and "or," which are not terms of limitation. Thus, the conduct here does fall within the statute's scope.

**Sentencing:** Fines to an aggregate of \$750 together with costs and a two-day community service obligation.

***Gerofsky v. Passaic Cnty. Soc. for Prevention of Cruelty to Animals*, 405, 870 A.2d 704 (N.J. Super. 2005).**

**Facts:** Charles Gerofsky, the President of the NJSPCA, brought action to have several county SPCA certificates of authority revoked. The county SPCAs counter-claimed alleging the revocation was beyond the state SPCA's statutory authority. The trial court revoked the Bergen SPCA's certificate of authority based on Gerofsky's allegations that the Bergen SPCA admitted non-residents as officers and violated gun laws.

**Holding:** The Court of Appeals reversed the county revocation finding that the county prosecutor's statutory authority to supervise all law enforcement in the county includes the authority to supervise and control county SPCA members who exercise law enforcement powers.

***State v. Spencer*, 29 A.2d. 398 (N.J. 1942).**

**Facts:** Gordon Spencer was convicted of cruelly abusing and needlessly killing an alley cat by beating it with a stick. The cat's front paw was caught in a trap and when Spencer tried to release the cat, the cat scratched him and bit him in eight different places on his hands. The cat then took hold of his first finger and thumb and held on with clamped jaws, causing Spencer intense pain. In order to release his hand from the cat's mouth and to escape further attacks, Spencer hit the cat with one blow on the back of its head, killing it instantly.

**Holding:** There is no evidence of any cruel abuse. If a person is unwarrantedly attacked by another person, he has the right to use whatever force necessary in order to repel the attack, and the same should apply to animals. Since Spencer was unable to release the hold of the cat on his hand without striking it, he was justified in doing so, even though the cat died.

**N.J. STAT. ANN. § 4:22-17.1. Definitions relative to care, tethering of certain animals.**

As used in this act:

“Adverse environmental conditions” means (1) when the ambient temperature is 32 degrees Fahrenheit or below in the immediate vicinity of a dog, domestic companion animal, or service animal, or there are other cold weather or precipitation-related environmental conditions, including, but not limited to, wind, rain, snow, ice, sleet, or hail that a person should reasonably know would pose an adverse risk to the health or safety of a dog, domestic companion animal, or service animal, based on the animal’s size, age, physical condition, or thickness of the animal’s hair or fur; or (2) when the ambient temperature is 90 degrees Fahrenheit or above in the immediate vicinity of a dog, domestic companion animal, or service animal, or a dog, domestic companion animal, or service animal is exposed to direct sunlight or hot pavement or any other hot surfaces that a person should reasonably know would pose an adverse risk to the health or safety of the animal, based on the animal’s size, age, physical condition, or thickness of the animal’s hair or fur.

“Animal rescue organization” means an animal rescue organization as defined in section 1 of P.L.1941, c.151 (C.4:19-15.1).

“Animal rescue organization facility” means an animal rescue organization facility as defined in section 1 of P.L.1941, c.151 (C.4:19-15.1).

“Domestic companion animal” means any animal commonly referred to as a pet that was bought, bred, raised, or otherwise acquired, in accordance with local ordinances and State and federal law, for the primary purpose of providing companionship to the owner, rather than for business or agricultural purposes. “Domestic companion animal” shall not include “domestic livestock” as defined in subsection c. of section 1 of P.L.1995, c.311 (C.4:22-16.1).

“Kennel” means a kennel as defined in section 1 of P.L.1941, c.151 (C.4:19-15.1) and licensed pursuant to section 8 of P.L.1941, c.151 (C.4:19-15.8).

“Pet shop” means a pet shop as defined in section 1 of P.L.1941, c.151 (C.4:19-15.1) and licensed pursuant to section 8 of P.L.1941, c.151 (C.4:19-15.8).

“Pound” means a pound as defined in section 1 of P.L.1941, c.151 (C.4:19-15.1) and licensed pursuant to section 8 of P.L.1941, c.151 (C.4:19-15.8).

“Proper shelter” means a structure or other type of protection that conforms to the standards and requirements set forth in section 5 [C.4:22-17.5] of this act, but shall not mean a shelter as defined elsewhere in this section.

“Service animal” means a service animal or a guide dog as defined in subsection e. of section 1 of P.L.2013, c.205 (C.2C:29-3.2), or an animal used for any therapeutic purpose.

“Shelter” means a shelter as defined in section 1 of P.L.1941, c.151 (C.4:19-15.1) and licensed pursuant to section 8 of P.L.1941, c.151 (C.4:19-15.8).

“Tether” means to fasten a dog with a cable, chain, rope, or other similar object to a stationary object, including, but not limited to, a doghouse, tree, stake, pole, fence, or wall, or to a device that is mobile including, but not limited to, a trolley or pulley, in order to restrict the dog’s



movement. “Tether” also means the cable, chain, rope, or other similar object used to fasten a dog, as applicable.

“Unattended” means that the dog, domestic companion animal, or service animal is outdoors and a person is not also outdoors with the animal, or that the dog, domestic companion animal, or service animal is indoors and a person is not also indoors with the animal.

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-17.2. Unlawful treatment of certain animals**

a. Except as provided in subsections b. and c. of this section, it is unlawful to expose any dog, domestic companion animal, or service animal to adverse environmental conditions for more than 30 minutes, unless the animal has continuous access to proper shelter, as set forth in section 5 [C.4:22-17.5] of this act.

b. When State or local officials issue an order of evacuation due to weather or other emergency conditions, an owner or other person with custody or control of a dog, domestic companion animal, or service animal shall make every effort to evacuate with the animal, and shall not leave the animal indoors or outdoors while unattended and tethered. If evacuation with the owner or other person with custody or control of the dog, domestic companion animal, or service animal is not an option, the owner or other person with custody or control of the animal shall make every effort to:

(1) deliver the animal to a safe haven not impacted by the emergency, which may include, but is not limited to, a licensed kennel, shelter, or pound, temporary animal shelter established for the purposes of the emergency, the residence of a friend, relative, or other caregiver, or other suitable facility capable of ensuring the animal’s safety; or

(2) secure the animal in an indoor area that is clear of hazards and is as protective of the dog, domestic companion animal, or service animal as possible under the circumstances, and alert local emergency responders to the animal’s location.

c. The requirements of subsection a. of this section shall not apply to a dog, domestic companion animal, or service animal if any person, including the animal’s owner or person with custody or control of the animal:

(1) is in the presence of the animal and exposed to the same adverse environmental conditions as the animal at all times that the animal is exposed to these adverse environmental conditions; and

(2) can see the animal at all times while the animal is exposed to the adverse environmental conditions, unless the person is blind or visually impaired so that the person cannot see the animal due to the blindness or visual impairment, in which case the person shall remain immediately adjacent to the animal at all times while the animal and the person are exposed to the adverse environmental conditions.

As used in this subsection, “blind” means a person whose vision in the person’s better eye with proper correction does not exceed 20/200 or who has a field defect in the person’s better eye with proper correction which contracts the peripheral field so that the diameter of the visual field subtends an angle no greater than 20 degrees; and “visually impaired” means having a condition in which a person has a corrected visual acuity not exceeding 20/70, but not less than 20/200, in

the person's better eye, or in which the peripheral field of the person's vision has contracted so that the diameter of the visual field subtends an angle no greater than 40 degrees but no less than 20 degrees.

d. The requirements of subsections a. and b. of this section shall not apply to any cat living outside with no apparent owner, commonly referred to as, or considered to be, a feral cat.

e.

(1) The owner of a dog, domestic companion animal, or service animal shall be liable for a violation of subsection a. of this section that occurs on any property belonging to the owner or on which the owner resides at the time of the violation, regardless of whether the owner is present when the violation occurs.

(2) The person with custody or control of a dog, domestic companion animal, or service animal who is not the owner of the animal shall be liable for a violation of subsection a. of this section that occurs on any property belonging to the person with custody or control of the animal or on which the person with custody or control of the animal resides at the time of the violation, regardless of whether the person is present when the violation occurs.

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-17.3. Unlawful to cruelly restrain a dog.**

a. It is unlawful for any person to cruelly restrain a dog.

b. A person cruelly restrains a dog if the person tethers a dog:

(1) which is a nursing female, or which is less than four months old;

(2) outdoors between the hours of 11 p.m. and 5 a.m., but this paragraph shall not take effect until 18 months after the date on which this act takes effect;

(3) in an unoccupied building or upon vacant property;

(4) in a manner that does not permit the dog continuous access to water in a sanitary and liquid state whenever the dog is tethered for more than 30 minutes;

(5) in a manner that exposes the dog to adverse environmental conditions for more than 30 minutes;

(6) by means of a choke collar, prong collar, head harness, or any other type of collar, harness, or similar device other than a properly fitted body harness or buckle-type collar;

(7) by using a chain with metal links that are more than one-quarter of an inch thick, or a tether, collar, or harness to which a weight is attached;

(8) with a tether on which more than one dog is restrained;

(9) with a tether that is less than 15 feet in length or which does not permit the dog to walk at least 15 feet in any one direction; or

(10) with a tether that permits the dog to reach another dog or an object or location that poses a risk of entanglement, strangulation, drowning, or other harm to the health or safety of the dog, including, but not limited to, another dog's tether or a window sill, fence, wall, porch, terrace railing, vehicle, tree, pole, pool, or public road or highway.

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c. Paragraphs (2), (9), and (10) of subsection b. of this section shall not apply if any person, including the dog's owner or the person with custody or control of the dog:

(1) is in the presence of the dog at all times while the dog is tethered, whether indoors or outdoors; and

(2) can see the dog at all times while the dog is tethered, unless the person is blind or visually impaired so that the person cannot see the dog due to the blindness or visual impairment, in which case the person shall remain immediately adjacent to the dog at all times while the dog is tethered.

As used in this subsection, "blind" means a person whose vision in the person's better eye with proper correction does not exceed 20/200 or who has a field defect in the person's better eye with proper correction which contracts the peripheral field so that the diameter of the visual field subtends an angle no greater than 20 degrees; and "visually impaired" means having a condition in which a person has a corrected visual acuity not exceeding 20/70, but not less than 20/200, in the person's better eye, or in which the peripheral field of the person's vision has contracted so that the diameter of the visual field subtends an angle no greater than 40 degrees but no less than 20 degrees.

d.

(1) The owner of a dog shall be liable for a violation of subsections a. and b. of this section that occurs on any property belonging to the owner or on which the owner resides at the time of the violation, regardless of whether the owner is present when the violation occurs.

(2) The person with custody or control of a dog who is not the owner of the dog shall be liable for a violation of subsections a. and b. of this section that occurs on any property belonging to the person with custody or control of the dog or on which the person with custody or control of the dog resides at the time of the violation, regardless of whether the person is present when the violation occurs.

(3) Paragraph (9) of subsection b. of this section shall not apply if the dog is indoors and a person is indoors with the dog.

No Applicable Case Law.

#### **N.J. STAT. ANN. § 4:22-17.4. Unlawful confinement of certain animals**

a. It is unlawful to confine a dog, domestic companion animal, or service animal in any structure, room, area, or container that does not comply with the standards and requirements of proper shelter as set forth in section 5 [C.4:22-17.5] of this act, except as provided in subsections b. and c. of this section.

b.

(1) Notwithstanding the requirements of paragraph (1) of subsection a. of section 5 [C.4:22-17.5] of this act, a person may confine a dog, domestic companion animal, or service animal temporarily in an animal carrier or crate for the purposes enumerated in paragraph (2) of this subsection, provided that (a) during transport, the animal is at all times inside the vehicle being used for transport; and (b) during confinement in the animal carrier or crate, the top of the head of the dog, domestic companion animal, or service animal cannot touch the ceiling of the animal carrier or crate when the animal is in a normal standing position in the animal carrier or crate,

and the dog, domestic companion animal, or service animal can easily turn around in a full circle and lie down on its side in the animal carrier or crate.

(2) A person may confine a dog, domestic companion animal, or service animal temporarily in an animal carrier or crate for the purpose of (a) transport; (b) any exhibition, show, contest, or other temporary event at which the skill, breeding, or stamina of the animal is judged or examined; or (c) in the case of a dog, any exhibition, class, training session, or other temporary event at which the dog is used, or is being trained, to hunt wildlife in a lawful manner.

(3) Notwithstanding the requirements of paragraph (1) of subsection a. of section 5 [C.4:22-17.5] of this act with regard to access to water, a person may confine a dog, domestic companion animal, or service animal without providing access to water at all times if the animal is confined indoors and in the primary living space of the residence of the owner or other person with custody or control of the animal.

c.

(1) The owner of a dog, domestic companion animal, or service animal shall be liable for a violation of subsection a. or b. of this section, as the case may be, that occurs on or in any property belonging to the owner or on which the owner resides or in any vehicle belonging to the owner at the time of the violation, regardless of whether the owner is present when the violation occurs.

(2) The person with custody or control of a dog, domestic companion animal, or service animal who is not the owner of the animal shall be liable for a violation of subsection a. or b. of this section, as the case may be, that occurs on or in any property belonging to the person with custody or control of the animal or on which the person with custody or control of the animal resides or in any vehicle belonging to the person with custody or control of the animal at the time of the violation, regardless of whether the person is present when the violation occurs.

d. Subsection a. of this section shall not apply to:

(1) a facility maintained and used in connection with the practice of veterinary medicine pursuant to R.S.45:16-1 et seq.; or

(2) a licensed kennel, pet shop, shelter, or pound subject to the rules and regulations adopted pursuant to section 14 of P.L.1941, c.151 (C.4:19-15.14) pertaining to the sanitary conduct and operation of kennels, pet shops, shelters, and pounds, which is operating in compliance with those rules and regulations.

No Applicable Case Law.

#### **N.J. STAT. ANN. § 4:22- 17.5. Proper shelter for certain animals.**

a. Proper shelter for a dog, domestic companion animal, or service animal shall be a structure or other type of protection that meets, at a minimum, the following standards and requirements:

(1) It provides at all times (a) adequate ventilation to allow the dog, domestic companion animal, or service animal to remain dry and maintain a normal body temperature, (b) access to water in a sanitary and liquid state, (c) exposure to natural or artificial light according to a regular cycle of day and night, (d) sufficient space so that the dog, domestic companion animal, or service animal can easily turn around in a full circle and lie down on the animal's side with limbs outstretched, and (e) when the animal is in a normal sitting position in the proper shelter, the top of the head of the animal cannot touch the ceiling of the proper shelter;

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- (2) It is maintained in a manner to minimize the accumulation of any waste, other debris, precipitation, or other moisture inside, surrounding, and underneath any area or structure providing proper shelter, and to provide reasonable protection from flooding;
- (3) It is soundly constructed to prevent the sagging or collapse of any part of the structure or protection, and is maintained in good repair with no exposed sharp points or edges;
- (4) It remains in an upright position at all times;
- (5) In the event of adverse environmental conditions as set forth in paragraph (1) of the definition of that term in section 1 [C.4:22-17.1] of this act, it is an enclosed structure that has (a) a solid roof, solid walls with a single opening no larger than necessary to allow the dog, domestic companion animal, or service animal to comfortably enter and exit the structure, and a floor that is not the ground, and (b) insulation, dry bedding, and a windbreak at the entrance that are sufficient to keep the dog, domestic companion animal, or service animal dry and maintain the animal's normal body temperature; and
- (6) In the event of adverse environmental conditions as set forth in paragraph (2) of the definition of that term in section 1 [C.4:22-17.1] of this act, it provides the dog, domestic companion animal, or service animal with adequate shade or other cooling area by natural or artificial means to allow the animal to maintain a normal body temperature.

b. Any part of the residence of an owner, or other person with custody or control, of a dog, domestic companion animal, or service animal shall be proper shelter for a dog, domestic companion animal, or service animal, provided that the part of the residence, and the use thereof, are in compliance with the requirements for proper shelter set forth in this section.

- c. Proper shelter for a dog, domestic companion animal, or service animal shall not include:
- (1) a crawl space under a building or a part of a building, such as under steps, a deck, or a stoop;
  - (2) the space under a vehicle;
  - (3) the inside of a vehicle if the dog, domestic companion animal, or service animal is kept in the vehicle in a manner or for a length of time that a person should reasonably know poses an adverse risk to the health or safety of the animal; or
  - (4) any structure or protection (a) made from pressure-treated wood which contains the chemicals arsenic or chromium, (b) with a floor consisting of wire or chain-link or having openings through which the paw, hoof, or foot of a dog, domestic companion animal, or service animal, as applicable, can pass, or (c) that is located outdoors and is made from cardboard or other materials that are easily degraded by the elements.

No Applicable Case Law.

#### **N.J. STAT. ANN. § 4:22- 17.7. Violations, remedies, required actions**

a. Upon a showing of probable cause that there has been a violation of P.L.2017, c.189 (C.4:22-17.1 et seq.) and submission of proof of issuance of a summons, a court of competent jurisdiction may issue, upon request, a warrant to any municipal humane law enforcement officer, humane law enforcement officer of a county society for the prevention of cruelty to animals, or other State or local law enforcement officer to enter onto the private property where a dog, domestic companion animal, or service animal is located and take physical custody of the animal.

b. Notwithstanding the provisions of subsection a. of this section, or any other law, or any rule or regulation adopted pursuant thereto, to the contrary, any municipal humane law enforcement officer, humane law enforcement officer of a county society for the prevention of cruelty to animals, or other State or local law enforcement officer may immediately enter onto private property where a dog, domestic companion animal, or service animal is located and take physical custody of the animal, if the officer has a reasonable basis to believe that, due to a violation of P.L.2017, c.189 (C.4:22-17.1 et seq.), immediate assistance is required to protect or preserve the animal's life or prevent injury to the animal.

c. Upon taking physical custody of a dog, domestic companion animal, or service animal pursuant to subsection a. or b. of this section, the person taking physical custody of the animal shall: (1) post immediately, in a conspicuous place at the location from which the dog, domestic companion animal, or service animal was taken, the notice required pursuant to subsection d. of this section to the owner or person with custody or control of the dog, domestic companion animal, or service animal; and (2) send by registered or certified mail and by ordinary mail the notice described in subsection d. of this section to the address of the location from which the dog, domestic companion animal, or service animal was taken into physical custody.

d. The notice required pursuant to subsection c. of this section shall: (1) provide a description of the dog, domestic companion animal, or service animal; (2) state that the dog, domestic companion animal, or service animal may be euthanized upon a veterinarian's written determination of medical necessity as required by subsection e. of this section; (3) state the statutory authority and reason for taking custody of the dog, domestic companion animal, or service animal; and (4) provide contact information, including at least the name of any applicable office or entity, the name of a person at that office or entity, and a telephone number for the owner or person with custody or control of the dog, domestic companion animal, or service animal to obtain information concerning the animal, the alleged violation, and where the animal is impounded.

e. A dog, domestic companion animal, or service animal taken into physical custody pursuant to subsection a. or b. of this section shall be placed in a licensed shelter, pound, or kennel operating as a shelter or pound to ensure the humane care and treatment of the animal. If, after the dog, domestic companion animal, or service animal has been taken into physical custody, a licensed veterinarian makes a written determination that the animal is in intractable and extreme pain and beyond any reasonable hope of recovery with reasonable veterinary medical treatment, the animal may be euthanized. At any time while the licensed shelter, pound, or kennel operating as a shelter or pound has custody or control of the dog, domestic companion animal, or service animal, it may place the animal in an animal rescue organization facility or a foster home if it determines the placement is in the best interest of the animal.

f. A person shall be issued a correction warning prior to being cited for a violation of P.L.2017, c.189 (C.4:22-17.1 et seq.) unless the dog, domestic companion animal, or service animal involved in the violation was seized immediately pursuant to subsection b. of this section. A summons shall be served on the alleged violator as soon as practicable if:

(1) after the seven days have elapsed from the date a correction warning is issued, no correction has been made; or

(2) the dog, domestic companion animal, or service animal involved in the violation was seized immediately pursuant to subsection b. of this section.

If the alleged violator is not the owner of the dog, domestic companion animal, or service animal, the person issuing the correction warning or summons, as applicable, shall also notify the owner of the animal of the violation and provide the owner with a copy of the issued correction warning or summons, as applicable.

g. Any summons issued for a violation of P.L.2017, c.189 (C.4:22-17.1 et seq.) shall contain:

- (1) a description of the violation and statutory authority; and
- (2) contact information identifying, at a minimum (a) the name of the investigating agency or office, and (b) the name of the officer issuing the summons or investigating the alleged violation.

h. Any municipal humane law enforcement officer, humane law enforcement officer of a county society for the prevention of cruelty to animals, or other State or local law enforcement officer issuing a summons for a violation of P.L.2017, c.189 (C.4:22-17.1 et seq.) shall also serve on the alleged violator, with the summons, a written notice of:

- (1) the right to voluntarily forfeit ownership or custody of the dog, domestic companion animal, or service animal;
- (2) the action or actions required for compliance;
- (3) a demand for immediate compliance; and
- (4) a telephone number for the investigating agency or office and the investigating officer or agent.

i. Any municipal humane law enforcement officer, humane law enforcement officer of a county society for the prevention of cruelty to animals, or other State or local law enforcement officer may petition a court of competent jurisdiction to have a dog, domestic companion animal, or service animal confiscated, if not previously seized, and forfeited upon the person being found guilty of, or liable for, a violation of P.L.2017, c.189 (C.4:22-17.1 et seq.). Upon a finding that continued possession of the dog, domestic companion animal, or service animal by the owner or other person authorized to have custody or control of the animal poses a threat to the health or safety of the animal, the court shall order that the animal be forfeited, placed in an animal rescue organization facility, shelter, pound, or kennel operating as a shelter or pound, and made available for adoption.

j. A person found guilty of, or liable for, a violation of any provision of P.L.2017, c.189 (C.4:22-17.1 et seq.) shall be responsible for, and pay, the reasonable costs of caring for the dog, domestic companion animal, or service animal from the date on which physical custody of the animal was taken pursuant to this section until the date the animal is surrendered, forfeited, returned, or euthanized, including, but not limited to, the cost of transporting, sheltering, and feeding the animal, the cost of providing the animal with necessary veterinary care, and if the animal is euthanized, the cost of the euthanasia.

No Applicable Case Law.

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**N.J. STAT. ANN. § 4:22- 17.8. Violations, penalties for failure to provide necessary care.**

a. A violation of section 2, 4, or 5 [C.4:22-17.2, 4:22-17.4, or 4:22-17.5] of this act shall constitute failure to provide necessary care pursuant to R.S.4:22-17 and R.S.4:22-26, and a violator shall be subject to the applicable penalties set forth in those sections.

b. A person who violates section 3 [C.4:22-17.3] of this act shall be subject to:

(1) for a first offense, at the discretion of the court, a fine of \$100; and

(2) for a second offense, at the discretion of the court, a fine of \$200.

For a third or subsequent offense, the offense shall constitute failure to provide necessary care pursuant to R.S.4:22-17 and R.S.4:22-26, and a violator shall be subject to the applicable penalties set forth in those sections.

c. Beginning on the fourth day after the date of issuance of a summons for a violation pursuant to section 7 [C.4:22-17.7] of this act, each 30-day period that the owner or other person with custody or control of the dog, domestic companion animal, or service animal is still in possession of the animal and fails to comply with the requirements of this act shall constitute a separate offense.

d. A court may, in its discretion, waive or reduce the amount of any fine imposed for any violation of this act upon the violator demonstrating compliance with this act in the manner as may be prescribed by the court.

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22- 17.9. Construction, application of act.**

No provision of this act [C.4:22-17.1 et al.], or any rule or regulation adopted pursuant thereto, shall be construed or applied to limit any protection afforded to any dog pursuant to Title 2C of the New Jersey Statutes or any other provisions of Title 4 of the Revised Statutes, any other federal or State law, or rule or regulation adopted pursuant thereto, or any local ordinance, resolution, rule, or regulation.

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-18. Carrying animal in cruel, inhumane manner; disorderly persons offense**

A person who shall carry, or cause to be carried, a living animal or creature in or upon a vehicle or otherwise, in a cruel or inhumane manner, shall be guilty of a disorderly persons offense and punished as provided in subsection a. of R.S.4:22-17.

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-19. Failure to care for or destruction of impounded animals; penalties; collection**



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A person who shall:

- a. 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 it during such confinement with a sufficient quantity of good and wholesome food and water; or
- b. Destroy or cause to be destroyed any such animal by hypoxia induced by decompression or in any other manner, by the administration of a lethal gas other than an inhalant anesthetic, or in any other manner except by a method of euthanasia generally accepted by the veterinary medical profession as being reliable, appropriate to the type of animal upon which it is to be employed, and capable of producing loss of consciousness and death as rapidly and painlessly as possible for such animal shall, in the case of a violation of subsection a., be guilty of a disorderly persons offense and shall be punished as provided in subsection a. of R.S.4:22-17; or, in the case of a violation of subsection b., be subject to a penalty of \$25 for the first offense and \$50 for each subsequent offense. Each animal destroyed in violation of subsection b. shall constitute a separate offense. The penalty shall be collected in accordance with the "Penalty Enforcement Law of 1999," P.L.1999, c. 274 (C.2A:58-10 et seq.) and all money collected shall be remitted to the State.

This section shall apply to kennels, pet shops, shelters and pounds as defined and licensed pursuant to P.L.1941, c. 151 (C.4:19-15.1 et seq.); to pounds and places of confinement owned and operated by municipalities, counties or regional governmental authorities; and to every contractual warden or impounding service, any provision to the contrary in this title notwithstanding.

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-19.1. Chamber or device to induce hypoxia; dismantlement and removal**

Within 30 days of the effective date of this act, any chamber or device used to induce hypoxia through decompression or in any other manner shall be dismantled and removed from the premises. The owner of any premises on which the chamber or device remains 30 days subsequent to the effective date of this act shall be guilty of a disorderly persons offense.

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-19.2. Dismantlement and removal of decompression chamber or device; offense**

Within 30 days of the effective date of this act, any chamber or device used to induce hypoxia through decompression or in any other manner and any gas chamber or similar device, except one which is used for the administration of an inhalant anesthetic, shall be dismantled and removed from the premises. The owner of any premises on which the chamber or device remains 30 days subsequent to the effective date of this act shall be guilty of a disorderly persons offense.

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-19.3. Prohibition of use of neuromuscular blocking agent to destroy domestic animal**

Whenever any dog, cat, or any other domestic animal is to be destroyed, the use of succinylcholine chloride, curare, curariform drugs, or any other substance which acts as a neuromuscular blocking agent is prohibited.

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-19.4. Penalty**

A person who violates this act shall be subject to a penalty of \$25.00 for the first offense and \$50.00 for each subsequent offense, to be collected in a civil action by a summary proceeding under “the penalty enforcement law” (N.J.S. 2A:58-1 et seq.). Each animal destroyed in violation of this act shall constitute a separate offense. The Superior Court shall have jurisdiction to enforce “the penalty enforcement law.”

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-20. Abandoning disabled animal to die in public place; abandoning domesticated animal; disorderly persons offense**

- a. A person who shall abandon a maimed, sick, infirm or disabled animal or creature to die in a public place, shall be guilty of a disorderly persons offense.
- b. A person who shall abandon a domesticated animal shall be guilty of a disorderly persons offense. The violator shall be subject to the maximum \$1,000 penalty.

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-21. Offering for sale horse unfit for work; disorderly persons**

A person who shall 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 for 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 this article or any law of this State relating to cruelty to animals shall be guilty of a disorderly persons offense.

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-22. Offering diseased animal for sale; crime of fourth degree**

A person who shall:

- a. Willfully sell, or offer to sell, use, expose, or cause or permit to be sold or offered for sale, used or exposed, any horse or other animal having the disease known as glanders or farcy, or

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other contagious or infectious disease dangerous to the health or life of human beings or animals;  
or

b. When any such disease is beyond recovery, refuse upon demand to deprive any such animal of life--

Shall be guilty of a crime of the fourth degree.

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-23. Use of live birds as target; disorderly persons offense, \$25 fine**

A person who shall:

a. 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;

b. Shoot at a bird used as described in subsection a. of this section, or is a party to such shooting;  
or

c. Lease a building, room, field or premises, or knowingly permit the use thereof for the purpose of such shooting--

Shall be guilty of a disorderly persons offense, and shall, in addition to any penalty assessed therefor, be fined \$25 for each bird shot at or killed in violation of this section.

This section shall not apply to the shooting of game.

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-24. Animal Fighting Crimes**

a. A person who shall:

(1) Keep, use, be connected with or interested in the management of, or receive money for the admission of a person to, a place kept or used for the purpose of fighting or baiting a living animal or creature;

(2) Be present and witness, pay admission to, encourage or assist therein;

(3) Permit or suffer a place owned or controlled by him to be so used;

(4) For amusement or gain, cause, allow, or permit the fighting or baiting of a living animal or creature;

(5) 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;

(6) Gamble on the outcome of a fight involving a living animal or creature; or

(7) Own, possess, buy, sell, transfer, or manufacture animal fighting paraphernalia for the purpose of engaging in or otherwise promoting or facilitating the fighting or baiting of a living animal or creature —

Shall be guilty of a crime of the third degree.

b. In determining whether an object is animal fighting paraphernalia, a trier of fact may consider:

- (1) The proximity of the object in time and space to any violation of this section;
- (2) direct circumstantial evidence of intent of the person to deliver the object to any person whom the person in possession of the object knows, or should reasonably know, intends to use the object to violate this section;
- (3) oral or written instructions concerning its use provided with, or found in the vicinity of, the object;
- (4) descriptive materials accompanying the object which explain or depicts its use; and
- (5) any other relevant factors.

c. For the purposes of this section:

“Animal fighting paraphernalia” means equipment, products, implements, and materials of any kind that are used, intended for use, or designed for use in the training, preparation, or conditioning of an animal for fighting, or in furtherance of animal fighting, and includes, but is not limited to, the following: breaking sticks, cat mills, treadmills, fighting pits, springpoles, veterinary medicine without a prescription therefor, treatment supplies, gaffs, slashers, heels, or any other sharp implement designed to be attached in place of the natural spur of a rooster, cock, or game fowl.

“Bait” means to attack with violence, to provoke, or to harass an animal with one or more animals for the purpose of training the animal for, or to cause an animal to engage in, a fight with or among other animals.

**Applicable Case Law:**

See *Gerofsky v. Passaic Cnty. Soc. for Prevention of Cruelty to Animals*, 870 A.2d 704 (N.J. Super. 2005) above under N.J.S.A. § 4:22-17.

**N.J. STAT. ANN. § 4:22-25.1. Motorist hitting domestic animal to stop; report**

Each person operating a motor vehicle who shall knowingly hit, run over, or cause injury to a cat, dog, horse or cattle shall stop at once, ascertain the extent of injury, report to the nearest police station, police officer, municipal humane law enforcement officer, chief humane law enforcement officer of a county society for the prevention of cruelty to animals and give his name, address, operator's license and registration number, and also give the location of the injured animal.

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-25.2. Violations; petty disorderly persons offense**

Any person who shall violate any of the provisions of section 1 of P.L.1939, c. 315 (C. 4:22-25.1) shall be guilty of a petty disorderly persons offense.

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-25.3. Prohibition of sale of dog or cat fur or hair**

Any person who sells, barter, or offers 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 commits a crime of the fourth degree, provided that the person knew or reasonably should have known that the fur or hair was from a domestic dog or cat or that the product was made in whole or in part from the fur or hair of a domestic dog or cat. This section shall not apply to the sale or barter, or offering for sale or barter, of the fur or hair of a domestic dog or cat cut at a commercial grooming establishment or at a veterinary office or clinic or for scientific research purposes.

As used in this section, “domestic dog or cat” means a dog (*Canis familiaris*) or cat (*Felis catus* or *Felis domesticus*) that is generally recognized in the United States as being a household pet and shall not include coyote, fox, lynx, bobcat, or any other wild canine or feline species.

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-25.4. Prohibition of sale of dog or cat flesh**

Any person who sells, barter, or offers 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 commits a disorderly persons offense, provided that the person knew or reasonably should have known that the flesh was from a domestic dog or cat or the product was made in whole or in part from the flesh of a domestic dog or cat. Notwithstanding the provisions of Title 2C of the New Jersey Statutes to the contrary, any person found guilty of violating this section shall be subject to a fine of not less than \$100 and a term of imprisonment of not less than 30 days.

As used in this section, “domestic dog or cat” means a dog (*Canis familiaris*) or cat (*Felis catus* or *Felis domesticus*) that is generally recognized in the United States as being a household pet and shall not include coyote, fox, lynx, bobcat, or any other wild canine or feline species.

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22- 25.5. Slaughter, transport of horses for human consumption; disorderly persons offense**

a. Any person who knowingly slaughters a horse for human consumption commits a disorderly persons offense.

b. Any person who sells, barter, or offers 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 commits a disorderly persons offense, provided that the person knew or reasonably should have known that the flesh was from a horse, or that the product was made in whole or in part from the flesh of a horse.

c. Any person who knowingly transports a horse for the purpose of slaughter for human consumption, or who knowingly transports horsemeat, or any product made in whole or in part from the flesh of a horse, for the purpose of human consumption, commits a disorderly persons offense.

d. Notwithstanding the provisions of Title 2C of the New Jersey Statutes to the contrary, any person found guilty of violating this section shall be subject to a fine of not less than \$100 and a term of imprisonment of not less than 30 days.

e. Nothing in this section shall be construed to impose liability on a newspaper that inadvertently, unintentionally, or unknowingly accepts or publishes advertising that includes the offering for sale, trade, or distribution of any item in violation of any provision of this section. However, if a newspaper knowingly accepts or publishes advertising that includes the offering for sale, trade, or distribution any such item, the newspaper shall be in violation of the applicable provisions of this section.

No Applicable Case Law.

## **2. PENALTIES**

### **N.J. STAT. ANN. § 4:22- 26. Penalties for various acts constituting cruelty**

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

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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 [C.4:22-15 et seq.] 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 a maimed, sick, infirm or disabled animal or creature to die in a public place;

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;

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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 a domesticated 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



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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 nor more than \$1,000, 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 nor more than \$1,000; 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.

**Applicable Case Law:**

***Goldman v. Critter Control of N.J.*, 185 A.3d 946 (N.J. Super. Ct. App. Div. 2018).**

Prevention of Cruelty to Animals Act (“PCAA”) was held not to authorize private citizens to sue for civil penalties against parties who may have committed acts of animal cruelty.

***In re P.H.*, 94 A.3d 914, (N.J. Super. App. Div. 2014).**

Petitioner’s motion for expungement was properly granted because he ultimately agreed to a violation of a statute and paid a civil penalty.

***State v. Roberts*, 2009 WL 3429608 (N.J. 2009).**

**Facts:** Harra purchased a three-month old puppy from Roberts for \$950 at Roberts’ place of business. Roberts was initially asked about the puppy’s condition and said that the puppy’s flaky skin was due to being on wood chips and that the puppy was healthy. After Harra brought the puppy home, she noticed that the puppy continually scratched, had little lumps all over his body, had diarrhea, and a scab on his head. Harra took the puppy to the veterinarian, who diagnosed the puppy with coccidia, lice, and an umbilical hernia. Harra contacted Roberts because the veterinarian told her the puppy’s condition is contagious. Roberts told Harra that she would give the remaining dogs a bath and she would pay for Harra’s veterinarian bills. Harra received a check from Roberts for medication but not for the veterinarian bills.

**Holding:** Roberts did not have proper veterinary supervision at the property and sold at least two dogs that were contagious or infectious.

**Sentencing:** Judge imposed a \$1,000 penalty and \$33 in court costs for the violation in connection with Harra’s puppy.

***State v. Spano*, 287, 745 A.2d 598 (N.J. Super. 2000).**

**Facts:** While deer hunting, Spano shot and killed a golden retriever mix and an Australian Shepherd mix. The dogs were standing over a deer carcass approximately 118 feet away. Spano asserted that the shepherd aggressively began running towards him and so he shot and wounded the dog in an act of self-defense. Spano then shot and killed the retriever after he observed the dog growling. After re-loading the weapon, Spano heard the shepherd whimpering and possibly suffering, so he fired a second shot that killed it. Spano claimed he did not know the dogs were pets but thought they were coyotes or wild dogs and he felt his life and safety were in jeopardy.

**Holding:** Spano was charged with six separate offenses, including two counts of the disorderly persons offense of needlessly killing an animal and two counts of the penalty offense of needlessly killing an animal (§ 4:22-26(a)).

**Sentencing:** For the disorderly persons offense, the judge imposed on each count a fine of \$500, a fifteen-day suspended county jail sentence and thirty days of community service together with court costs. For the penalty offense, the judge imposed on each count a civil penalty of \$250 together with court costs.

***State v. Bernstein*, 459 A.2d 1185 (N.J. Super. 1983).**

**Facts:** Lee Bernstein, executive director of and on behalf of the Associated Humane Societies, filed a complaint against Robert Jones asserting that Jones violated § 4:22-26(p) by charging a fee to customers who would like to pet and feed animals in his petting zoo. Bernstein contends that Jones' petting zoo is not a "bona fide" organization and thus does not fall within a statutory exception of § 4:22-26(p).

**Holding:** The Court affirmed the dismissal of charges against Jones, finding no solicitation here. Other zoos charge to enter and there is nothing wrong with paying a charge to go see animals. The Court found no violation of the law and no acts of cruelty.

See *N. J. Soc. for Prevention of Cruelty to Animals v. Bd. of Educ. of City of East Orange*, 219 A.2d 200 (N.J. Super. 1966), *aff'd* A.2d 506 (1967) above under N.J.S.A. § 4:22-16.

#### **N.J. STAT. ANN. § 4:22-26.1. Confiscation, forfeiture of animal**

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 that is owned or possessed by a person at the time the person is found to be guilty of 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. Upon a finding that the continued possession by that person poses a threat to the animal's welfare, 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, adjudge an animal forfeited for such disposition as the court deems appropriate.

No Applicable Case Law.

#### **N.J. STAT. ANN. § 4:22-28. Civil, criminal actions separate**

The indictment of a person under the provisions of this article, or the holding of a person to bail to await the action of a grand jury or court, shall not in any way relieve that person from liability to be sued for the appropriate penalties under R.S.4:22-26.

No Applicable Case Law.

#### **N.J. STAT. ANN. § 4:22- 29. Jurisdiction for action for penalty**

The action for the penalty prescribed in R.S. 4:22-26 shall be brought:

- a. In the Superior Court; or
- b. In a municipal court of the municipality wherein the defendant resides or where the offense was committed.

#### **N.J. STAT. ANN. § 4:22-32. Enforcement and collection of penalties; warrant**

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Penalties for violations of R.S.4:22-26 shall be enforced and collected in a summary manner under the “Penalty Enforcement Law of 1999,” P.L.1999, c. 274 (C.2A:58-10 et seq.). A warrant may issue when the defendant is temporarily within the jurisdiction of the court, but not residing therein; or when the defendant is likely to evade judgment by removal therefrom; or when the defendant's name or residence is unknown.

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-33. Security for appearance where defendant nonresident or desires continuance**

Where a defendant is a nonresident of the county in which the alleged offense was committed, or where a defendant desires an adjournment or continuance of the hearing, the court before whom the complaint has been made may, in its discretion, require the defendant to furnish security in an amount not exceeding two hundred fifty dollars (\$250.00) for his appearance at the hearing.

No Applicable Case Law.

**3. ARRESTS SEARCH AND SEIZURE**

**N.J. STAT. ANN. § 4:22-44. Arrests with or without warrant**

Any municipal humane law enforcement officer, chief humane law enforcement officer, humane law enforcement officer of a county society for the prevention of cruelty to animals, sheriff, undersheriff, constable, or police officer may:

- a. Make arrests for violations of article 2 [C.4:22-15 et seq.] of chapter 22 of Title 4 of the Revised Statutes; and
- b. Arrest without warrant any person found violating the provisions of article 2 of chapter 22 of Title 4 of the Revised Statutes in the presence of such humane law enforcement officer, sheriff, undersheriff, constable, or police officer.

**Applicable Case Law:**

***Gerofsky v. Passaic County Soc. For Prevention of Cruelty to Animals*, 870 A.2d 704 (N.J. Super. App. Div. 2005).**

In enforcing Title 4, any member officer or agent of the State Society for the Prevention of Cruelty to Animals may arrest a violator with or without a warrant if said violation occurs in their presence.

**N.J. STAT. ANN. § 4:22-45. Notice to county prosecutor, designee**

Where an arrest is made for a violation of subsection c. of R.S.4:22-17 by a constable, sheriff, undersheriff, 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, the officer shall give notice to the county prosecutor, or designee of the

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county prosecutor, at once, whereupon the county prosecutor, or designee of the county prosecutor, shall determine whether the offense should be handled in the Superior Court or in municipal court.

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-46. Search warrants; issuance**

Any court having jurisdiction of violations of the law in relation to cruelty to animals may issue search warrants to enter and search buildings or places wherein it is reasonably believed that such law is being violated.

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-47. Warrantless arrest for fighting or baiting offenses**

A sheriff, undersheriff, constable, 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 may enter any building or place where there is an exhibition of the fighting or baiting of a living animal or creature, where preparations are being made for such an exhibition, or where a violation otherwise of R.S.4:22-24 is occurring, arrest without warrant all persons there present, and take possession of all living animals or creatures engaged in fighting or there found and all implements or appliances used or to be used in such exhibition.

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-48. Forfeiture, sale of seized animals**

The person seizing animals, creatures, implements or appliances as authorized in section 4:22-47 of this Title, shall, within 24 hours thereafter, apply to a court of competent jurisdiction to have the same forfeited and sold.

If, upon the hearing of the application, it is found and adjudged that at the time of the seizure the animals, creatures, implements or appliances were engaged or used in violation of section 4:22-47 or paragraphs “e,” “f,” “g,” “u,” “v,” or “w” of section 4:22-26 of this Title, or were owned, possessed or kept with the intent that they should be so engaged or used, they shall be adjudged forfeited, and the court shall order the same sold in such manner as it shall deem proper, and after deducting the costs and expenses, shall dispose of the proceeds as provided in section 4:22-55 of this Title.

A bird or animal found or adjudged to be of no use or value may be liberated or disposed of as directed by the court.

The costs of sheltering, caring for, treating, and if necessary, destroying an animal or creature, including veterinary expenses therefor, until the animal or creature is adjudged forfeited and sold, liberated, or disposed of pursuant to this section shall be borne by the owner of the animal

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or creature.

A creature or property which is adjudged not forfeited shall be returned to the owner, and the person making the seizure shall pay all costs and expenses thereof.

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-48.1. Owner to bear expenses**

a. A person authorized to take possession of a living animal or creature pursuant to R.S. 4:22-47 may provide such shelter, care, and treatment therefor, including veterinary care and treatment, that is reasonably necessary, the costs of which shall be borne by the owner of the seized animal or creature.

b. Notwithstanding the provisions of R.S. 4:22-48 to the contrary, a person seizing a living animal or creature pursuant to R.S. 4:22-47 may destroy it before it is adjudged forfeited if the animal or creature is thought to be beyond reasonable hope of recovery, the cost of which destruction shall be borne by the owner of the seized animal or creature. A person destroying an animal or creature pursuant to the authority of this subsection shall not be liable therefor to the owner of the animal or creature.

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-48.2. Owner of confiscated animal responsible for certain costs**

The costs of sheltering, caring for, or treating any animal that has been confiscated from a person arrested pursuant to the provisions of R.S.4:22-47 by a municipal humane law enforcement officer, a chief humane law enforcement officer, a humane law enforcement officer of a county society for the prevention of cruelty to animals, or any other person authorized to make an arrest pursuant to article 2 [C.4:22-15 et seq.] of chapter 22 of Title 4 of the Revised Statutes, until the animal is adjudged forfeited or until the animal is returned to the owner, shall be borne by the owner of the animal.

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-50. Care of animal when person in charge arrested**

When a person arrested under the provisions of this article, is in charge of an animal at the time of the arrest, with or without a vehicle attached, and there is no one then present, other than the person arrested, to take charge of the property as owner or employee, the person making the arrest may take charge thereof or request a proper person to do so.

The person making the arrest shall promptly notify the owner of the taking of the property and its place of custody, either in person, by telephone or by mailing a notice to his last known post-office address, and a person in charge of the property at the time of the arrest, with permission of the owner, shall be deemed the agent of the owner to receive such notice.

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No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-50.1. Petition for animal pound receivership**

When the owner or operator of an animal pound or shelter is arrested pursuant to the provisions of article 2 [C.4:22-15 et seq.] of chapter 22 of Title 4 of the Revised Statutes by a municipal humane law enforcement officer, a chief humane law enforcement officer, a humane law enforcement officer of a county society for the prevention of cruelty to animals, or any other person authorized to make the arrest under that article, or when the warrant is issued for the arrest, the person making the arrest may petition the Chancery Division of Superior Court to remove the owner or operator as custodian of the animals and appoint a receiver to operate the pound or shelter. The petitioner shall serve a copy of the petition on the Department of Health, the local board of health, and the owner or operator. If a county society for the prevention of cruelty to animals has been designated by the county prosecutor pursuant to subsection a. of section 28 of P.L.2017, c.331 (C.4:22-14.4), the county society shall, to the extent practicable, be appointed as receiver to operate the pound or shelter unless the county society is the owner or operator of the pound or shelter subject to arrest pursuant to this section.

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-50.2. Appointment; notice, hearing**

The court may appoint a responsible person as a receiver upon a finding that the appointment is in the best interests of the animals at the pound or shelter.

A court shall not appoint a receiver without a hearing except upon a finding that immediate and irreparable harm to the animals may result. The owner shall be given notice of the hearing in a manner designated by the court. After receipt of this notice the owner shall be granted an opportunity to contest the imposition of the receivership at the hearing.

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-50.3. Power of receiver; compensation**

The receiver shall be the custodian of the animals at the pound or shelter and shall have control over all real and personal property necessary for the daily operation of the pound or shelter. The receiver may assume the role of the administrator of the pound or shelter and take control of the daily operations or direct the owner or operator in the performance of his duties.

The court shall allow from the revenues of the pound or shelter a reasonable amount of compensation for the expenditures and services of the receiver. The revenues in excess of the cost of the receivership are to be paid to the owner of the pound or shelter. The owner is liable for a deficiency in the costs of the receivership, unless the deficiency results from the gross negligence, incompetence, or intentional misconduct of the receiver, in which case the receiver shall be liable for the deficiency. The receiver may be required to furnish a bond, the amount and form of which shall be approved by the court. The cost of the bond shall be paid for by the shelter or pound.

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No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-50.4. Presentation, settlement of accounts**

The court shall require the filing, at periodic intervals, of reports of action taken by the receiver and of accounts itemizing the revenues and expenditures. The reports shall be open to inspection to all parties to the case. Upon motion of the court, the receiver, or owner or operator, the court may require a presentation or settlement of the accounts. Notice of a motion for presentation or settlement of the accounts shall be served on the owner or operator or any party of record who appeared in the proceeding and any party in interest in the revenues and expenditures.

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-50.5. Termination of receivership**

The receiver, owner, or operator may make a motion to terminate the receivership on grounds that the conditions complained of have been eliminated or remedied. The court may immediately terminate the receivership, or terminate the receivership subject to the terms the court deems necessary or appropriate to prevent the condition complained of from recurring.

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-50.6. Pounds subject to act**

This act applies to pounds and shelters as defined and licensed pursuant to P.L.1941, c. 151 (C.4:19-15.1 et seq.); to pounds and places of confinement owned and operated by municipalities, counties, or regional governmental authorities; and to every contractual warden or impounding service.

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-51. Supplying necessary food to animals impounded by another**

When a living animal or creature is impounded or confined as provided in section 4:22-19 of this title, and shall continue to be without necessary food and water for more than twelve successive hours, any person may, from time to time as often as is necessary, enter into or upon the pound in which the animal or creature is impounded or confined and supply it with necessary food and water so long as it shall remain impounded or confined. Such person shall not be liable to an action for such entry.

The actual cost of the food, water and bedding, together with twenty per cent additional, may be collected by such person from the owner of the animal or creature in an action at law, together with costs, and the animal or creature shall not be exempt from levy and sale upon an execution issued upon a judgment therefor.

No Applicable Case Law.



**N.J. STAT. ANN. § 4:22-52. Seizure and sale of vehicle transporting animals in cruel manner**

The person arresting the person offending against the provisions of section 4:22-18 of this title shall take charge of the vehicle and its contents, and all necessary expenses which may be incurred for taking charge of and keeping and sustaining them shall be a lien thereon, to be paid before they can be lawfully redeemed.

If the vehicle and its contents are not redeemed within ten days from the time of the seizure, the person making the seizure shall cause them to be advertised for sale by advertisements published in a newspaper circulating in the neighborhood in which the seizure was made for at least three times in a daily paper or one time in a weekly paper, stating the time and place of the sale and the reason for the sale.

At the appointed time and place such person shall sell the vehicle and its contents to the highest bidder and out of the proceeds thereof shall pay all necessary expenses incurred, paying over the balance to the owner.

If the proceeds of the sale are insufficient to pay such expenses, the balance may be recovered by the person making the seizure from the owner in an action at law.

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-53. Sale of animals abandoned in disabled condition**

An animal or creature abandoned in a maimed, sick, infirm, or disabled condition, if fit for further use, may be advertised and sold in the manner directed by a court of competent jurisdiction 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).

The proceeds, after deducting expenses, shall be paid to the county to be used for the purpose of protecting animals in the county.

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-54. Destruction of animals found in disabled condition**

When an animal or creature is found on the highway or elsewhere, whether abandoned or not, in a maimed, sick, infirm, or disabled condition, a court of competent jurisdiction, sheriff of the county, chief humane law enforcement officer, humane law enforcement officer of a county society for the prevention of cruelty to animals, or municipal humane law enforcement officer may appoint a suitable person to examine and destroy such animal or creature if unfit for further use.

No Applicable Case Law.

#### 4. DISPOSITION OF FINES

##### **N.J. STAT. ANN. § 4:22-55. Payment, disposition of fines, penalties, moneys, imposed and collected**

a. Except as provided pursuant to subsection b. of this section, all fines, penalties and moneys imposed and collected under the provisions of article 2 [C.4:22-15 et seq.] of chapter 22 of Title 4 of the Revised Statutes, shall be paid by the court or by the clerk or court officer receiving the fines, penalties or moneys, within 30 days and without demand, to the county to be used for the purpose of protecting animals in the county.

b. If an enforcement action for a violation of article 2 of chapter 22 of Title 4 of the Revised Statutes is brought:

(1) in Superior Court primarily as a result of the reporting of the violation to the county prosecutor by a certified animal control officer or a municipal humane law enforcement officer, the fines, penalties, or moneys collected shall be paid as follows: one half to the municipality in which the violation occurred; and one half to the county to be used for the purpose of protecting animals in the county.

(2) in a municipal court of a municipality in which a municipal humane law enforcement officer has been designated pursuant to section 25 of P.L.2017, c.331 (C.4:22-14.1), the fines, penalties, or moneys collected shall be paid without demand, to the municipality in which the violation occurred.

(3) in a municipal court of a municipality in which a municipal humane law enforcement officer has not been designated pursuant to section 25 of P.L.2017, c.331 (C.4:22-14.1), the fines, penalties, or moneys collected shall be paid as follows: one half to the municipality in which the violation occurred; and one half to the county to be used for the purpose of protecting animals in the county.

c. Any fines, penalties, or moneys paid to a municipality pursuant to subsection b. of this section shall be allocated by the municipality to defray the cost of:

(1) enforcement of animal control, animal welfare, and animal cruelty laws and ordinances within the municipality; and

(2) the training therefor required of certified animal control officers and municipal humane law enforcement officers pursuant to law or other animal enforcement related training authorized by law for municipal employees.

##### **Applicable Case Law:**

***N.J. Soc. for Prevention of Cruelty to Animals v. Russ*, 83 A. 961 (N.J.L. 1912).**

**Facts:** Ralph Russ was convicted of cruelty to animals for an alleged violation that took place in the city of Hoboken. On appeal, the Supreme Court set aside the conviction and, in turn, the

NJSPCA brought a writ of error alleging that the judicial officer deciding the case lacked jurisdiction.

**Holding:** The Court of Errors and Appeals granted the writ of error. The justice who delivered the Supreme Court opinion did not have jurisdiction to entertain the proceeding and the original judgment was affirmed. Under § 4:22-55, a portion of the penalty when recovered is given to the informer. This is a qui tam action and as such, a civil proceeding. A 1902 act relative to justices of the peace provides that no justice of the peace can exercise civil jurisdiction within any city where there is a district court. There was a district court in Hoboken at the time of this action and thus the Supreme Court justice lacked jurisdiction to hear the case.

***N.J. Soc. for Prevention of Cruelty to Animals v. Knoll*, 138, 71 A. 116 (N.J.L. 1908).**

**Facts:** Anthony Knoll was convicted of cruelty to animals and fined \$20 and \$3.60 costs. This fine was divided between the informer and the NJSPCA (“Society”). Section 5 of the Society’s act of incorporation provides that of all fines collected, one-half will be paid by the justice, clerk or other officer, to the informer, or prosecutor, and the other half to the district society if one is in existence. If there is not a district society in existence, then payment will be made to the Society. Knoll’s conviction was reversed on appeal and he applied for writ of restitution.

**Holding:** The NJ Supreme Court granted the writ of restitution. The record in this case indicated that there was a district society in Hudson County and as such, the judge should have divided the money between the informer and the district society, not the NJSPCA, with each now liable to Knoll for half. The justice, however, did not divide the fine and instead turned it over in full to the district society. The court ordered that the district society and informer collectively repay the fine and the costs of the appellate proceeding.

**N.J. STAT. ANN. § 4:22-56. Immunity from liability**

Although a municipality and a county may share in the receipt of fines, penalties, or moneys collected with regard to violations occurring in the municipality pursuant to the provisions of R.S.4:22-55:

- a. a municipality or any official or officer thereof, municipal prosecutor, municipal humane law enforcement officer, or certified animal control officer shall not be liable for any civil damages as a result of any act or omission of a county or any official or officer thereof, county prosecutor, county animal cruelty prosecutor, chief humane law enforcement officer, or county society for the prevention of cruelty to animals or any humane law enforcement officer thereof with regard to any investigation, arrest, or prosecution of a violator with which the municipality or any official or officer thereof, municipal prosecutor, municipal humane law enforcement officer, or certified animal control officer was not involved; and
- b. a county or any official or officer thereof, county prosecutor, county animal cruelty prosecutor, chief humane law enforcement officer, or county society for the prevention of cruelty to animals or any humane law enforcement officer thereof shall not be liable for any civil damages as a result of any act or omission of a municipality or any official or officer thereof, municipal prosecutor, municipal humane law enforcement officer, or certified animal control

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officer with regard to any investigation, arrest, or prosecution of a violator with which the county or any official or officer thereof, county prosecutor, county animal cruelty prosecutor, chief humane law enforcement officer, or county society for the prevention of cruelty to animals or any humane law enforcement officer thereof was not involved.

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-57. Notice of persons ineligible to be certified animal control officers**

a. (Deleted by amendment, P.L.2017, c.331)

b. For the purposes of maintaining the list of persons not eligible to be 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, or designee pursuant to subsection a. of section 28 of P.L.2017, c.331 (C.4:22-14.4), as established pursuant to subsections b. and c. of section 3 of P.L.1983, c.525 (C.4:19-15.16a), the court or other official adjudging the guilt or liability for a violation of any provision of article 2 [C.4:22-15 et seq.] of chapter 22 of Title 4 of the Revised Statutes, shall charge the prosecutor or other appropriate person, other than a certified animal control officer, with the responsibility to notify within 30 days the commissioner, in writing, of the full name of the person found guilty of, or liable for, an applicable violation, and the violation for which or of which that person was found guilty or liable, and the person charged with the responsibility shall provide such notice.

No Applicable Case Law.

## **5. USE OF ANIMALS IN PRODUCT TESTING**

**N.J. STAT. ANN. § 4:22-59. Restrictions upon use of traditional animal testing methods for which there is an appropriate alternative testing method**

a. When conducting any product testing in the State, no manufacturer<sup>2</sup> or contract testing facility<sup>3</sup> shall use a traditional animal test method<sup>4</sup> for which there is an appropriate validated alternative test method<sup>5</sup> that has been adopted by the relevant federal agency or agencies responsible for regulating the specific product or activity for which the test is being conducted,

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<sup>2</sup> “‘Manufacturer’ means any partnership, corporation, association, or other legal relationship that produces products, product formulations, chemicals, or ingredients in the State.” N.J. STAT. ANN. § 4:22-58.

<sup>3</sup> “‘Contract testing facility’ means any partnership, corporation, association, or other legal relationship that tests chemicals, ingredients, product formulations, or products in the State.” N.J. STAT. ANN. § 4:22-58.

<sup>4</sup> “‘Traditional animal test method’ means a process or procedure using animals to obtain information on the characteristics of a chemical or agent and that generates information regarding the ability of a chemical or agent to produce a specific biological effect under specified conditions.” “‘Animal’ means any vertebrate other than humans.” N.J. STAT. ANN. § 4:22-58.

<sup>5</sup> “‘Validated alternative test method’ means a test method that does not use animals or in some cases reduces or refines the current use of animals, for which the reliability and relevance for a specific purpose has been established in validation studies as specified in the Interagency Coordinating Committee on the Validation of Alternative Methods report provided to federal agencies as required pursuant to the federal “ICCVAM Authorization Act of 2000,” 42 U.S.C. s.2851-2 et seq.” N.J. STAT. ANN. § 4:22-58.

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pursuant to the provisions of the federal “ICCVAM Authorization Act of 2000,” 42 U.S.C. s.2851-2 et seq. No provision of this subsection shall be construed to apply to any animal test conducted for the purposes of medical research.<sup>6</sup>

b. No provision of this section shall prohibit the use of any nonanimal alternative test method for the testing of any product, product formulation, chemical, or ingredient that is not recommended by the committee.<sup>7</sup>

c. No provision of this section shall prohibit the use of animal tests to comply with the requirements of State or federal agencies when the federal agency has approved a nonanimal alternative test method pursuant to subsection a. of this section and the federal agency concludes that the nonanimal alternative test does not assure the health or safety of consumers.

No Applicable Case Law.

#### **N.J. STAT. ANN. § 4:22-60. Exclusive remedy for enforcement**

Notwithstanding any other provision of law, or any rule or regulation adopted pursuant thereto, to the contrary, the exclusive remedy for enforcing this act shall be the Attorney General bringing a civil action in a court of competent jurisdiction to restrain the violation and for other further relief as the court shall determine is proper.

No Applicable Case Law.

### **6. TREATMENT OF HORSES**

#### **N.J. STAT. ANN. § 39:4-23. Mistreatment of horse, violations, disorderly person; certain acts, crime of fourth degree**

No person shall either ill-treat, overdrive, override or unnecessarily or cruelly beat a horse. A person who violates this section shall be guilty of a disorderly persons offense, except that a person who unnecessarily or cruelly beats a horse shall be guilty of a crime of the fourth degree, and shall be subject to the provisions of R.S.4:22-17, R.S.4:22-21, and R.S.4:22-26, as appropriate.

No Applicable Case Law.

#### **N.J. STAT. ANN. § 39:4-24. Use of Whip**

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<sup>6</sup> “‘Medical research’ means research related to the causes, diagnosis, treatment, control, or prevention of physical or mental diseases and impairments of humans and animals or related to the development of biomedical products, devices, or drugs as defined i21 U.S.C. s.321. ‘Medical research’ shall not include the testing of an ingredient that was formerly used in a drug, tested for the drug use with traditional animal test methods to characterize the ingredient and to substantiate its safety for human use, and currently is proposed for use in a product other than a biomedical product, device, or drug.” N.J. STAT. ANN. § 4:22-58.

<sup>7</sup> “‘Committee’ means the federal Interagency Coordinating Committee on the Validation of Alternative Methods, established under the federal “ICCVAM Authorization Act of 2000,” 42 U.S.C. s.2851-2 et seq.” N.J. STAT. ANN. § 4:22-58.

No person shall crack or so use a whip as to annoy, interfere with or endanger a person or excite a horse other than a horse which he is using.

No Applicable Case Law.

## **7. HUMANE LAW ENFORCEMENT**

### **N.J. STAT. ANN. § 4:22-14.2. Application for designation as municipal humane law enforcement officer**

a.

(1) An application for designation as a municipal humane law enforcement officer shall be submitted by the governing body of a municipality to the chief law enforcement officer of the municipality, or, if the municipality does not have a chief law enforcement officer, the Superintendent of State Police. Upon receipt of the application, the chief law enforcement officer of the municipality or the superintendent, as applicable, shall examine the character, competency, and fitness of the applicant for the position, including initiating a criminal background check at the expense of the applicant.

(2) Upon completion of an examination of an applicant, the chief law enforcement officer of the municipality or the superintendent, as applicable, shall approve or reject the applicant and provide a written determination to the applicant and to the governing body of the municipality which, if applicable, shall state any reasons for rejecting the applicant.

b. A municipal humane law enforcement officer shall have the power and authority within the municipality in which the officer is designated, or otherwise authorized to act, as a municipal humane law enforcement officer to:

(1) enforce all animal welfare and animal cruelty laws of the State and ordinances of the municipality;

(2) investigate and sign complaints concerning any violation of an animal welfare or animal cruelty law of the State or ordinance of the municipality; and

(3) act as an officer for the detection, apprehension, and arrest of offenders against the animal welfare and animal cruelty laws of the State and ordinances of the municipality.

c. A municipal humane law enforcement officer shall:

(1) abide by the provisions of chapter 22 of Title 4 of the Revised Statutes;

(2) satisfactorily complete the training course developed pursuant to subsection a. of section 11 of P.L.2005, c.372 (C.4:22-11.11), subject to the provisions of subsection c. of section 11 of P.L.2005, c.372 (C.4:22-11.11) as applicable, as soon as practicable, but no later than one year after the date on which the officer's designation is approved by the chief law enforcement officer in the municipality or the superintendent, as applicable;

(3) refer all complaints for violations of the provisions of subsection c. of R.S.4:22-17 to the county prosecutor for investigation and prosecution, or any other appropriate legal action, except that a municipal humane law enforcement officer may take any action necessary, within the authority granted pursuant to chapter 22 of Title 4 of the Revised Statutes, to respond to an emergency situation;

(4) provide notice to the county 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) within five business days after the receipt of any complaint of a violation of any provision of article 2 [C.4:22-15 et seq.] of chapter 22 of Title 4 of the Revised Statutes, regardless of whether the violation is referred to the county prosecutor pursuant to paragraph (3) of this subsection. The notice shall contain, at minimum, a brief description of the offense alleged; and

(5) submit, by October 1 of each year, a report to the animal cruelty prosecutor designated pursuant to subsection a. of section 28 of P.L.2017, c.331 (C.4:22-14.4), which shall include, for the most recently concluded State fiscal year, the number of complaints received for each offense under article 2 [C.4:22-15 et seq.] of chapter 22 of Title 4 of the Revised Statutes and the number of cases referred to the county prosecutor, and may contain any policy recommendations or concerns of the municipal humane law enforcement officer related to animal cruelty law enforcement in the municipality. The animal cruelty prosecutor shall compile these reports and submit them to the Attorney General as part of the annual report required pursuant to subsection d. of section 31 of P.L.2017, c.331 (C.4:22-14.7).

d. A municipal humane law enforcement officer may, upon receipt of a request for assistance by a municipality, county, or other entity that did not designate the municipal humane law enforcement officer pursuant to this section, exercise the powers and authority granted pursuant to this section within the jurisdiction of the municipality, county, or other entity making the request.

e. A municipal humane law enforcement officer may be so designated concurrently by more than one municipality, provided the officer is able to effectively carry out the duties and responsibilities required of each designation, except that a municipal humane law enforcement officer who serves concurrently as a police officer shall not be designated as a municipal humane law enforcement officer in more than one municipality at any one time.

f. Any rule or regulation concerning animal cruelty investigators, in effect on the date of enactment of P.L.2017, c.331 (C.4:22-14.1 et al.), shall be applicable to municipal humane law enforcement officers until otherwise revised or repealed by the Department of Health.

No Applicable Case Law.

#### **N.J. STAT. ANN. § 4:22-14.3. Eligibility**

Any humane law enforcement officer or agent appointed by a county society for the prevention of cruelty to animals, prior to the date of enactment of P.L.2017, c.331 (C.4:22-14.1 et al.), or the New Jersey Society for the Prevention of Cruelty to Animals shall be eligible for designation as a municipal humane law enforcement officer pursuant to section 26 of P.L.2017, c.331 (C.4:22-14.2) or as a humane law enforcement officer of a county society for the prevention of cruelty to animals pursuant to section 29 of P.L.2017, c.331 (C.4:22-14.5).

No Applicable Case Law.

#### **N.J. STAT. ANN. § 4:22- 14.4. Actions of county prosecutor**

a. Each county prosecutor shall:

(1) designate any municipal or county prosecutor as the animal cruelty prosecutor of the county, and may designate any assistant animal cruelty prosecutor as needed, who shall investigate, prosecute, and take other legal action as appropriate for violations of any provision of article 2 [C.4:22-15 et seq.] of chapter 22 of Title 4 of the Revised Statutes, and who may serve in such capacity on a part-time basis if the responsibilities of the position allow;

(2)

(a) designate, in consultation with the county sheriff, a county law enforcement officer to serve as the chief humane law enforcement officer of the county, and may designate any other law enforcement officer under the supervision of the chief humane law enforcement officer, who shall assist with investigations, arrest violators, and otherwise act as an officer for detection, apprehension, and arrest of offenders against the provisions of article 2 of chapter 22 of Title 4 of the Revised Statutes; or

(b) enter into a memorandum of understanding with the county society for the prevention of cruelty to animals designated pursuant to section 32 of P.L.2017, c.331 (C.4:22-14.8), which authorizes the county society, under the supervision of the county prosecutor, to assist with enforcement of article 2 of chapter 22 of Title 4 of the Revised Statutes, and to designate humane law enforcement officers, subject to the provisions of section 29 of P.L.2017, c.331 (C.4:22-14.5), to assist with investigations, arrest violators, and otherwise act as an officer for detection, apprehension, and arrest of offenders against the provisions of article 2 of chapter 22 of Title 4 of the Revised Statutes; and

(3) designate a county society for the prevention of cruelty to animals pursuant to the provisions of section 32 of P.L.2017, c.331 (C.4:22-14.8) with which, to the extent practicable and as needed, the county prosecutor and county sheriff shall coordinate shelter and care for animals.

b. A person who has been convicted of, or found civilly liable for, a violation of any provision of article 2 [C.4:22-15 et seq.] of chapter 22 of Title 4 of the Revised Statutes or whose name is on the list or any revision thereto established and provided by the Commissioner of Health pursuant to subsection c. of section 3 of P.L.1983, c.525 (C.4:19-15.16a) shall not be designated by the county prosecutor for any position provided in subsection a. of this section.

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22- 14.5. Submission of application**

a.

(1) An application for designation as a humane law enforcement officer of a county society for the prevention of cruelty to animals pursuant to subsection a. of section 28 of P.L.2017, c.331 (C.4:22-14.4) shall be submitted by the governing body of the county society to the county prosecutor. Upon receipt of the application, the county prosecutor shall examine the character, competency, and fitness of the applicant for the position, including initiating a criminal background check at the expense of the applicant.

(2) Upon completion of an examination of an applicant, the county prosecutor shall approve or reject the applicant and provide a written determination, to the applicant and to the county



society for the prevention of cruelty to animals, which, if applicable, shall state any reasons for rejecting the applicant.

b. The governing body of a county society for the prevention of cruelty to animals shall not submit an applicant for designation as, and shall terminate the designation of, a humane law enforcement officer who has been convicted of, or found civilly liable for, a violation of any provision of article 2 [C.4:22-15 et seq.] of chapter 22 of Title 4 of the Revised Statutes or whose name is on the list or any revision thereto established and provided by the Commissioner of Health pursuant to subsection c. of section 3 of P.L.1983, c.525 (C.4:19-15.16a).

c. A county prosecutor may authorize a humane law enforcement officer to possess, carry, and use a firearm while enforcing the laws and ordinances enacted for the protection of animals, if the officer:

- (1) has satisfactorily completed a firearms training course as defined in subsection j. of N.J.S.2C:39-6 and approved by the Police Training Commission; and
- (2) twice annually qualifies in the use of a revolver or similar weapon.

d. A county society for the prevention of cruelty to animals that has entered into a memorandum of agreement with the county prosecutor pursuant to subparagraph (b) of paragraph (2) of subsection a. of section 28 of P.L.2017, c.331 (C.4:22-14.4) shall submit by October 1 of each year, a report to the animal cruelty prosecutor designated pursuant to subsection a. of section 28 of P.L.2017, c.331 (C.4:22-14.4) which shall include, for the most recently concluded State fiscal year, the number of complaints received for each offense under article 2 [C.4:22-15 et seq.] of chapter 22 of Title 4 of the Revised Statutes and the number of cases referred to the county prosecutor, and may contain any policy recommendations or concerns of the county society related to animal cruelty law enforcement in the county. The animal cruelty prosecutor shall compile these reports and submit them to the Attorney General as part of the annual report required pursuant to subsection d. of section 31 of P.L.2017, c.331 (C.4:22-14.7).

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22- 14.6. Power, authority of designated officer**

a. Any law enforcement officer designated pursuant to paragraph (2) of subsection a. of section 28 of P.L.2017, c.331 (C.4:22-14.4), or humane law enforcement officer of a county society for the prevention of cruelty to animals designated pursuant to section 29 of P.L.2017, c.331 (C.4:22-14.5) shall have the power and authority within the jurisdiction in which the officer is designated, or otherwise authorized to act, to:

- (1) enforce all animal welfare and animal cruelty laws of the State;
- (2) investigate and sign complaints concerning any violation of an animal welfare or animal cruelty law of the State; and
- (3) act as an officer for the detection, apprehension, and arrest of offenders against the animal welfare and animal cruelty laws of the State and ordinances of any municipality.

b. Every law enforcement officer designated pursuant to paragraph (2) of subsection a. of section 28 of P.L.2017, c.331 (C.4:22-14.4), or humane law enforcement officer of a county society for the prevention of cruelty to animals designated pursuant to section 29 of P.L.2017, c.331 (C.4:22-14.5), shall:

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(1) abide by the provisions of chapter 22 of Title 4 of the Revised Statutes; and  
(2) satisfactorily complete the training course developed pursuant to subsection a. of section 11 of P.L.2005, c.372 (C.4:22-11.11), subject to the provisions of subsection c. of section 11 of P.L.2005, c.372 (C.4:22-11.11) as applicable, as soon as practicable, but no later than one year after the date of the officer's designation.

c. Upon request for assistance by a municipality, county, or other entity that did not designate the humane law enforcement officer of a county society for the prevention of cruelty to animals pursuant to section 29 of P.L.2017, c.331 (C.4:22-14.5), or other law enforcement officer pursuant to paragraph (2) of subsection a. of section 28 of P.L.2017, c.331 (C.4:22-14.4), the humane law enforcement officer or other law enforcement officer may, within the jurisdiction of the municipality, county, or other entity making the request, exercise the powers and authority granted pursuant to this section.

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22- 14.7. Duties of animal cruelty prosecutor**

An animal cruelty prosecutor shall:

- a. promote the interests of, and protect and care for, animals within the county;
- b. investigate and prosecute violations of article 2 [C.4:22-15 et seq.] of chapter 22 of Title 4 of the Revised Statutes;
- c. request the assistance of the Department of Agriculture in the investigation of any violation concerning livestock; and
- d. submit, by January 1 of each year, a report to the Attorney General which shall include the following information pertaining to animal cruelty law enforcement in the county for the most recently concluded State fiscal year:
  - (1) the number of complaints received from each municipality and from the county society for the prevention of cruelty to animals, as applicable, for each violation of any provision of article 2 [C.4:22-15 et seq.] of chapter 22 of Title 4 of the Revised Statutes;
  - (2) the number of complaints investigated;
  - (3) the number of complaints prosecuted or otherwise litigated;
  - (4) the number of animals adjudged forfeited;
  - (5) the number of animals returned to the owner;
  - (6) proceeds from fines collected for violations of any provision of article 2 of chapter 22 of Title 4 of the Revised Statutes; and
  - (7) as applicable, any policy recommendations or concerns related to animal cruelty law enforcement in the county, or as described by a municipal humane law enforcement officer in the annual report required pursuant to paragraph (5) of subsection c. of section 26 of P.L.2017, c.331 (C.4:22-14.2) or by a humane law enforcement officer of a county society for the prevention of cruelty to animals in the annual report required pursuant to subsection d. of section 29 of P.L.2017, c.331 (C.4:22-14.5).

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22- 14.8. Designation as county society for the prevention of cruelty to animals**

A county society for the prevention of cruelty to animals which is chartered as such as of the day prior to the date of enactment of P.L.2017, c.331 (C.4:22-14.1 et al.) shall, if the county society so desires, be designated as the county society for the prevention of cruelty to animals upon enactment of P.L.2017, c.331 (C.4:22-14.1 et al.). If a chartered county society elects not to be so designated, or no county society is chartered in the county, the county prosecutor shall select a non-profit corporation that is organized to promote the interests of, and protect and care for, animals to be designated as the county society for the prevention of cruelty to animals. The county society shall be responsible for efficiently providing or locating humane shelter and care for any animals at the request of the county prosecutor, the county sheriff, or a municipal humane law enforcement officer.

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22- 14.9. Construction of act**

- a. The New Jersey Society for the Prevention of Cruelty to Animals shall not grant, revoke, cancel, or suspend any charter for a county society for the prevention of cruelty to animals.
- b. Nothing in P.L.2017, c.331 (C.4:22-14.1 et al.) shall be construed so as to require a county society for the prevention of cruelty to animals chartered as such as of the day prior to the date of enactment of P.L.2017, c.331 (C.4:22-14.1 et al.) to surrender any assets to the State, or any political subdivision or other entity thereof.

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22- 14.10. Actions by Attorney General**

- a. The Attorney General shall take any action necessary to facilitate the reincorporation of the New Jersey Society for the Prevention of Cruelty to Animals as a non-profit corporation independent of the State. Notwithstanding any State law, rule, or regulation to the contrary, the State shall not assume responsibility for any debts, liabilities, or other obligations of the New Jersey Society for the Prevention of Cruelty to Animals.
- b. Any assets of a county society for the prevention of cruelty to animals held in escrow by the New Jersey Society for the Prevention of Cruelty to Animals pursuant to subsection j. of section 4 of P.L.2005, c.372 (C.4:22-11.4) shall be transferred to the Attorney General to hold in escrow until such time as the assets may be transferred back to the county society from whom they were originally transferred, the status of the county society's charter notwithstanding. Should the Attorney General find the transfer to be inappropriate or impossible, the assets shall be used for the purpose of protecting animals in the county from which the assets were originally transferred.

No Applicable Case Law.

## 8. SENTENCING

### **N.J. STAT. ANN. § 2C:43-1**

a. Crimes defined by this code are classified, for the purpose of sentence, into four degrees, as follows:

- (1) Crimes of the first degree;
- (2) Crimes of the second degree;
- (3) Crimes of the third degree; and
- (4) Crimes of the fourth degree.

A crime is of the first, second, third or fourth degree when it is so designated by the code. An offense, declared to be a crime, without specification of degree, is of the fourth degree.

b. Notwithstanding any other provision of law, a crime defined by any statute of this State other than this code and designated as a high misdemeanor shall constitute for the purpose of sentence a crime of the third degree. Except as provided in sections 2C:1-4 c. and 2C:1-5 b. and notwithstanding any other provision of law, a crime defined by any statute of this State other than this code and designated as a misdemeanor shall constitute for the purpose of sentence a crime of the fourth degree.

No Applicable Animal Cruelty Case Law.

### **N.J. STAT. ANN. § 2C:43-2. Sentence in accordance with code; authorized dispositions**

a. Except as otherwise provided by this code, all persons convicted of an offense or offenses shall be sentenced in accordance with this chapter.

b. Except as provided in subsection a. of this section and subject to the applicable provisions of the code, the court may suspend the imposition of sentence on a person who has been convicted of an offense, or may sentence him as follows:

- (1) To pay a fine or make restitution authorized by N.J.S.2C:43-3 or P.L.1997, c.253 (C.2C:43-3.4 et al.); or
- (2) Except as provided in subsection g. of this section, to be placed on probation and, in the case of a person convicted of a crime, to imprisonment for a term fixed by the court not exceeding 364 days to be served as a condition of probation, or in the case of a person convicted of a disorderly persons offense, to imprisonment for a term fixed by the court not exceeding 90 days to be served as a condition of probation; or
- (3) To imprisonment for a term authorized by sections 2C:11-3, 2C:43-5, 2C:43-6, 2C:43-7, and 2C:43-8 or 2C:44-5; or
- (4) To pay a fine, make restitution and probation, or fine, restitution and imprisonment; or
- (5) To release under supervision in the community or to require the performance of community-related service; or
- (6) To a halfway house or other residential facility in the community, including agencies which are not operated by the Department of Human Services; or
- (7) To imprisonment at night or on weekends with liberty to work or to participate in training or educational programs.

c. Instead of or in addition to any disposition made according to this section, the court may postpone, suspend, or revoke for a period not to exceed two years the driver's license, registration certificate, or both of any person convicted of a crime, disorderly persons offense, or petty disorderly persons offense in the course of which a motor vehicle was used. In imposing this disposition and in deciding the duration of the postponement, suspension, or revocation, the court shall consider the circumstances of the violation, and whether the loss of driving privileges will result in extreme hardship and alternative means of transportation are not readily available. Any postponement, suspension, or revocation shall be imposed consecutively with any custodial sentence.

d. This chapter does not deprive the court of any authority conferred by law to decree a forfeiture of property, suspend or cancel a license, remove a person from office, or impose any other civil penalty. Such a judgment or order may be included in the sentence.

e. The court shall state on the record the reasons for imposing the sentence, including its findings pursuant to the criteria for withholding or imposing imprisonment or fines under sections 2C:44-1 to 2C:44-3, where imprisonment is imposed, consideration of the defendant's eligibility for release under the law governing parole and the factual basis supporting its findings of particular aggravating or mitigating factors affecting sentence.

f. The court shall explain the parole laws as they apply to the sentence and shall state:

- (1) the approximate period of time in years and months the defendant will serve in custody before parole eligibility;
- (2) the jail credits or the amount of time the defendant has already served;
- (3) that the defendant may be entitled to good time and work credits; and
- (4) that the defendant may be eligible for participation in the Intensive Supervision Program.

g. Notwithstanding the provisions of paragraph (2) of subsection b. of this section, a court imposing sentence on a defendant who has been convicted of any offense enumerated in subsection a. of section 2 of P.L.1994, c.130 (C.2C:43-6.4) may not sentence the defendant to be placed on probation.

No Applicable Animal Cruelty Case Law.

**N.J. STAT. ANN. § 2C:43-6. Sentence of imprisonment for crime; ordinary terms; mandatory terms.**

a. Except as otherwise provided, a person who has been convicted of a crime may be sentenced to imprisonment, as follows:

- (1) In the case of a crime of the first degree, for a specific term of years which shall be fixed by the court and shall be between 10 years and 20 years;
- (2) In the case of a crime of the second degree, for a specific term of years which shall be fixed by the court and shall be between five years and 10 years;
- (3) In the case of a crime of the third degree, for a specific term of years which shall be fixed by the court and shall be between three years and five years;

(4) In the case of a crime of the fourth degree, for a specific term which shall be fixed by the court and shall not exceed 18 months.

b. As part of a sentence for any crime, where the court is clearly convinced that the aggravating factors substantially outweigh the mitigating factors, as set forth in subsections a. and b. of 2C:44-1, or the court finds that the aggravating factor set forth in paragraph (5) of subsection a. of N.J.S.2C:44-1 applies, the court may fix a minimum term not to exceed one-half of the term set pursuant to subsection a., or one-half of the term set pursuant to a maximum period of incarceration for a crime set forth in any statute other than this code, during which the defendant shall not be eligible for parole; provided that no defendant shall be eligible for parole at a date earlier than otherwise provided by the law governing parole.

c. A person who has been convicted under subsection b. or d. of N.J.S.2C:39-3, subsection a. of N.J.S.2C:39-4, subsection a. of section 1 of P.L.1998, c.26 (C.2C:39-4.1), subsection a., b., c., or f. of N.J.S.2C:39-5, subsection a. or paragraph (2) or (3) of subsection b. of section 6 of P.L.1979, c.179 (C.2C:39-7), or subsection a., b., e. or g. of N.J.S.2C:39-9, or of a crime under any of the following sections: 2C:11-3, 2C:11-4, 2C:12-1 b., 2C:13-1, 2C:14-2 a., 2C:14-3 a., 2C:15-1, 2C:18-2, 2C:29-5, who, while in the course of committing or attempting to commit the crime, including the immediate flight therefrom, used or was in possession of a firearm as defined in 2C:39-1 f., shall be sentenced to a term of imprisonment by the court. The term of imprisonment shall include the imposition of a minimum term. The minimum term shall be fixed at one-half of the sentence imposed by the court or 42 months, whichever is greater, or 18 months in the case of a fourth degree crime, during which the defendant shall be ineligible for parole.

The minimum terms established by this section shall not prevent the court from imposing presumptive terms of imprisonment pursuant to 2C:44-1 f.(1) except in cases of crimes of the fourth degree.

A person who has been convicted of an offense enumerated by this subsection and who used or possessed a firearm during its commission, attempted commission or flight therefrom and who has been previously convicted of an offense involving the use or possession of a firearm as defined in 2C:44-3 d., shall be sentenced by the court to an extended term as authorized by 2C:43-7 c., notwithstanding that extended terms are ordinarily discretionary with the court.

d.

(1) The court shall not impose a mandatory sentence pursuant to subsection c. of this section, 2C:43-7 c. or 2C:44-3 d., unless the ground therefor has been established at a hearing. At the hearing, which may occur at the time of sentencing, the prosecutor shall establish by a preponderance of the evidence that the weapon used or possessed was a firearm. In making its finding, the court shall take judicial notice of any evidence, testimony or information adduced at the trial, plea hearing, or other court proceedings and shall also consider the presentence report and any other relevant information.

(2) The court shall not impose a mandatory sentence pursuant to subsection c. of this section for a violation of paragraph (2) of subsection b. of N.J.S.2C:39-5; a violation of paragraph (2) of subsection c. of N.J.S.2C:39-5, if that rifle or shotgun is in the nature of an air gun, spring gun or pistol or other weapon of a similar nature in which the propelling force is a spring, elastic band, carbon dioxide, compressed or other gas or vapor, air or compressed air, or is ignited by

compressed air, and ejecting a bullet or missile smaller than three-eighths of an inch in diameter, with sufficient force to injure a person; or a violation of paragraph (1) of subsection c. of N.J.S.2C:39-5.

e. A person convicted of a third or subsequent offense involving State taxes under N.J.S.2C:20-9, N.J.S.2C:21-15, any other provision of this code, or under any of the provisions of Title 54 of the Revised Statutes, or Title 54A of the New Jersey Statutes, as amended and supplemented, shall be sentenced to a term of imprisonment by the court. This shall not preclude an application for and imposition of an extended term of imprisonment under N.J.S.2C:44-3 if the provisions of that section are applicable to the offender.

f. A person convicted of manufacturing, distributing, dispensing or possessing with intent to distribute any dangerous substance or controlled substance analog under N.J.S.2C:35-5, of maintaining or operating a controlled dangerous substance production facility under N.J.S.2C:35-4, of employing a juvenile in a drug distribution scheme under N.J.S.2C:35-6, leader of a narcotics trafficking network under N.J.S.2C:35-3, or of distributing, dispensing or possessing with intent to distribute on or near school property or buses under section 1 of P.L.1987, c.101 (C.2C:35-7), who has been previously convicted of manufacturing, distributing, dispensing or possessing with intent to distribute a controlled dangerous substance or controlled substance analog, shall upon application of the prosecuting attorney be sentenced by the court to an extended term as authorized by subsection c. of N.J.S.2C:43-7, notwithstanding that extended terms are ordinarily discretionary with the court. The term of imprisonment shall, except as may be provided in N.J.S.2C:35-12, include the imposition of a minimum term. The minimum term shall be fixed at, or between, one-third and one-half of the sentence imposed by the court or three years, whichever is greater, not less than seven years if the person is convicted of a violation of N.J.S.2C:35-6, or 18 months in the case of a fourth degree crime, during which the defendant shall be ineligible for parole.

The court shall not impose an extended term pursuant to this subsection unless the ground therefor has been established at a hearing. At the hearing, which may occur at the time of sentencing, the prosecutor shall establish the ground therefor by a preponderance of the evidence. In making its finding, the court shall take judicial notice of any evidence, testimony or information adduced at the trial, plea hearing, or other court proceedings and shall also consider the presentence report and any other relevant information.

For the purpose of this subsection, a previous conviction exists where the actor has at any time been convicted under chapter 35 of this title or Title 24 of the Revised Statutes or under any similar statute of the United States, this State, or any other state for an offense that is substantially equivalent to N.J.S.2C:35-3, N.J.S.2C:35-4, N.J.S.2C:35-5, N.J.S.2C:35-6 or section 1 of P.L.1987, c.101 (C.2C:35-7).

g. Any person who has been convicted under subsection a. of N.J.S.2C:39-4 or of a crime under any of the following sections: N.J.S.2C:11-3, N.J.S.2C:11-4, N.J.S.2C:12-1 b., N.J.S.2C:13-1, N.J.S.2C:14-2 a., N.J.S.2C:14-3 a., N.J.S.2C:15-1, N.J.S.2C:18-2, N.J.S.2C:29-5, N.J.S.2C:35-5 who, while in the course of committing or attempting to commit the crime, including the immediate flight therefrom, used or was in possession of a machine gun or assault firearm shall be sentenced to a term of imprisonment by the court. The term of imprisonment shall include the imposition of a minimum term. The minimum term shall be fixed at 10 years for a crime of the

first or second degree, five years for a crime of the third degree, or 18 months in the case of a fourth degree crime, during which the defendant shall be ineligible for parole.

The minimum terms established by this section shall not prevent the court from imposing presumptive terms of imprisonment pursuant to paragraph (1) of subsection f. of N.J.S.2C:44-1 for crimes of the first degree.

A person who has been convicted of an offense enumerated in this subsection and who used or possessed a machine gun or assault firearm during its commission, attempted commission or flight therefrom and who has been previously convicted of an offense involving the use or possession of any firearm as defined in subsection d. of N.J.S.2C:44-3, shall be sentenced by the court to an extended term as authorized by subsection d. of N.J.S.2C:43-7, notwithstanding that extended terms are ordinarily discretionary with the court.

h. The court shall not impose a mandatory sentence pursuant to subsection g. of this section, subsection d. of N.J.S.2C:43-7 or N.J.S.2C:44-3, unless the ground therefor has been established at a hearing. At the hearing, which may occur at the time of sentencing, the prosecutor shall establish by a preponderance of the evidence that the weapon used or possessed was a machine gun or assault firearm. In making its finding, the court shall take judicial notice of any evidence, testimony or information adduced at the trial, plea hearing, or other court proceedings and shall also consider the presentence report and any other relevant information.

i. A person who has been convicted under paragraph (6) of subsection b. of 2C:12-1 of causing bodily injury while eluding shall be sentenced to a term of imprisonment by the court. The term of imprisonment shall include the imposition of a minimum term. The minimum term shall be fixed at, or between one-third and one-half of the sentence imposed by the court. The minimum term established by this subsection shall not prevent the court from imposing a presumptive term of imprisonment pursuant to paragraph (1) of subsection f. of 2C:44-1.

No Applicable Animal Cruelty Case Law.