

Updated as of June 2017

ILLINOIS ANIMAL CRUELTY LAWS

Definitions

510 ILCS 70/2.01 [Animal defined]

“Animal” means every living creature, domestic or wild, but does not include man.

Commentary: Illinois law has more than one definition of “animal,” for instance 510 ILCS 5/2.02 (The Animal Control Act) states: “‘Animal’ means every living creature, other than man, which may be affected by rabies.”

510 ILCS 5/2.04a [Cat defined]

“Cat” means *Felis catus*.

510 ILCS 5/2.11 [Dog defined]

“Dog” means all members of the family *Canidae*.

510 ILCS 5/2.05 [Confined defined]

“Confined” means restriction of an animal at all times by the owner, or his agent, to an escape-proof building, house, or other enclosure away from other animals and the public.

510 ILCS 5/2.05a [Dangerous dog defined]

“Dangerous dog” means (i) any individual dog anywhere other than upon the property of the owner or custodian of the dog and unmuzzled, unleashed, or unattended by its owner or custodian that behaves in a manner that a reasonable person would believe poses a serious and unjustified imminent threat of serious physical injury or death to a person or a companion animal or (ii) a dog that, without justification, bites a person and does not cause serious physical injury

510 ILCS 5/2.11b [Feral cat defined]

“Feral cat” means a cat that (i) is born in the wild or is the offspring of an owned or feral cat and is not socialized, (ii) is a formerly owned cat that has been abandoned and is no longer socialized, or (iii) lives on a farm.

510 ILCS 5/2.11a [Enclosure defined]

“Enclosure” means a fence or structure of at least 6 feet in height, forming or causing an enclosure suitable to prevent the entry of young children, and suitable to confine a vicious dog in conjunction with other measures that may be taken by the owner or keeper, such as tethering of the vicious dog within the enclosure. The enclosure shall be securely enclosed and locked and designed with secure sides, top, and bottom and shall be designed to prevent the animal from escaping from the enclosure. If the enclosure is a room within a residence, it cannot have direct ingress from or egress to the outdoors unless it leads

directly to an enclosed pen and the door must be locked. A vicious dog may be allowed to move about freely within the entire residence if it is muzzled at all times.

510 ILCS 5/2.12 [Has been bitten defined]

“Has been bitten” means has been seized with the teeth or jaws so that the person or animal seized has been nipped, gripped, wounded, or pierced, and further includes contact of saliva with any break or abrasion of the skin.

510 ILCS 5/2.16 [Owner defined]

“Owner” means any person having a right of property in an animal, or who keeps or harbors an animal, or who has it in his care, or acts as its custodian, or who knowingly permits a dog to remain on any premises occupied by him or her. “Owner” does not include a feral cat caretaker participating in a trap, spay/neuter, return or release program.

Commentary: A pet sitter may qualify as an owner. *VanPlew v. Riccio*, 317 Ill. App. 3d 179 (Ill. App. Ct. 2d. Dist. 2000).

510 ILCS 5/2.17 [Person defined]

“Person” means any individual, firm, corporation, partnership, society, association or other legal entity, any public or private institution, the State of Illinois, municipal corporation or political subdivision of the State, or any other business unit.

510 ILCS 5/2.17b [Police animal defined]

“Police animal” means an animal owned or used by a law enforcement department or agency in the course of the department or agency’s work.

510 ILCS 70/2.01c Service animal

“Service animal” means an animal trained in obedience and task skills to meet the needs of a person with a disability.

510 ILCS 70/2.01d Search and rescue dog

“Search and rescue dog” means any dog that is trained or is certified to locate persons lost on land or in water.

510 ILCS 70/2.01a Companion animal

“Companion animal” means an animal that is commonly considered to be, or is considered by the owner to be, a pet. “Companion animal” includes, but is not limited to, canines, felines, and equines.

510 ILCS 5/2.18a [Physical injury defined]

“Physical injury” means the impairment of physical condition.

510 ILCS 5/2.19a [Serious physical injury defined]

“Serious physical injury” means a physical injury that creates a substantial risk of death or that causes death, serious disfigurement, protracted impairment of health, impairment of the function of any bodily organ, or plastic surgery.

510 ILCS 70/2.01b Exigent circumstances

“Exigent circumstances” means a licensed veterinarian cannot be secured without undue delay and, in the opinion of the animal control warden, animal control administrator, Department of Agriculture investigator, approved humane investigator, or animal shelter employee, the animal is so severely injured, diseased, or suffering that it is unfit for any useful purpose and to delay humane euthanasia would continue to cause the animal extreme suffering.

510 ILCS 70/2.10 Companion animal hoarder

“Companion animal hoarder” means a person who (i) possesses a large number of companion animals; (ii) fails to or is unable to provide what he or she is required to provide under Section 3 of this Act [510 ILCS 70/3]; (iii) keeps the companion animals in a severely overcrowded environment; and (iv) displays an inability to recognize or understand the nature of or has a reckless disregard for the conditions under which the companion animals are living and the deleterious impact they have on the companion animals’ and owner’s health and well-being.

CRUELTY PROVISIONS

510 ILCS 70/3 Owner’s duties

- (a) Each owner shall provide for each of his or her animals:
 - (1) a sufficient quantity of good quality, wholesome food and water;
 - (2) adequate shelter and protection from the weather;
 - (3) veterinary care when needed to prevent suffering; and
 - (4) humane care and treatment.
- (b) To lawfully tether a dog outdoors, an owner must ensure that the dog:
 - (1) does not suffer from a condition that is known, by that person, to be exacerbated by tethering;
 - (2) is tethered in a manner that will prevent it from becoming entangled with other tethered dogs;
 - (3) is not tethered with a lead that (i) exceeds one-eighth of the dog’s body weight or (ii) is a tow chain or a log chain;
 - (4) is tethered with a lead that measures, when rounded to the nearest whole foot, at least 10 feet in length;
 - (5) is tethered with a properly fitting harness or collar other than the lead or a pinch, prong, or choke-type collar; and
 - (6) is not tethered in a manner that will allow it to reach within the property of another person, a public walkway, or a road.
- (c) Subsection (b) of this Section shall not be construed to prohibit:
 - (1) a person from walking a dog with a hand-held leash;
 - (2) conduct that is directly related to the cultivating of agricultural products, including shepherding or herding cattle or livestock, if the restraint is reasonably necessary for the safety of the dog;

- (3) the tethering of a dog while at an organized and lawful animal function, such as hunting, obedience training, performance and conformance events, or law enforcement training, or while in the pursuit of working or competing in those endeavors; or
- (4) a dog restrained in compliance with the requirements of a camping or recreational area as defined by a federal, State, or local authority or jurisdiction.
- (d) A person convicted of violating subsection (a) of this Section is guilty of a Class B misdemeanor. A second or subsequent violation of subsection (a) of this Section is a Class 4 felony with every day that a violation continues constituting a separate offense. In addition to any other penalty provided by law, upon conviction for violating subsection (a) of this Section, the court may order the convicted person to undergo a psychological or psychiatric evaluation and to undergo any treatment at the convicted person's expense that the court determines to be appropriate after due consideration of the evaluation. If the convicted person is a juvenile or a companion animal hoarder, the court must order the convicted person to undergo a psychological or psychiatric evaluation and to undergo treatment that the court determines to be appropriate after due consideration of the evaluation.
- (e) A person convicted of violating subsection (b) of this Section is guilty of a Class B misdemeanor.
- (f) As used in this Section, "tether" means to restrain by tying to an object or structure, including, without limitation, a house, tree, fence, post, garage, shed, or clothes line at a person's residence or business, by any means, including, without limitation, a chain, rope, cord, leash, or running line.

510 ILCS 70/3.01 Cruel treatment.

- (a) No person or owner may beat, cruelly treat, torment, starve, overwork or otherwise abuse any animal.
- (b) No owner may abandon any animal where it may become a public charge or may suffer injury, hunger or exposure.
- (c) No owner of a dog or cat that is a companion animal may expose the dog or cat in a manner that places the dog or cat in a life-threatening situation for a prolonged period of time in extreme heat or cold conditions that:
 - (1) results in injury to or death of the animal; or
 - (2) results in hypothermia, hyperthermia, frostbite, or similar condition as diagnosed by a doctor of veterinary medicine.
- (c-5) Nothing in this Section shall prohibit an animal from being impounded in an emergency situation under subsection (b) of Section 12 of this Act [510 ILCS 70/12].
- (d) A person convicted of violating this Section is guilty of a Class A misdemeanor. A second or subsequent conviction for a violation of this Section is a Class 4 felony. In addition to any other penalty provided by law, a person who is convicted of violating subsection (a) upon a companion animal in the presence of a child, as defined in Section 12-0.1 of the Criminal Code of 2012 [720 ILCS 5/12-0.1], shall be subject to a fine of \$250 and ordered to perform community service for not less than 100 hours. In addition to any other penalty provided by law, upon conviction for violating this Section, the court may order the convicted person to undergo a psychological or psychiatric evaluation and to undergo any treatment at the convicted person's expense that the court determines to be appropriate after due

consideration of the evidence. If the convicted person is a juvenile or a companion animal hoarder, the court must order the convicted person to undergo a psychological or psychiatric evaluation and to undergo treatment that the court determines to be appropriate after due consideration of the evaluation.

Commentary:

Although malice is no longer a required showing under the statute, malice may be inferred from nature of act. *People v. Jones*, 241 Ill. 482, 89 N.E. 752, 1909 Ill. LEXIS 2507 (Ill. 1909) (regarding a prior statute that required a showing of “willful or malicious” killing or wounding).

Conviction under this statute could possibly not be counted in the calculation with the Federal Sentencing Guidelines. *See* *United States v. Burge*, 683 F.3d 829 (7th Cir. 2012) (defendant’s conviction under 510 ICLS 70/3.01 for cruel treatment by way of abandonment was sufficiently similar to a Fish and Wildlife offense listed in the U.S. Sentencing Guidelines Manual § 4A1.2(c) that it should not have been counted as a criminal history point).

510 ILCS 70/3.02 Aggravated cruelty

(a) No person may intentionally commit an act that causes a companion animal to suffer serious injury or death. Aggravated cruelty does not include euthanasia of a companion animal through recognized methods approved by the Department of Agriculture unless prohibited under subsection (b).

(b) No individual, except a licensed veterinarian as exempted under Section 3.09, may knowingly or intentionally euthanize or authorize the euthanasia of a companion animal by use of carbon monoxide.

(c) A person convicted of violating Section 3.02 is guilty of a Class 4 felony. A second or subsequent violation is a Class 3 felony. In addition to any other penalty provided by law, upon conviction for violating this Section, the court may order the convicted person to undergo a psychological or psychiatric evaluation and to undergo any treatment at the convicted person’s expense that the court determines to be appropriate after due consideration of the evaluation. If the convicted person is a juvenile or a companion animal hoarder, the court must order the convicted person to undergo a psychological or psychiatric evaluation and to undergo treatment that the court determines to be appropriate after due consideration of the evaluation.

Commentary:

Section is not unconstitutionally vague. *People v. Larson*, 379 Ill. App. 3d 642 (2008).

Euthanasia refers to the humane killing of a companion animal. *Id.*

An omission may qualify as an “act” under the statute. *See* 720 ILCS 5/2-2 (2017) (defining “act” to include a “failure or omission to take action”); *People v. Land*, 2011 IL App (1st) 101048 (trial judge did not abuse discretion responding to a jury note requesting an answer to whether an act includes an omission. Defendant properly convicted of aggravated cruelty for failure to remove tow chain from dog’s neck during a four to six-week period after chain became imbedded in the skin, and subsequently caused serious injury).

State required to prove intent to cause serious injury or death beyond a reasonable doubt. *People v. Primbas*, 404 Ill. App. 3d 297, 344 (2010).

Error found when judge failed to instruct of lesser included offense of violation of owner's duties for failing to provide adequate food, water, shelter and health care for companion animals when those facts alleged in indictment. *People v. Lee*, 2015 IL App (1st) 132059, 397 Ill. Dec. 343.

Intent may be inferred from acts or omissions. See *People v. Lee*, 2015 Ill. App. LEXIS 727 (Ill. App. Ct. 1st Dist. 2015).

510 ILCS 70/3.03-1 Depiction of animal cruelty

(a) "Depiction of animal cruelty" means any visual or auditory depiction, including any photograph, motion-picture film, video recording, electronic image, or sound recording, that would constitute a violation of Section 3.01, 3.02, 3.03, or 4.01 of the Humane Care for Animals Act [510 ILCS 70/3.01, 510 ILCS 70/3.02, 510 ILCS 70/3.03, or 510 ILCS 70/4.01] or Section 26-5 or 48-1 of the Criminal Code of 1961 or the Criminal Code of 2012 [720 ILCS 5/26-5 or 720 ILCS 5/48-1 or 720 ILCS 5/1-1 et seq.].

(b) No person may knowingly create, sell, market, offer to market or sell, or possess a depiction of animal cruelty. No person may place that depiction in commerce for commercial gain or entertainment. This Section does not apply when the depiction has religious, political, scientific, educational, law enforcement or humane investigator training, journalistic, artistic, or historical value; or involves rodeos, sanctioned livestock events, or normal husbandry practices.

The creation, sale, marketing, offering to sell or market, or possession of the depiction of animal cruelty is illegal regardless of whether the maiming, mutilation, torture, wounding, abuse, killing, or any other conduct took place in this State.

(c) Any person convicted of violating this Section is guilty of a Class A misdemeanor. A second or subsequent violation is a Class 4 felony. In addition to any other penalty provided by law, upon conviction for violating this Section, the court may order the convicted person to undergo a psychological or psychiatric evaluation and to undergo any treatment at the convicted person's expense that the court determines to be appropriate after due consideration of the evaluation. If the convicted person is a juvenile, the court shall order the convicted person to undergo a psychological or psychiatric evaluation and to undergo treatment that the court determines to be appropriate after due consideration of the evaluation.

510 ILCS 70/4.04 Injuring or killing police animals, service animals, accelerant detection dogs, or search and rescue dogs prohibited

It shall be unlawful for any person to willfully or maliciously torture, mutilate, injure, disable, poison, or kill (i) any animal used by a law enforcement department or agency in the performance of the functions or duties of the department or agency or when placed in confinement off duty, (ii) any service animal, (iii) any search and rescue dog, (iv) any law enforcement, service, or search and rescue animal in training, or (v) any accelerant detection canine used by a fire officer for arson investigations in the performance of his or her functions or while off duty. However, a police officer or veterinarian may perform euthanasia in emergency situations when delay would cause the animal undue suffering and pain.

510 ILCS 70/4.03 Teasing, striking or tampering with police animals, service animals, accelerant detection dogs, or search and rescue dogs prohibited

Teasing, striking or tampering with police animals, service animals, accelerant detection dogs, or search and rescue dogs prohibited. It shall be unlawful for any person to willfully and maliciously taunt, torment, tease, beat, strike, or administer or subject any desensitizing drugs, chemicals, or substance to (i) any

animal used by a law enforcement officer in the performance of his or her functions or duties, or when placed in confinement off duty, (ii) any service animal, (iii) any search and rescue dog, (iv) any police, service, or search and rescue animal in training, or (v) any accelerant detection canine used by a fire officer for arson investigations in the performance of his or her functions or while off duty. It is unlawful for any person to interfere or meddle with (i) any animal used by a law enforcement department or agency or any handler thereof in the performance of the functions or duties of the department or agency, (ii) any service animal, (iii) any search and rescue dog, (iv) any law enforcement, service, or search and rescue animal in training, or (v) any accelerant detection canine used by a fire officer for arson investigations in the performance of his or her functions or while off duty.

Any person convicted of violating this Section is guilty of a Class A misdemeanor. A second or subsequent violation is a Class 4 felony

A person convicted of violating this Section is guilty of a Class 4 felony if the animal is not killed or totally disabled; if the animal is killed or totally disabled, the person is guilty of a Class 3 felony.

510 ILCS 70/7.15 Guide, hearing, and support dogs

(a) A person may not willfully and maliciously annoy, taunt, tease, harass, torment, beat, or strike a guide, hearing, or support dog or otherwise engage in any conduct directed toward a guide, hearing, or support dog that is likely to impede or interfere with the dog's performance of its duties or that places the blind, hearing impaired, or person with a physical disability being served or assisted by the dog in danger of injury.

(b) A person may not willfully and maliciously torture, injure, or kill a guide, hearing, or support dog.

(c) A person may not willfully and maliciously permit a dog that is owned, harbored, or controlled by the person to cause injury to or the death of a guide, hearing, or support dog while the guide, hearing, or support dog is in discharge of its duties.

(d) A person convicted of violating this Section is guilty of a Class A misdemeanor. A second or subsequent violation is a Class 4 felony. A person convicted of violating subsection (b) or (c) of this Section is guilty of a Class 4 felony if the dog is killed or totally disabled, and may be ordered by the court to make restitution to the person with a disability having custody or ownership of the dog for veterinary bills and replacement costs of the dog.

510 ILCS 70/5.01 Horse poling or tripping

(a) As used in this Section:

“Pole” means to use a method of training a horse that consists of (i) forcing, persuading, or enticing a horse to jump so that one or more of its legs contacts an obstruction consisting of any kind of wire, or a pole, stick, rope, or other object in which is embedded brads, nails, tacks, or other sharp points or (ii) raising, throwing, or moving a pole, stick, wire, rope, or other object against one or more legs of a horse while it is jumping an obstruction so that the horse, in either case, is induced to raise its leg or legs higher in order to clear the obstruction.

“Trip” means to use a wire, rope, pole, stick, or other object or apparatus to cause a horse to fall or lose its balance.

(b) No person may knowingly pole or trip a horse by any means for entertainment or sport purposes.

(c) This Section does not prohibit the lawful laying down of a horse for medical or identification purposes.

(d) A person convicted of violating this Section is guilty of a Class A misdemeanor. A second or subsequent violation of this Section is a Class 4 felony.

510 ILCS 70/5 Lamé or disabled horses

No person shall sell, offer to sell, lead, ride, transport, or drive on any public way any equidae which, because of debility, disease, lameness or any other cause, could not be worked in this State without violating this Act. Such equidae may be conveyed to a proper place for medical or surgical treatment or for humane keeping or euthanasia.

A person convicted of violating this Section or any rule, regulation, or order of the Department pursuant thereto is guilty of a Class A misdemeanor. A second or subsequent violation is a Class 4 felony.

510 ILCS 70/6 Poisoning prohibited

No person may knowingly poison or cause to be poisoned any dog or other domestic animal. The only exception will be by written permit from the Department for the purpose of controlling diseases transmissible to humans or other animals and only when all other methods and means have been exhausted. Such a written permit shall name the person or persons conducting the poisoning, specify the products to be used, give the boundaries of the area involved, and specify the precautionary measures to be employed to insure the safety of humans and other animals.

This Section does not prohibit the use of a euthanasia drug by a euthanasia agency for the purpose of animal euthanasia, provided that the euthanasia drug is used by or under the direction of a licensed veterinarian or certified euthanasia technician, all as defined in and subject to the Humane Euthanasia in Animal Shelters Act [510 ILCS 72/1 et seq.].

A person convicted of violating this Section or any rule, regulation, or order of the Department pursuant thereto is guilty of a Class A misdemeanor. A second or subsequent violation is a Class 4 felony.

510 ILCS 70/4 Prohibited acts

No person may sell, offer for sale, barter, or give away as a pet or a novelty any rabbit or any baby chick, duckling or other fowl which has been dyed, colored, or otherwise treated to impart an artificial color thereto. Baby chicks or ducklings shall not be sold, offered for sale, bartered, or given away as pets or novelties. Rabbits, ducklings or baby chicks shall not be awarded as prizes.

A person convicted of violating this Section is guilty of a Class B misdemeanor. A second or subsequent violation is a Class 4 felony, with every day that a violation continues constituting a separate offense.

510 ILCS 70/7.5 Downed animals

(a) For the purpose of this Section a downed animal is one incapable of walking without assistance.

(b) No downed animal shall be sent to a stockyard, auction, or other facility where its impaired mobility may result in suffering. An injured animal other than those of the equine genus may be sent directly to a slaughter facility.

(c) A downed animal sent to a stockyard, auction, or other facility in violation of this Section shall be humanely euthanized, the disposition of such animal shall be the responsibility of the owner, and the owner shall be liable for any expense incurred.

If an animal becomes downed in transit it shall be the responsibility of the carrier.

(d) A downed animal shall not be transported unless individually segregated.

(e) A person convicted of violating this Section or any rule, regulation, or order of the Department pursuant thereto is guilty of a Class B misdemeanor. A second or subsequent violation is a Class 4 felony, with every day that a violation continues constituting a separate offense.

720 ILCS 5/48-5 Horse mutilation

(a) A person commits horse mutilation when he or she cuts the solid part of the tail of any horse in the operation known as docking, or by any other operation performed for the purpose of shortening the tail, and whoever shall cause the same to be done, or assist in doing this cutting, unless the same is proved to be a benefit to the horse.

(b) Sentence. Horse mutilation is a Class A misdemeanor.

720 ILCS 5/48-7 Feeding garbage to animals

(a) Definitions. As used in this Section:

“Department” means the Department of Agriculture of the State of Illinois.

“Garbage” has the same meaning as in the federal Swine Health Protection Act (7 U.S.C. 3802) and also includes putrescible vegetable waste. “Garbage” does not include the contents of the bovine digestive tract.

“Person” means any person, firm, partnership, association, corporation, or other legal entity, any public or private institution, the State, or any municipal corporation or political subdivision of the State.

(b) A person commits feeding garbage to animals when he or she feeds or permits the feeding of garbage to swine or any animals or poultry on any farm or any other premises where swine are kept.

(c) Establishments licensed under the Illinois Dead Animal Disposal Act or under similar laws in other states are exempt from the provisions of this Section.

(d) Nothing in this Section shall be construed to apply to any person who feeds garbage produced in his or her own household to animals or poultry kept on the premises where he or she resides except this garbage if fed to swine shall not contain particles of meat.

(e) Sentence. Feeding garbage to animals is a Class B misdemeanor, and for the first offense shall be fined not less than \$100 nor more than \$500 and for a second or subsequent offense shall be fined not less than \$200 nor more than \$500 or imprisoned in a penal institution other than the penitentiary for not more than 6 months, or both.

(f) A person violating this Section may be enjoined by the Department from continuing the violation.

(g) The Department may make reasonable inspections necessary for the enforcement of this Section, and is authorized to enforce, and administer the provisions of this Section.

TRANSPORTATION PROVISIONS

510 ILCS 70/7 Confinement or detention during transportation

No owner, railroad or other common carrier may, when transporting any animal, allow that animal to be confined in any type of conveyance more than 28 consecutive hours without being exercised as necessary for that particular type of animal and without being properly rested, fed and watered; except that a reasonable extension of this time limit shall be granted when a storm or accident causes a delay. In the case of default of the owner or consignee, the company transporting the animal shall exercise the animal, when necessary for the particular type of animal and for the proper resting, feeding, watering and sheltering of such animal, and shall have a lien upon the animal until all expenses resulting therefrom have been paid.

Any person who intentionally or negligently without jurisdiction of law detains a shipment of livestock long enough to endanger the health or safety of the livestock is liable to the owner for any diminution in the value or death of the livestock.

Authorities detaining a livestock shipment shall give priority to the health and safety of the animals and shall expeditiously handle any legal violation so that the intact shipment may safely reach its designated destination.

A person convicted of violating this Section or any rule, regulation, or order of the Department pursuant thereto, is guilty of a Class B misdemeanor. A second or subsequent violation is a Class 4 felony, with every day that a violation continues constituting a separate offense.

510 ILCS 70/7.1 Confinement in motor vehicle

No owner or person shall confine any animal in a motor vehicle in such a manner that places it in a life or health threatening situation by exposure to a prolonged period of extreme heat or cold, without proper ventilation or other protection from such heat or cold. In order to protect the health and safety of an animal, an animal control officer, law enforcement officer, or Department investigator who has probable cause to believe that this Section is being violated shall have authority to enter such motor vehicle by any reasonable means under the circumstances after making a reasonable effort to locate the owner or other person responsible.

A person convicted of violating this Section is guilty of a Class C misdemeanor. A second or subsequent violation is a Class B misdemeanor.

FIGHTING PROVISIONS

720 ILCS 5/48-1 Dog fighting

(For other provisions that may apply to dog fighting, see the Humane Care for Animals Act [510 ILCS 70/1 et seq.]. For provisions similar to this Section that apply to animals other than dogs, see in particular Section 4.01 of the Humane Care for Animals Act [510 ILCS 70/4.01]).

(a) No person may own, capture, breed, train, or lease any dog which he or she knows is intended for use in any show, exhibition, program, or other activity featuring or otherwise involving a fight between the dog and any other animal or human, or the intentional killing of any dog for the purpose of sport, wagering, or entertainment.

(b) No person may promote, conduct, carry on, advertise, collect money for or in any other manner assist or aid in the presentation for purposes of sport, wagering, or entertainment of any show, exhibition, program, or other activity involving a fight between 2 or more dogs or any dog and human, or the intentional killing of any dog.

(c) No person may sell or offer for sale, ship, transport, or otherwise move, or deliver or receive any dog which he or she knows has been captured, bred, or trained, or will be used, to fight another dog or human or be intentionally killed for purposes of sport, wagering, or entertainment.

(c-5) No person may solicit a minor to violate this Section.

(d) No person may manufacture for sale, shipment, transportation, or delivery any device or equipment which he or she knows or should know is intended for use in any show, exhibition, program, or other activity featuring or otherwise involving a fight between 2 or more dogs, or any human and dog, or the intentional killing of any dog for purposes of sport, wagering, or entertainment.

(e) No person may own, possess, sell or offer for sale, ship, transport, or otherwise move any equipment or device which he or she knows or should know is intended for use in connection with any show, exhibition, program, or activity featuring or otherwise involving a fight between 2 or more dogs, or any dog and human, or the intentional killing of any dog for purposes of sport, wagering or entertainment.

(f) No person may knowingly make available any site, structure, or facility, whether enclosed or not, that he or she knows is intended to be used for the purpose of conducting any show, exhibition, program, or other activity involving a fight between 2 or more dogs, or any dog and human, or the intentional killing of any dog or knowingly manufacture, distribute, or deliver fittings to be used in a fight between 2 or more dogs or a dog and human.

(g) No person may knowingly attend or otherwise patronize any show, exhibition, program, or other activity featuring or otherwise involving a fight between 2 or more dogs, or any dog and human, or the intentional killing of any dog for purposes of sport, wagering, or entertainment.

(h) No person may tie or attach or fasten any live animal to any machine or device propelled by any power for the purpose of causing the animal to be pursued by a dog or dogs. This subsection (h) applies only when the dog is intended to be used in a dog fight.

(i) Sentence.

(1) Any person convicted of violating subsection (a), (b), (c), or (h) of this Section is guilty of a Class 4 felony for a first violation and a Class 3 felony for a second or subsequent violation, and may be fined an amount not to exceed \$50,000.

(1.5) A person who knowingly owns a dog for fighting purposes or for producing a fight between 2 or more dogs or a dog and human or who knowingly offers for sale or sells a dog bred for fighting is guilty of a Class 3 felony and may be fined an amount not to exceed \$50,000, if the dog participates in a dogfight and any of the following factors is present:

(i) the dogfight is performed in the presence of a person under 18 years of age;

(ii) the dogfight is performed for the purpose of or in the presence of illegal wagering activity; or

(iii) the dogfight is performed in furtherance of streetgang related activity as defined in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act [740 ILCS 147/10].

- (1.7) A person convicted of violating subsection (c-5) of this Section is guilty of a Class 4 felony.
- (2) Any person convicted of violating subsection (d) or (e) of this Section is guilty of a Class 4 felony for a first violation. A second or subsequent violation of subsection (d) or (e) of this Section is a Class 3 felony.
- (2.5) Any person convicted of violating subsection (f) of this Section is guilty of a Class 4 felony. Any person convicted of violating subsection (f) of this Section in which the site, structure, or facility made available to violate subsection (f) is located within 1,000 feet of a school, public park, playground, child care institution, day care center, part day child care facility, day care home, group day care home, or a facility providing programs or services exclusively directed toward persons under 18 years of age is guilty of a Class 3 felony for a first violation and a Class 2 felony for a second or subsequent violation.
- (3) Any person convicted of violating subsection (g) of this Section is guilty of a Class 4 felony for a first violation. A second or subsequent violation of subsection (g) of this Section is a Class 3 felony. If a person under 13 years of age is present at any show, exhibition, program, or other activity prohibited in subsection (g), the parent, legal guardian, or other person who is 18 years of age or older who brings that person under 13 years of age to that show, exhibition, program, or other activity is guilty of a Class 3 felony for a first violation and a Class 2 felony for a second or subsequent violation.
- (i-5) A person who commits a felony violation of this Section is subject to the property forfeiture provisions set forth in Article 124B of the Code of Criminal Procedure of 1963 [725 ILCS 5/124B-5 et seq.].
- (j) Any dog or equipment involved in a violation of this Section shall be immediately seized and impounded under Section 12 of the Humane Care for Animals Act [510 ILCS 70/12] when located at any show, exhibition, program, or other activity featuring or otherwise involving a dog fight for the purposes of sport, wagering, or entertainment.
- (k) Any vehicle or conveyance other than a common carrier that is used in violation of this Section shall be seized, held, and offered for sale at public auction by the sheriff's department of the proper jurisdiction, and the proceeds from the sale shall be remitted to the general fund of the county where the violation took place.
- (l) Any veterinarian in this State who is presented with a dog for treatment of injuries or wounds resulting from fighting where there is a reasonable possibility that the dog was engaged in or utilized for a fighting event for the purposes of sport, wagering, or entertainment shall file a report with the Department of Agriculture and cooperate by furnishing the owners' names, dates, and descriptions of the dog or dogs involved. Any veterinarian who in good faith complies with the requirements of this subsection has immunity from any liability, civil, criminal, or otherwise, that may result from his or her actions. For the purposes of any proceedings, civil or criminal, the good faith of the veterinarian shall be rebuttably presumed.
- (m) In addition to any other penalty provided by law, upon conviction for violating this Section, the court may order that the convicted person and persons dwelling in the same household as the convicted person who conspired, aided, or abetted in the unlawful act that was the basis of the conviction, or who knew or should have known of the unlawful act, may not own, harbor, or have custody or control of any dog or other animal for a period of time that the court deems reasonable.

(n) A violation of subsection (a) of this Section may be inferred from evidence that the accused possessed any device or equipment described in subsection (d), (e), or (h) of this Section, and also possessed any dog.

(o) When no longer required for investigations or court proceedings relating to the events described or depicted therein, evidence relating to convictions for violations of this Section shall be retained and made available for use in training peace officers in detecting and identifying violations of this Section. Such evidence shall be made available upon request to other law enforcement agencies and to schools certified under the Illinois Police Training Act [50 ILCS 705/1 et seq.].

(p) For the purposes of this Section, “school” has the meaning ascribed to it in Section 11-9.3 of this Code [720 ILCS 5/11-9.3]; and “public park”, “playground”, “child care institution”, “day care center”, “part day child care facility”, “day care home”, “group day care home”, and “facility providing programs or services exclusively directed toward persons under 18 years of age” have the meanings ascribed to them in Section 11-9.4 of this Code [720 ILCS 5/11-9.4].

510 ILCS 70/4.01 Animals in entertainment

This Section does not apply when the only animals involved are dogs. (Section 48-1 of the Criminal Code of 2012 [720 ILCS 5/48-1], rather than this Section, applies when the only animals involved are dogs.)

(a) No person may own, capture, breed, train, or lease any animal which he or she knows or should know is intended for use in any show, exhibition, program, or other activity featuring or otherwise involving a fight between such animal and any other animal or human, or the intentional killing of any animal for the purpose of sport, wagering, or entertainment.

(b) No person shall promote, conduct, carry on, advertise, collect money for or in any other manner assist or aid in the presentation for purposes of sport, wagering, or entertainment, any show, exhibition, program, or other activity involving a fight between 2 or more animals or any animal and human, or the intentional killing of any animal.

(c) No person shall sell or offer for sale, ship, transport, or otherwise move, or deliver or receive any animal which he or she knows or should know has been captured, bred, or trained, or will be used, to fight another animal or human or be intentionally killed, for the purpose of sport, wagering, or entertainment.

(d) No person shall manufacture for sale, shipment, transportation or delivery any device or equipment which that person knows or should know is intended for use in any show, exhibition, program, or other activity featuring or otherwise involving a fight between 2 or more animals, or any human and animal, or the intentional killing of any animal for purposes of sport, wagering or entertainment.

(e) No person shall own, possess, sell or offer for sale, ship, transport, or otherwise move any equipment or device which such person knows or should know is intended for use in connection with any show, exhibition, program, or activity featuring or otherwise involving a fight between 2 or more animals, or any animal and human, or the intentional killing of any animal for purposes of sport, wagering or entertainment.

(f) No person shall make available any site, structure, or facility, whether enclosed or not, which he or she knows or should know is intended to be used for the purpose of conducting any show, exhibition, program, or other activity involving a fight between 2 or more animals, or any animal and human, or the intentional killing of any animal.

(g) No person shall knowingly attend or otherwise patronize any show, exhibition, program, or other activity featuring or otherwise involving a fight between 2 or more animals, or any animal and human, or the intentional killing of any animal for the purposes of sport, wagering or entertainment.

(h) (Blank).

(i) Any animals or equipment involved in a violation of this Section shall be immediately seized and impounded under Section 12 [510 ILCS 70/12] by the Department when located at any show, exhibition, program, or other activity featuring or otherwise involving an animal fight for the purposes of sport, wagering, or entertainment.

(j) Any vehicle or conveyance other than a common carrier that is used in violation of this Section shall be seized, held, and offered for sale at public auction by the sheriff's department of the proper jurisdiction, and the proceeds from the sale shall be remitted to the general fund of the county where the violation took place.

(k) Any veterinarian in this State who is presented with an animal for treatment of injuries or wounds resulting from fighting where there is a reasonable possibility that the animal was engaged in or utilized for a fighting event for the purposes of sport, wagering, or entertainment shall file a report with the Department and cooperate by furnishing the owners' names, dates, and descriptions of the animal or animals involved. Any veterinarian who in good faith complies with the requirements of this subsection has immunity from any liability, civil, criminal, or otherwise, that may result from his or her actions. For the purposes of any proceedings, civil or criminal, the good faith of the veterinarian shall be rebuttably presumed.

(l) No person shall solicit a minor to violate this Section.

(m) The penalties for violations of this Section shall be as follows:

(1) A person convicted of violating subsection (a), (b), or (c) of this Section or any rule, regulation, or order of the Department pursuant thereto is guilty of a Class 4 felony for the first offense. A second or subsequent offense involving the violation of subsection (a), (b), or (c) of this Section or any rule, regulation, or order of the Department pursuant thereto is a Class 3 felony.

(2) A person convicted of violating subsection (d), (e), or (f) of this Section or any rule, regulation, or order of the Department pursuant thereto is guilty of a Class 4 felony for the first offense. A second or subsequent violation is a Class 3 felony.

(3) A person convicted of violating subsection (g) of this Section or any rule, regulation, or order of the Department pursuant thereto is guilty of a Class 4 felony for the first offense. A second or subsequent violation is a Class 3 felony.

(4) A person convicted of violating subsection (l) of this Section is guilty of a Class 4 felony for the first offense. A second or subsequent violation is a Class 3 felony.

(n) A person who commits a felony violation of this Section is subject to the property forfeiture provisions set forth in Article 124B of the Code of Criminal Procedure of 1963 [725 ILCS 5/124B-5 et seq.].

Commentary:

State must establish “that the offender knew or should have known that the animal has once been intended or will be used for fighting purposes.” *Illinois Gamefowl Breeders Ass'n v. Block*, 75 Ill. 2d 443, 27 (Ill. 1979).

PROCEDURE

510 ILCS 70/16.1 Defenses

It is not a defense to violations of this Act for the person committing the violation to assert that he or she had rights of ownership in the animal that was the victim of the violation.

510 ILCS 70/17 Penalties

(a) Any person convicted of any act of abuse or neglect or of violating any other provision of this Act, for which a penalty is not otherwise provided, or any rule, regulation, or order of the Department pursuant thereto, is guilty of a Class B misdemeanor. A second or subsequent violation is a Class 4 felony with every day that a violation continues constituting a separate offense.

(b) The Department may enjoin a person from a continuing violation of this Act.

510 ILCS 70/3.04 Arrests and seizures; penalties

(a) Any law enforcement officer making an arrest for an offense involving one or more companion animals under Section 3.01, 3.02, or 3.03 of this Act [510 ILCS 70/3.01, 510 ILCS 70/3.02, or 510 ILCS 70/3.03] may lawfully take possession of some or all of the companion animals in the possession of the person arrested. The officer, after taking possession of the companion animals, must file with the court before whom the complaint is made against any person so arrested an affidavit stating the name of the person charged in the complaint, a description of the condition of the companion animal or companion animals taken, and the time and place the companion animal or companion animals were taken, together with the name of the person from whom the companion animal or companion animals were taken and name of the person who claims to own the companion animal or companion animals if different from the person from whom the companion animal or companion animals were seized. He or she must at the same time deliver an inventory of the companion animal or companion animals taken to the court of competent jurisdiction. The officer must place the companion animal or companion animals in the custody of an animal control or animal shelter and the agency must retain custody of the companion animal or companion animals subject to an order of the court adjudicating the charges on the merits and before which the person complained against is required to appear for trial. If the animal control or animal shelter owns no facility capable of housing the companion animals, has no space to house the companion animals, or is otherwise unable to house the companion animals or the health or condition of the animals prevents their removal, the animals shall be impounded at the site of the violation pursuant to a court order authorizing the impoundment, provided that the person charged is an owner of the property. Employees or agents of the animal control or animal shelter or law enforcement shall have the authority to access the on-site impoundment property for the limited purpose of providing care and veterinary treatment for the impounded animals and ensuring their well-being and safety. For an on-site impoundment, a petition for posting of security may be filed under Section 3.05 of this Act [510 ILCS 70/3.05]. Disposition of the animals shall be controlled by Section 3.06 of this Act [510 ILCS 70/3.06]. The State’s Attorney may, within 14 days after the seizure, file a “petition for forfeiture prior to trial” before the court having criminal jurisdiction over the alleged charges, asking for permanent forfeiture of the companion animals seized. The petition shall be filed with the court, with copies served on the impounding agency, the owner, and anyone claiming an interest in the animals. In a “petition for

forfeiture prior to trial”, the burden is on the prosecution to prove by a preponderance of the evidence that the person arrested violated Section 3.01, 3.02, 3.03, or 4.01 of this Act [510 ILCS 70/3.01, 510 ILCS 70/3.02, 510 ILCS 70/3.03, or 510 ILCS 70/4.01] or Section 26-5 or 48-1 of the Criminal Code of 1961 or the Criminal Code of 2012 [720 ILCS 5/26-5 or 720 ILCS 5/48-1 or 720 ILCS 5/1-1 et seq.].

(b) An owner whose companion animal or companion animals are removed by a law enforcement officer under this Section must be given written notice of the circumstances of the removal and of any legal remedies available to him or her. The notice must be posted at the place of seizure, or delivered to a person residing at the place of seizure or, if the address of the owner is different from the address of the person from whom the companion animal or companion animals were seized, delivered by registered mail to his or her last known address.

(c) In addition to any other penalty provided by law, upon conviction for violating Sections 3, 3.01, 3.02, or 3.03 the court may order the convicted person to forfeit to an animal control or animal shelter the animal or animals that are the basis of the conviction. Upon an order of forfeiture, the convicted person is deemed to have permanently relinquished all rights to the animal or animals that are the basis of the conviction. The forfeited animal or animals shall be adopted or humanely euthanized. In no event may the convicted person or anyone residing in his or her household be permitted to adopt the forfeited animal or animals. The court, additionally, may order that the convicted person and persons dwelling in the same household as the convicted person who conspired, aided, or abetted in the unlawful act that was the basis of the conviction, or who knew or should have known of the unlawful act, may not own, harbor, or have custody or control of any other animals for a period of time that the court deems reasonable.

Commentary: Seizure hearing is not criminal in purpose. People v. Koy, 2014 IL App (2d) 130906, 383 Ill. Dec. 139, 13 N.E.3d 1260, 2014 Ill. App. LEXIS 500 (Ill. App. Ct. 2d Dist. 2014).

No right to jury for seizure hearing. *Id.*

510 ILCS 70/3.05 Security for companion animals and animals used for fighting purposes

(a) In the case of companion animals as defined in Section 2.01a [510 ILCS 70/2.01a] or animals used for fighting purposes in violation of Section 4.01 of this Act [510 ILCS 70/4.01] or Section 26-5 or 48-1 of the Criminal Code of 1961 or the Criminal Code of 2012 [720 ILCS 5/26-5 or 720 ILCS 5/48-1 or 720 ILCS 5/1-1 et seq.], the animal control or animal shelter having custody of the animal or animals may file a petition with the court requesting that the person from whom the animal or animals are seized, or the owner of the animal or animals, be ordered to post security. The security must be in an amount sufficient to secure payment of all reasonable expenses expected to be incurred by the animal control or animal shelter in caring for and providing for the animal or animals pending the disposition of the charges. Reasonable expenses include, but are not limited to, estimated medical care and boarding of the animal or animals for 30 days. The amount of the security shall be determined by the court after taking into consideration all of the facts and circumstances of the case, including, but not limited to, the recommendation of the impounding organization having custody and care of the seized animal or animals and the cost of caring for the animal or animals. If security has been posted in accordance with this Section, the animal control or animal shelter may draw from the security the actual costs incurred by the agency in caring for the seized animal or animals.

(b) Upon receipt of a petition, the court must set a hearing on the petition, to be conducted within 5 business days after the petition is filed. The petitioner must serve a true copy of the petition upon the defendant and the State’s Attorney for the county in which the animal or animals were seized. The petitioner must also serve a true copy of the petition on any interested person. For the purposes of this

subsection, “interested person” means an individual, partnership, firm, joint stock company, corporation, association, trust, estate, or other legal entity that the court determines may have a pecuniary interest in the animal or animals that are the subject of the petition. The court must set a hearing date to determine any interested parties. The court may waive for good cause shown the posting of security.

(c) If the court orders the posting of security, the security must be posted with the clerk of the court within 5 business days after the hearing. If the person ordered to post security does not do so, the animal or animals are forfeited by operation of law and the animal control or animal shelter having control of the animal or animals must dispose of the animal or animals through adoption or must humanely euthanize the animal. In no event may the defendant or any person residing in the defendant’s household adopt the animal or animals.

(d) The impounding organization may file a petition with the court upon the expiration of the 30-day period requesting the posting of additional security. The court may order the person from whom the animal or animals were seized, or the owner of the animal or animals, to post additional security with the clerk of the court to secure payment of reasonable expenses for an additional period of time pending a determination by the court of the charges against the person from whom the animal or animals were seized.

(e) In no event may the security prevent the impounding organization having custody and care of the animal or animals from disposing of the animal or animals before the expiration of the 30-day period covered by the security if the court makes a final determination of the charges against the person from whom the animal or animals were seized. Upon the adjudication of the charges, the person who posted the security is entitled to a refund of the security, in whole or in part, for any expenses not incurred by the impounding organization.

(f) Notwithstanding any other provision of this Section to the contrary, the court may order a person charged with any violation of this Act to provide necessary food, water, shelter, and care for any animal or animals that are the basis of the charge without the removal of the animal or animals from their existing location and until the charges against the person are adjudicated. Until a final determination of the charges is made, any law enforcement officer, animal control officer, Department investigator, or an approved humane investigator may be authorized by an order of the court to make regular visits to the place where the animal or animals are being kept to ascertain if the animal or animals are receiving necessary food, water, shelter, and care. Nothing in this Section prevents any law enforcement officer, Department investigator, or approved humane investigator from applying for a warrant under this Section to seize any animal or animals being held by the person charged pending the adjudication of the charges if it is determined that the animal or animals are not receiving the necessary food, water, shelter, or care.

(g) Nothing in this Act shall be construed to prevent the voluntary, permanent relinquishment of any animal by its owner to an animal control or animal shelter in lieu of posting security or proceeding to a forfeiture hearing. Voluntary relinquishment shall have no effect on the criminal charges that may be pursued by the appropriate authorities.

(h) If an owner of a companion animal is acquitted by the court of charges made pursuant to this Act, the court shall further order that any security that has been posted for the animal shall be returned to the owner by the impounding organization.

(i) The provisions of this Section only pertain to companion animals and animals used for fighting purposes.

510 ILCS 70/3.06 Disposition of seized companion animals and animals used for fighting purposes

- (a) Upon the conviction of the person charged, all animals seized, if not previously ordered forfeited or previously forfeited by operation of law, are forfeited to the facility impounding the animals and must be humanely euthanized or adopted. Any outstanding costs incurred by the impounding facility for boarding and treating the animals pending the disposition of the case and any costs incurred in disposing of the animals must be borne by the person convicted.
- (b) Any person authorized by this Section to care for an animal or animals, to treat an animal or animals, or to attempt to restore an animal or animals to good health and who is acting in good faith is immune from any civil or criminal liability that may result from his or her actions.
- (c) The provisions of this Section only pertain to companion animals and animals used for fighting purposes.

510 ILCS 70/3.07 Veterinarian reports; humane euthanasia

Any veterinarian in this State who observes or is presented with an animal or animals for the treatment of aggravated cruelty under Section 3.02 or torture under Section 3.03 of this Act [510 ILCS 70/3.02 or 510 ILCS 70/3.03] must file a report with the Department and cooperate with the Department by furnishing the owner's name, the date of receipt of the animal or animals and any treatment administered, and a description of the animal or animals involved, including a microchip number if applicable. Any veterinarian who in good faith makes a report, as required by this Section, has immunity from any liability, civil, criminal, or otherwise, that may result from his or her actions. For the purposes of any proceedings, civil or criminal, the good faith of the veterinarian shall be presumed.

An animal control warden, animal control administrator, approved humane investigator, or animal shelter employee may humanely euthanize severely injured, diseased, or suffering animals in exigent circumstances.

510 ILCS 70/4.02 Arrests; reports

(a) Any law enforcement officer making an arrest for an offense involving one or more animals under Section 4.01 of this Act or Section 48-1 of the Criminal Code of 2012 [510 ILCS 70/4.01 or 720 ILCS 5/48-1] shall lawfully take possession of all animals and all paraphernalia, implements, or other property or things used or employed, or about to be employed, in the violation of any of the provisions of Section 4.01 of this Act or Section 48-1 of the Criminal Code of 2012. When a law enforcement officer has taken possession of such animals, paraphernalia, implements or other property or things, he or she shall file with the court before whom the complaint is made against any person so arrested an affidavit stating therein the name of the person charged in the complaint, a description of the property so taken and the time and place of the taking thereof together with the name of the person from whom the same was taken and name of the person who claims to own such property, if different from the person from whom the animals were seized and if known, and that the affiant has reason to believe and does believe, stating the ground of the belief, that the animals and property so taken were used or employed, or were about to be used or employed, in a violation of Section 4.01 of this Act or Section 48-1 of the Criminal Code of 2012. He or she shall thereupon deliver an inventory of the property so taken to the court of competent jurisdiction. A law enforcement officer may humanely euthanize animals that are severely injured.

An owner whose animals are removed for a violation of Section 4.01 of this Act or Section 48-1 of the Criminal Code of 2012 must be given written notice of the circumstances of the removal and of any legal remedies available to him or her. The notice must be posted at the place of seizure or delivered to a

person residing at the place of seizure or, if the address of the owner is different from the address of the person from whom the animals were seized, delivered by registered mail to his or her last known address.

The animal control or animal shelter having custody of the animals may file a petition with the court requesting that the person from whom the animals were seized or the owner of the animals be ordered to post security pursuant to Section 3.05 of this Act [510 ILCS 70/3.05].

Upon the conviction of the person so charged, all animals shall be adopted or humanely euthanized and property so seized shall be adjudged by the court to be forfeited. Any outstanding costs incurred by the impounding facility in boarding and treating the animals pending the disposition of the case and disposing of the animals upon a conviction must be borne by the person convicted. In no event may the animals be adopted by the defendant or anyone residing in his or her household. If the court finds that the State either failed to prove the criminal allegations or failed to prove that the animals were used in fighting, the court must direct the delivery of the animals and the other property not previously forfeited to the owner of the animals and property.

Any person authorized by this Section to care for an animal, to treat an animal, or to attempt to restore an animal to good health and who is acting in good faith is immune from any civil or criminal liability that may result from his or her actions.

An animal control warden, animal control administrator, animal shelter employee, or approved humane investigator may humanely euthanize severely injured, diseased, or suffering animal in exigent circumstances.

(b) Any veterinarian in this State who is presented with an animal for treatment of injuries or wounds resulting from fighting where there is a reasonable possibility that the animal was engaged in or utilized for a fighting event shall file a report with the Department and cooperate by furnishing the owners' names, date of receipt of the animal or animals and treatment administered, and descriptions of the animal or animals involved. Any veterinarian who in good faith makes a report, as required by this subsection (b), is immune from any liability, civil, criminal, or otherwise, resulting from his or her actions. For the purposes of any proceedings, civil or criminal, the good faith of any such veterinarian shall be presumed.

510 ILCS 70/10 Investigation of complaints

(a) Upon receiving a complaint of a suspected violation of this Act, a Department investigator, any law enforcement official, or an approved humane investigator may, for the purpose of investigating the allegations of the complaint, enter during normal business hours upon any premises where the animal or animals described in the complaint are housed or kept, provided such entry shall not be made into any building which is a person's residence, except by search warrant or court order. Institutions operating under federal license to conduct laboratory experimentation utilizing animals for research or medical purposes are, however, exempt from the provisions of this Section. State's Attorneys and law enforcement officials shall provide such assistance as may be required in the conduct of such investigations. Any such investigation requiring legal procedures shall be immediately reported to the Department. No employee or representative of the Department shall enter a livestock management facility unless sanitized footwear is used, or unless the owner or operator of the facility waives this requirement. The employee or representative must also use any other reasonable disease prevention procedures or equipment provided by the owner or operator of the facility. The animal control administrator and animal control wardens appointed under the Animal Control Act [510 ILCS 5/1 et seq.] shall be authorized to make investigations complying with this Section for alleged violations of Sections 3, 3.01, 3.02, and 3.03 [510 ILCS 70/3, 510 ILCS 70/3.01, 510 ILCS 70/3.02, and 510 ILCS 70/3.03] pertaining to companion

animals. The animals impounded shall remain under the jurisdiction of the animal control administrator and be held in an animal shelter licensed under the Animal Welfare Act [225 ILCS 605/1 et seq.].

(b) Any veterinarian acting in good faith is immune from any civil or criminal liability resulting from his or her actions under this Section. The good faith on the part of the veterinarian is presumed.

510 ILCS 70/12 Impounding animals; notice of impoundment

(a) When an approved humane investigator, a Department investigator or a veterinarian finds that a violation of this Act has rendered an animal in such a condition that no remedy or corrective action by the owner is possible, the Department must impound or order the impoundment of the animal. If the violator fails or refuses to take corrective action necessary for compliance with Section 11 of this Act [510 ILCS 70/11], the Department may impound the animal. If the animal is ordered impounded, it shall be impounded in a facility or at another location where the elements of good care as set forth in Section 3 of this Act [510 ILCS 70/3] can be provided, and where such animals shall be examined and treated by a licensed veterinarian or, if the animal is severely injured, diseased, or suffering, humanely euthanized. Any expense incurred in the impoundment shall become a lien on the animals.

(b) Emergency impoundment may be exercised in a life-threatening situation and the subject animals shall be conveyed directly to a licensed veterinarian for medical services necessary to sustain life or to be humanely euthanized as determined by the veterinarian. If such emergency procedure is taken by an animal control officer, the Department shall be notified.

(c) A notice of impoundment shall be given by the investigator to the violator, if known, in person or sent by certified or registered mail. If the investigator is not able to serve the violator in person or by registered or certified mail, the notice may be given by publication in a newspaper of general circulation in the county in which the violator's last known address is located. A copy of the notice shall be retained by the investigator and a copy forwarded immediately to the Department. The notice of impoundment shall include the following:

- (1) A number assigned by the Department which will also be given to the impounding facility accepting the responsibility of the animal or animals.
- (2) Listing of deficiencies noted.
- (3) An accurate description of the animal or animals involved.
- (4) Date on which the animal or animals were impounded.
- (5) Signature of the investigator.
- (6) A statement that: "The violator may request a hearing to appeal the impoundment. A person desiring a hearing shall contact the Department of Agriculture within 7 days from the date of impoundment" and the Department must hold an administrative hearing within 7 business days after receiving a request to appeal the impoundment. If the hearing cannot be held prior to the expiration of the 7-day impoundment period, the Department shall notify the impounding facility that it cannot sell, offer for adoption, or dispose of the animal or animals until a final decision is rendered and all of the appeal processes have expired.

If a hearing is requested by any owner of impounded animals, the Hearing Officer shall, after hearing the testimony of all interested parties, render a decision within 5 business days regarding the disposition of

the impounded animals. This decision by the Hearing Officer shall have no effect on the criminal charges that may be filed with the appropriate authorities.

If an owner of a companion animal or animal used for fighting purposes requests a hearing, the animal control or animal shelter having control of the animal or animals may file a petition with the court in the county where the impoundment took place requesting that the person from whom the animal or animals were seized or the owner of the animal or animals be ordered to post security pursuant to subsections (a) and (b) of Section 3.05 of this Act [510 ILCS 70/3.05].

If the court orders the posting of security, the security must be posted with the clerk of the court within 5 business days after the hearing. If the person ordered to post security does not do so, the court must order the Department of Agriculture to hold a hearing on the impoundment within 5 business days. If, upon final administrative or judicial determination, it is found that it is not in the best interest of the animal or animals to be returned to the person from whom it was seized, the animal or animals are forfeited to the animal control or animal shelter having control of the animal or animals. If no petition for the posting of security is filed or a petition was filed and granted but the person failed to post security, any expense incurred in the impoundment shall remain outstanding until satisfied by the owner or the person from whom the animal or animals were impounded.

When the impoundment is not appealed, the animal or animals are forfeited and the animal control or animal shelter in charge of the animal or animals may lawfully and without liability provide for adoption of the animal or animals by a person other than the person who forfeited the animal or animals, or any person or persons dwelling in the same household as the person who forfeited the animal or animals, or it may humanely euthanize the animal or animals.

510 ILCS 70/16.5 Emergency care to an animal; immunity from civil liability

Any person, including without limitation any person licensed under the Veterinary Medicine and Surgery Practice Act of 2004 [225 ILCS 115/1 et seq.] or licensed as a veterinarian in any other state or territory of the United States, who in good faith provides emergency care or treatment without fee to an injured animal or an animal separated from its owner due to an emergency or a disaster is not liable for civil damages as a result of his or her acts or omissions in providing or arranging further care or treatment, except for willful or wanton misconduct.

510 ILCS 70/16.2 Corporations

Corporations may be charged with violations of this Act for the acts of their employees or agents who violate this Act in the course of their employment or agency.