

[First Reprint]  
**SENATE, No. 1921**  
**STATE OF NEW JERSEY**  
**215th LEGISLATURE**

INTRODUCED MAY 3, 2012

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**SYNOPSIS**

Establishes animal cruelty offense of cruel confinement of a gestating pig.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Agriculture and Natural Resources Committee on March 14, 2013, with amendments.

**AN ACT** concerning cruel confinement of gestating sows, and amending and supplementing Title 4 of the Revised Statutes.

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

1. (New section) a. For the purposes of this section:

“Crate” means to enclose, or restrict the movement of, a gestating sow by using a box, cage, crate, enclosure, or enclosing device, including devices commonly referred to as gestation crates; or the box, cage,

crate, enclosure, or other enclosing device, including a gestation crate, <sup>1</sup>that is<sup>1</sup> used to enclose, or restrict the movement of, a gestating sow.

“Farm” means the land and the buildings, support facilities, and equipment thereon, that are wholly or partially used for the commercial production of animals or animal products used for food, fiber, or other goods and services. “Farm” shall not include live animal markets at which live animals are bought and sold in the absence of any breeding operations.

<sup>1</sup>“Farrowing crate” means an enclosure or enclosing device commonly used with gestating sows to protect piglets from injury during the birthing process and afterwards while nursing.<sup>1</sup>

“Fully extend its limbs” means to lift, stretch, or otherwise move the legs or tail of an animal by the animal, to the fullest extent possible for the animal, without impediment and touching the side or wall of a crate.

“Gestating sow” means a pregnant domesticated pig that is kept on a farm for breeding.

“Owner or operator” means the person who owns a farm or controls the operations of a farm in a management capacity, but shall not include a non-management employee or a contractor or consultant.

“Person” means any individual, firm, partnership, joint venture, association, limited liability company, corporation, estate, trust, receiver or syndicate.

“Turn around freely” means to be able to turn in a complete circle without any impediment, including a tether, and without touching the side or wall of a crate.

b. Notwithstanding the provisions of section 1 of P.L.1995, c.311 (C.4:22-16.1), or any rules, regulations or standards adopted pursuant thereto, to the contrary <sup>1</sup>and except for the use of farrowing crates as provided in subsection g. of this section<sup>1</sup>, a person who, as the owner or operator of a farm, personally and directly, or indirectly through directions or instructions given to a contractor, consultant or employee of the owner or operator <sup>1</sup>[or] of<sup>1</sup> the farm, crates, confines, or tethers a gestating sow kept on the farm in a manner that prevents the animal from being able to turn around freely, lie down, stand up, or fully extend its limbs shall be guilty of the offense of cruel confinement of a gestating sow. No contractor, consultant or employee of the owner or operator or the farm shall be guilty of the offense of cruel confinement of a gestating sow <sup>1</sup>[if the person is acting under the directions or instructions of the owner or operator of the farm]<sup>1</sup>.

c. Cruel confinement of a gestating sow is a disorderly persons offense. <sup>1</sup>[The] Any<sup>1</sup> person <sup>1</sup>found guilty of this offense<sup>1</sup>, in addition to any other penalties applicable pursuant to Title 2C of the New Jersey Statutes, shall be <sup>1</sup>[fined for each offense] subject to a fine of<sup>1</sup> not less than \$250 nor more than \$1,000 <sup>1</sup>for each offense<sup>1</sup>, or <sup>1</sup>[be imprisoned] imprisonment<sup>1</sup> for a term of not more than six months, or both. Each gestating sow that is subjected to cruel confinement shall constitute a separate <sup>1</sup>and distinct<sup>1</sup> offense.

d. Cruel confinement of a gestating sow shall not include confinement for:

- (1) medical research;
- (2) veterinary examination, testing, individual treatment, an operation, or other veterinary procedures;
- (3) transportation of the animal;
- (4) an exhibition or educational program, including, but not necessarily limited to, a 4-H program, county or State fair, or rodeo;

(5) animal husbandry purposes, provided the confinement is temporary and for no more than <sup>1</sup>[six] eight<sup>1</sup> hours in any 24-hour period;

(6) humane slaughtering of the animal in accordance with all applicable laws, and rules and regulations adopted pursuant thereto, concerning the slaughter of animals; and

(7) proper care of the gestating sow during the <sup>1</sup>[seven-day] 10-day<sup>1</sup> period prior to the expected date of the gestating sow giving birth.

e. Nothing in this section may be construed to supersede or limit the applicability of any other local, federal, or State law, rule, or regulation protecting animal welfare, or to prevent any governing body of a county or municipality from adopting or enacting any ordinances, resolutions, rules or regulations concerning the protection and welfare of animals that are more stringent than State or federal law.

f. It is not an affirmative defense to an alleged violation of this section that the gestating sow is domestic livestock, or was kept as part of an agricultural operation or in accordance with customary animal husbandry or farming practices.

<sup>1</sup>g. The use of a farrowing crate is exempt from the provisions of this section, and shall not be construed to be a violation of subsection b. of this section.<sup>1</sup>

<sup>1</sup>[2. R.S.4:22-26 is amended to read as follows:

4:22-26. A person who shall:

a. (1) Overdrive, overload, drive when overloaded, overwork, deprive of necessary sustenance, 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, 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) Cruelly kill, or cause or procure, by any direct or indirect means, including but not limited to through the use of another living animal or creature, the cruel killing of, a living animal or creature, or otherwise cause or procure, by any direct or indirect means, including but not limited to through the use of another living animal or creature, the death of a living animal or creature from commission of any act described in paragraph (2) 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 unnecessarily fail to provide a living animal or creature of which the person has charge either as an owner or otherwise with proper food, drink, shelter or protection from the weather; or leave it 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 this article;

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 place owned or controlled by him 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 it 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;

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;

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. Knowingly sell or barter or offer for sale or barter, at wholesale or retail, for human consumption, the flesh of a domestic dog or cat or any product made in whole or in part from the flesh of a domestic dog or cat;

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; or

dd. Confine a gestating sow in a manner that prevents the animal from being able to turn around freely, lie down, stand up, or fully extend its limbs, except as may be required for (1) medical research, (2) veterinary examination, testing, individual treatment, or an operation, (3) transportation of the animal, (4) an exhibition or educational program, (5) animal husbandry purposes, provided the confinement is temporary and for no more than six hours in any 24-hour period, (6) humanely slaughtering of the animal in accordance with the laws, and rules and regulations adopted pursuant thereto, concerning the slaughter of animals, and (7) proper care during the seven-day period prior to the expected date of the gestating sow giving birth --

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 New Jersey Society for the Prevention of Cruelty to Animals or a county society for the prevention of cruelty to animals, as appropriate, or, in the name of the municipality if brought by a certified animal control officer or animal cruelty investigator:

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) 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 or for a first violation of paragraph (2) of subsection a. of this section, a sum of not less than \$1,000 nor more than \$3,000;

For a violation of subsection x. or 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;

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 c., d., h., j., k., aa., bb., [or] cc., or dd. 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.

(cf: P.L.2005, c.372, s.16)]<sup>1</sup>

<sup>1</sup>2. R.S.4:22-26 is amended to read as follows:

4:22-26. A person who shall:

a. (1) Overdrive, overload, drive when overloaded, overwork, deprive of necessary sustenance, 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, 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) Cruelly kill, or cause or procure, by any direct or indirect means, including but not limited to through the use of another living animal or creature, the cruel killing of, a living animal or creature, or otherwise cause or procure, by any direct or indirect means, including but not limited to through the use of another living animal or creature, the death of a living animal or creature from commission of any act described in paragraph (2) 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 unnecessarily fail to provide a living animal or creature of which the person has charge either as an owner or otherwise with proper food, drink, shelter or protection from the weather; or leave it 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 this article;

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 place owned or controlled by [him] 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 it 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;
- 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;

w. Gamble on the outcome of a fight involving a living animal or creature;

x. Knowingly sell or barter or offer for sale or barter, at wholesale or retail, the fur or hair of a domestic dog or cat or any product made in whole or in part from the fur or hair of a domestic dog or cat, unless such fur or hair for sale or barter is from a commercial grooming establishment or a veterinary office or clinic or is for use for scientific research;

y. (1) Knowingly sell or barter, or offer for sale or barter, at wholesale or retail, for human consumption, the flesh of a domestic dog or cat, or any product made in whole or in part from the flesh of a domestic dog or cat;

(2) Knowingly slaughter a horse for human consumption;

(3) Knowingly sell or barter, or offer for sale or barter, at wholesale or retail, for human consumption, the flesh of a horse, or any product made in whole or in part from the flesh of a horse, or knowingly accept or publish newspaper advertising that includes the offering for sale, trade, or distribution of any such item for human consumption;

(4) Knowingly transport a horse for the purpose of slaughter for human consumption;

(5) Knowingly transport horsemeat, or any product made in whole or in part from the flesh of a horse, for the purpose of human consumption;

z. Surgically debark or silence a dog in violation of section 1 or 2 of P.L.2002, c.102 (C.4:19-38 or C.4:19-39);

aa. Use a live pigeon, fowl or other bird for the purpose of a target, or to be shot at either for amusement or as a test of skill in marksmanship, except that this subsection and subsections bb. and cc. shall not apply to the shooting of game;

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

cc. Lease a building, room, field or premises, or knowingly permit the use thereof for the purposes of subsection aa. or bb. of this section; or

dd. Confine a gestating sow in a manner that prevents the animal from being able to turn around freely, lie down, stand up, or fully extend its limbs, except as may be required for (1) medical research, (2) veterinary examination, testing, individual treatment, or an operation, or other veterinary procedures, (3) transportation of the animal, (4) an exhibition or educational program, including but not necessarily limited to, a 4-H program, county or State fair, or rodeo, (5) animal husbandry purposes, provided the confinement is temporary and for no more than eight hours in any 24-hour period, (6) humane slaughtering of the animal in accordance with the laws, and rules and regulations adopted pursuant thereto, concerning the slaughter of animals, and (7) proper care during the 10-day period prior to the expected date of the gestating sow giving birth ---

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 New Jersey Society for the Prevention of Cruelty to Animals or a county society for the prevention of cruelty to animals, as appropriate, or, in the name of the municipality if brought by a certified animal control officer or animal cruelty investigator:

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) 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 or for a first violation of paragraph (2) of subsection a. of this section, a sum of not less than \$1,000 nor more than \$3,000;

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 c., d., h., j., k., aa., bb., [or] cc., or dd. 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.<sup>1</sup>

(cf: P.L.2012, c.52, s.2)

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3. This act shall take effect <sup>1</sup>[one year after the date of enactment] on December 31, 2018<sup>1</sup> .