

# **New Jersey Animal Cruelty Laws**

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### **Introduction**

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

This document begins with the general animal cruelty statutes and then addresses related statutes involving use of animals in product testing and horses. The general animal cruelty statutes cover various issues including euthanasia standards, care of impounded animals, prohibitions against abandoning animals, and penalties, punishments, and enforcements.

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

- 1. Consolidated Animal Cruelty Laws:** N.J. STAT. ANN. §§ 4:22-16 - 57
- 2. Use of Animals in Product Testing:** N.J. STAT. ANN. §§ 4:22-59 - 60
- 3. Horses:** N.J. STAT. ANN. §§ 39:4-23 & 24

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# 1. CONSOLIDATED ANIMAL CRUELTY LAWS

## N.J. STAT. ANN. § 4:22-16. Construction of Article

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

- a. Properly conducted scientific experiments performed under the authority of the Department of Health or the United States Department of Agriculture. Those departments may authorize the conduct of such experiments or investigations by agricultural stations and schools maintained by the State or federal government, or by medical societies, universities, colleges and institutions incorporated or authorized to do business in this State and having among their corporate purposes investigation into the causes, nature, prevention and cure of diseases in men and animals; and may for cause revoke such authority;
- b. The killing or disposing of an animal<sup>2</sup> or creature by virtue of the order of a constituted authority of the State;
- c. The shooting or taking of game or game fish in such manner and at such times as is allowed or provided by the laws of this State;
- d. The training or engaging of a dog to accomplish a task or participate in an activity or exhibition designed to develop the physical or mental characteristics of that dog. These activities shall be carried out in accordance with the practices, guidelines or rules established by an organization founded for the purpose of promoting and enhancing working dog activities or exhibitions; in a manner which does not adversely affect the health or safety of the dog; and may include avalanche warning, guide work, obedience work, carting, dispatching, freight racing, packing, sled dog racing, sledding, tracking, and weight pull demonstrations;
- e. The raising, keeping, care, treatment, marketing, and sale of domestic livestock in accordance with the standards developed and adopted therefor pursuant to subsection a. of section 1 of P.L.1995, c. 311 (C. 4:22-16.1); and
- f. The killing or disposing, by a reasonable or commercially acceptable method or means, of a Norway or brown rat (*Rattus norvegicus*), black rat (*Rattus rattus*), or house mouse (*Mus musculus*) by any person,<sup>3</sup> or with the permission or at the direction of that person, while the animal is on property either owned or leased by, or otherwise under the control of, that person, provided that the animal is not a pet.

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<sup>2</sup> “‘Animal’ or ‘creature’ includes the whole brute creation.” N.J. STAT. ANN. § 4:22-15.

<sup>3</sup> “‘Owner’ or ‘person’ includes a corporation, and the knowledge and acts of an agent or employee of a corporation in regard to animals transported, owned, employed or in the custody of the corporation shall be imputed to the corporation.” N.J. STAT. ANN § 4:22-15.

**Applicable Case Law:**

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

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

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

**4:22-16.1. Rules and regulations; standards for humane treatment of domestic livestock**

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

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

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

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

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

**Applicable Case Law:**

***N. J. Soc. for Prevention of Cruelty to Animals v. N. J. Dept. of Agric.*, 196 N.J. 366, 955 A.2d 886 (2008).**

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

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

**N.J. STAT. ANN. § 4:22-17. Cruelty; disorderly persons offense**

a. A person who shall:

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

(2) Cause or procure, by any direct or indirect means, including but not limited to through the use of another living animal or creature, any such acts to be done; or

(3) Inflict unnecessary cruelty upon a living animal or creature, by any direct or indirect means, including but not limited to through the use of another living animal or creature; or 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--

Shall be guilty of a disorderly persons offense, and notwithstanding the provisions of N.J.S.2C:43-3 to the contrary, for every such offense shall be fined not less than \$250 nor more than \$1,000, or be imprisoned for a term of not more than six months, or both, in the discretion of the court. A violator of this subsection shall also be subject to the provisions of subsection c. and, if appropriate, subsection d. of this section.

b. A person who shall purposely, knowingly, or recklessly:

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

(2) Cause or procure, by any direct or indirect means, including but not limited to through the use of another living animal or creature, any such acts to be done--

Shall be guilty of a crime of the fourth degree.

If the animal or creature is cruelly killed or dies as a result of a violation of this subsection, or the person has a prior conviction for a violation of this subsection, the person shall be guilty of a crime of the third degree.

A violator of this subsection shall also be subject to the provisions of subsection c. and, if appropriate, subsection d. of this section.

c. For a violation of subsection a. or b. of this section, in addition to imposing any other appropriate penalties established for a crime of the third degree, crime of the fourth degree, or disorderly persons offense, as the case may be, pursuant to Title 2C of the New Jersey Statutes, the court shall impose a term of community service of up to 30 days, and may direct that the term of community service be served in providing assistance to the New Jersey Society for the Prevention of Cruelty to Animals, a district (county) society for the prevention of cruelty to animals, or any other recognized organization concerned with the prevention of cruelty to animals or the humane treatment and care of animals, or to a municipality's animal control or animal population control program. The court also may require the violator to pay restitution or otherwise reimburse any costs for food, drink, shelter, or veterinary care or treatment, or other costs, incurred by any agency, entity, or organization investigating the violation, including but not limited to the New Jersey Society for the Prevention of Cruelty to Animals, a district (county) society for the prevention of cruelty to animals, any other recognized organization concerned with the prevention of cruelty to animals or the humane treatment and care of animals, or a local or State governmental entity.

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

**Applicable Case Law:**

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

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

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

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

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

***Gerofsky v. Passaic Cnty. Soc. for Prevention of Cruelty to Animals*, 376 N.J.Super. 405, 870 A.2d 704 (2005).**

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

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

***State v. Spencer*, 20 N.J. Misc. 487, 29 A.2d. 398 (1942).**

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

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

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

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

No Applicable Case Law.

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

A person who shall:

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

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

No Applicable Case Law.

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

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

No Applicable Case Law.

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

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

No Applicable Case Law.

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

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

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-19.4. Violations; penalty**

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

No Applicable Case Law.

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

a. A person who shall abandon a maimed, sick, infirm or disabled animal or creature to die in a public place, shall be guilty of a disorderly persons offense.

b. A person who shall abandon a domesticated animal shall be guilty of a disorderly persons offense. The violator shall be subject to the maximum \$1,000 penalty.

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-21. Sale of horses unfit for work; disorderly persons offense**

A person who shall receive or offer for sale a horse that is suffering from abuse or neglect, or which by reason of disability, disease, abuse or lameness, or for any other cause, could not be

worked, ridden or otherwise used for show, exhibition, or recreational purposes, or kept as a domestic pet without violating the provisions of this article or any law of this State relating to cruelty to animals shall be guilty of a disorderly persons offense.

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-22. Use or disposal of animals having contagious diseases; crime of the fourth degree**

A person who shall:

- a. Willfully sell, or offer to sell, use, expose, or cause or permit to be sold or offered for sale, used or exposed, any horse or other animal having the disease known as glanders or farcy, or other contagious or infectious disease dangerous to the health or life of human beings or animals; or
- b. When any such disease is beyond recovery, refuse upon demand to deprive any such animal of life--

Shall be guilty of a crime of the fourth degree.

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-23. Use of live birds as targets; disorderly persons offense**

A person who shall:

- a. Use a live pigeon, fowl or other bird for the purpose of a target, or to be shot at either for amusement or as a test of skill in marksmanship;
- b. Shoot at a bird used as described in subsection a. of this section, or is a party to such shooting; or
- c. Lease a building, room, field or premises, or knowingly permit the use thereof for the purpose of such shooting--

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

This section shall not apply to the shooting of game.

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-24. Fighting or baiting animals or creatures and related offenses**

A person who shall:

- a. Keep, use, be connected with or interested in the management of, or receive money for the admission of a person to, a place kept or used for the purpose of fighting or baiting a living animal or creature;
- b. Be present and witness, pay admission to, encourage or assist therein;
- c. Permit or suffer a place owned or controlled by him to be so used;
- d. For amusement or gain, cause, allow, or permit the fighting or baiting of a living animal or creature;
- e. Own, possess, keep, train, promote, purchase, or knowingly sell a living animal or creature for the purpose of fighting or baiting that animal or creature; or
- f. Gamble on the outcome of a fight involving a living animal or creature--

Shall be guilty of a crime of the third degree.

**Applicable Case Law:**

**See *Gerofsky v. Passaic Cnty. Soc. for Prevention of Cruelty to Animals*, 376 N.J.Super. 405, 870 A.2d 704 (2005) above under N.J.S.A. § 4:22-17.**

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

Each person operating a motor vehicle who shall knowingly hit, run over, or cause injury to a cat, dog, horse or cattle shall stop at once, ascertain the extent of injury, report to the nearest police station, police officer, or notify the nearest Society for the Prevention of Cruelty to Animals and give his name, address, operator's license and registration number, and also give the location of the injured animal.

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-25.2. Punishment for violation**

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

No Applicable Case Law.

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

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

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

No Applicable Case Law.

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

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

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

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-26. Acts constituting cruelty in general; penalty**

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. (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 --

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. of this section or of paragraph (1) of subsection a. of this section, a sum of not less than \$250 nor more than \$1,000; and

For a violation of subsection i., m., n., o., p., q., r., or s. of this section, a sum of not less than \$250 nor more than \$500.

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

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

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

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

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

***State v. Spano*, 328 N.J.Super. 287, 745 A.2d 598 (2000).**

**Facts:** While deer hunting, Spano shot and killed a golden retriever mix and an Australian Shepherd mix. The dogs were standing over a deer carcass approximately 118 feet away. Spano asserted that the shepherd aggressively began running towards him and so he shot and wounded the dog in an act of self-defense. Spano then shot and killed the retriever after he observed the dog growling. After re-loading the weapon, Spano heard the shepherd whimpering and possibly

suffering, so he fired a second shot that killed it. Spano claimed he did not know the dogs were pets but thought they were coyotes or wild dogs and he felt his life and safety were in jeopardy. **Holding:** Spano was charged with six separate offenses, including two counts of the disorderly persons offense of needlessly killing an animal<sup>4</sup> and two counts of the penalty offense of needlessly killing an animal (§ 4:22-26(a)).

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

***State v. Bernstein*, 189 N.J.Super. 212, 459 A.2d 1185 (1983).**

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

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

**See *N. J. Soc. for Prevention of Cruelty to Animals v. Bd. of Educ. of City of East Orange*, 91 N.J. Super. 81, 219 A.2d 200 (Co.1966), affirmed 49 N.J. 15, 227 A.2d 506 (1967) above under N.J.S.A. § 4:22-16.**

**N.J. STAT. ANN. § 4:22-26.1. Confiscation and forfeiture of animal under certain circumstance**

An officer or agent of the New Jersey Society for the Prevention of Cruelty to Animals, or a certified animal control officer, may petition a court of competent jurisdiction to have any animal confiscated and forfeited that is owned or possessed by a person at the time the person is found to be guilty of violating R.S. 4:22-17, R.S. 4:22-18, R.S. 4:22-19, R.S. 4:22-20 or R.S. 4:22-23. Upon a finding that the continued possession by that person poses a threat to the animal's welfare, the court may, in addition to any other penalty that may be imposed for a violation of R.S. 4:22-17, R.S. 4:22-18, R.S. 4:22-19, R.S. 4:22-20 or R.S. 4:22-23, adjudge an animal forfeited for such disposition as the court deems appropriate.

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-28. Effect of indictment or holding person to bail on liability for penalty**

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

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<sup>4</sup> The disorderly persons offense statute (§ 4:22-17) is listed on page 4 of this document.

No Applicable Case Law.

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

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

No Applicable Case Law.

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

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

No Applicable Case Law.

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

Any humane law enforcement officer of the New Jersey Society for the Prevention of Cruelty to Animals or of a county society for the prevention of cruelty to animals, or any sheriff, undersheriff, constable, certified animal control officer who has been properly authorized pursuant to section 4 of P.L.1983, c. 525 (C.4:19-15.16b) , or police officer may:

- a. Make arrests for violations of this article;
- b. Arrest without warrant any person found violating the provisions of this article in the presence of such humane law enforcement officer, sheriff, undersheriff, constable, police officer or a certified animal control officer who has been properly authorized pursuant to section 4 of P.L.1983, c. 525 (C.4:19-15.16b), and take such person before the nearest judge or magistrate as provided in this article.

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-45. Notice of arrest to state or district society**

Where an arrest is made under the provisions of this article by a constable, sheriff, undersheriff or police officer in a locality where the New Jersey society, or a district (county) society, for the prevention of cruelty to animals exists, he shall give notice to the state or district (county) society at once, whereupon such state or district (county) society shall take charge of the case and prosecute it under the provisions of this article. No magistrate shall hear any such case until

proof is made of the service of such notice on the state or district (county) society.  
The provisions of this section shall not apply to certified animal control officers who have been properly authorized pursuant to section 4 of P.L.1983, c. 525 (C.4:19-15.16b) to make arrests.

No Applicable Case Law.

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

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

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-47. Entry, arrests and seizures in building where violations of § 4:22-24 exist**

A sheriff, undersheriff, constable, police officer, certified animal control officer who has been properly authorized pursuant to section 4 of P.L.1983, c. 525 (C.4:19-15.16b) , or humane law enforcement officer of the New Jersey Society for the Prevention of Cruelty to Animals or of a county society for the prevention of cruelty to animals, may enter any building or place where there is an exhibition of the fighting or baiting of a living animal or creature, where preparations are being made for such an exhibition, or where a violation otherwise of R.S. 4:22-24 is occurring, arrest without warrant all persons there present, and take possession of all living animals or creatures engaged in fighting or there found and all implements or appliances used or to be used in such exhibition.

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-48. Forfeiture of creatures and articles seized under § 4:22-47; costs payable by owner**

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

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

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

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

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

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-48.1. Authorization for shelter, care, and treatment of seized animal; destruction; payment of costs; immunity from liability**

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

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

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-48.2. Confiscated animals; costs of care and treatment**

The costs of sheltering, caring for, or treating any animal that has been confiscated from a person arrested pursuant to the provisions of R.S.4:22-47 by an agent of the New Jersey Society for the Prevention of Cruelty to Animals, or any other person authorized to make an arrest pursuant to article 2 of chapter 22 of Title 4 of the Revised Statutes, until the animal is adjudged forfeited or until the animal is returned to the owner, shall be borne by the owner of the animal.

No Applicable Case Law.

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

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

The person making the arrest shall promptly notify the owner of the taking of the property and its place of custody, either in person, by telephone or by mailing a notice to his last known post-

office address, and a person in charge of the property at the time of the arrest, with permission of the owner, shall be deemed the agent of the owner to receive such notice.

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-50.1. Arrest of owner or operator of animal pound or shelter for cruelty; petition to remove and appoint receiver; service**

When the owner or operator of an animal pound or shelter is arrested pursuant to the provisions of article 2 of chapter 22 of Title 4 of the Revised Statutes by an agent of the New Jersey Society for the Prevention of Cruelty to Animals or any other person authorized to make the arrest under that article, or when the warrant is issued for the arrest, the person making the arrest or any other officer or agent of the New Jersey Society for the Prevention of Cruelty to Animals may petition the Chancery Division of Superior Court to remove the owner or operator as custodian of the animals and appoint a receiver to operate the pound or shelter. The petitioner shall serve a copy of the petition on the Department of Health, the local board of health, and the owner or operator.

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-50.2. Appointment of receiver**

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

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

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-50.3. Receiver; authority and duties; compensation; excess revenues; cost deficiency; bond**

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

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

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-50.4. Reports of actions taken and accounts itemizing revenues and expenditures; presentation or settlement of accounts**

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

No Applicable Case Law.

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

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

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-50.6. Application of act**

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

No Applicable Case Law.

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

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

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

No Applicable Case Law.

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

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

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

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

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

No Applicable Case Law.

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

An animal or creature abandoned in a maimed, sick, infirm or disabled condition, if fit for further use, may be advertised and sold in the manner directed by a court of competent jurisdiction or agent of the New Jersey Society for the Prevention of Cruelty to Animals.

The proceeds, after deducting expenses, shall be paid to the district (county) society for the prevention of cruelty to animals, if one is in existence in the county; if not, then to the New Jersey society.

No Applicable Case Law.

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

When an animal or creature is found on the highway or elsewhere, whether abandoned or not, in a maimed, sick, infirm or disabled condition, a court of competent jurisdiction or sheriff of the county, or agent of the New Jersey Society for the Prevention of Cruelty to Animals, may appoint a suitable person to examine and destroy such animal or creature if unfit for further use.

No Applicable Case Law.

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

a. Except as provided pursuant to subsection b. of this section, all fines, penalties and moneys imposed and collected under the provisions of this article, shall be paid by the court or by the clerk or court officer receiving the fines, penalties or moneys, within thirty days and without demand, to (1) the county society for the prevention of cruelty to animals of the county where the fines, penalties or moneys were imposed and collected, if the county society brought the action or it was brought on behalf of the county society, to be used by the county society in aid of the benevolent objects for which it was incorporated, or (2) in all other cases, the New Jersey Society for the Prevention of Cruelty to Animals, to be used by the State society in aid of the benevolent objects for which it was incorporated.

b. If an enforcement action for a violation of this article is brought primarily as a result of the discovery and investigation of the violation by a certified animal control officer, the fines, penalties or moneys collected shall be paid as follows: one half to the municipality in which the violation occurred ; and one half to the county society or to the New Jersey Society for the Prevention of Cruelty to Animals, as applicable to the particular enforcement action.

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

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

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

**Applicable Case Law:**

*N.J. Soc. for Prevention of Cruelty to Animals v. Russ*, 83 N.J.L. 450, 83 A. 961 (1912).

**Facts:** Ralph Russ was convicted of cruelty to animals for an alleged violation that took place in the city of Hoboken. On appeal, the Supreme Court set aside the conviction and, in turn, the NJSPCA brought a writ of error alleging that the judicial officer deciding the case lacked jurisdiction.

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

*N.J. Soc. for Prevention of Cruelty to Animals v. Knoll*, 77 N.J.L. 138, 71 A. 116 (1908).

**Facts:** Anthony Knoll was convicted of cruelty to animals and fined \$20 and \$3.60 costs. This fine was divided between the informer and the NJSPCA (“Society”). Section 5 of the Society’s

act of incorporation provides that of all fines collected, one-half will be paid by the justice, clerk or other officer, to the informer, or prosecutor, and the other half to the district society if one is in existence. If there is not a district society in existence, then payment will be made to the Society. Knoll's conviction was reversed on appeal and he applied for writ of restitution.

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

#### **N.J. STAT. ANN. § 4:22-56. Liability for civil damages**

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

a. neither a municipality or a certified animal control officer shall be liable for any civil damages as a result of any act or omission of the New Jersey Society for the Prevention of Cruelty to Animals, a county society or an officer thereof with regard to any investigation, arrest or prosecution of a violator with which the municipality or certified animal control officer was not involved; and

b. neither the New Jersey Society for the Prevention of Cruelty to Animals, a county society or an officer thereof shall be liable for any civil damages as a result of any act or omission of a municipality or a certified animal control officer with regard to any investigation, arrest or prosecution of a violator with which the New Jersey Society for the Prevention of Cruelty to Animals, a county society or an officer thereof was not involved.

No Applicable Case Law.

#### **N.J. STAT. ANN. § 4:22-57. List of persons not eligible to be animal control officers**

a. For the purposes of establishing the list of persons not eligible to be certified animal control officers as required pursuant to subsections b. and c. of section 3 of P.L.1983, c.525 (C.4:19-15.16a), notice shall be provided, within 90 days after the effective date of this section, to the Commissioner of Health and Senior Services of any person who has been convicted of, or found civilly liable for, a violation of any provision of chapter 22 of Title 4 of the Revised Statutes, by any court or other official administrative entity maintaining records of such violations adjudged on or before the effective date of this section.

b. For the purposes of maintaining the list of persons not eligible to be certified animal control officers as established pursuant to subsections b. and c. of section 3 of P.L.1983, c.525 (C.4:19-15.16a), the court or other official adjudging the guilt or liability for a violation of any provision of chapter 22 of Title 4 of the Revised Statutes, shall charge the prosecutor, officer of the New Jersey Society for the Prevention of Cruelty to Animals or the county society for the prevention of cruelty to animals, or other appropriate person, other than a certified animal control officer,

with the responsibility to notify within 30 days the commissioner, in writing, of the full name of the person found guilty of, or liable for, an applicable violation, and the violation for which or of which that person was found guilty or liable, and the person charged with the responsibility shall provide such notice.

No Applicable Case Law.

## 2. USE OF ANIMALS IN PRODUCT TESTING

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

a. When conducting any product testing in the State, no manufacturer<sup>5</sup> or contract testing facility<sup>6</sup> shall use a traditional animal test method<sup>7</sup> for which there is an appropriate validated alternative test method<sup>8</sup> that has been adopted by the relevant federal agency or agencies responsible for regulating the specific product or activity for which the test is being conducted, pursuant to the provisions of the federal “ICCVAM Authorization Act of 2000,” 42 U.S.C. s.285I-2 et seq. No provision of this subsection shall be construed to apply to any animal test conducted for the purposes of medical research.<sup>9</sup>

b. No provision of this section shall prohibit the use of any nonanimal alternative test method for the testing of any product, product formulation, chemical, or ingredient that is not recommended by the committee.<sup>10</sup>

c. No provision of this section shall prohibit the use of animal tests to comply with the

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<sup>5</sup> “‘Manufacturer’ means any partnership, corporation, association, or other legal relationship that produces products, product formulations, chemicals, or ingredients in the State.” N.J. STAT. ANN. § 4:22-58.

<sup>6</sup> “‘Contract testing facility’ means any partnership, corporation, association, or other legal relationship that tests chemicals, ingredients, product formulations, or products in the State.” N.J. STAT. ANN. § 4:22-58.

<sup>7</sup> “‘Traditional animal test method’ means a process or procedure using animals to obtain information on the characteristics of a chemical or agent and that generates information regarding the ability of a chemical or agent to produce a specific biological effect under specified conditions.” “‘Animal’ means any vertebrate other than humans.” N.J. STAT. ANN. § 4:22-58.

<sup>8</sup> “‘Validated alternative test method’ means a test method that does not use animals or in some cases reduces or refines the current use of animals, for which the reliability and relevance for a specific purpose has been established in validation studies as specified in the Interagency Coordinating Committee on the Validation of Alternative Methods report provided to federal agencies as required pursuant to the federal “ICCVAM Authorization Act of 2000,” 42 U.S.C. s.285I-2 et seq.” N.J. STAT. ANN. § 4:22-58.

<sup>9</sup> “‘Medical research’ means research related to the causes, diagnosis, treatment, control, or prevention of physical or mental diseases and impairments of humans and animals or related to the development of biomedical products, devices, or drugs as defined i21 U.S.C. s.321. ‘Medical research’ shall not include the testing of an ingredient that was formerly used in a drug, tested for the drug use with traditional animal test methods to characterize the ingredient and to substantiate its safety for human use, and currently is proposed for use in a product other than a biomedical product, device, or drug.” N.J. STAT. ANN. § 4:22-58.

<sup>10</sup> “‘Committee’ means the federal Interagency Coordinating Committee on the Validation of Alternative Methods, established under the federal “ICCVAM Authorization Act of 2000,” 42 U.S.C. s.285I-2 et seq.” N.J. STAT. ANN. § 4:22-58.

requirements of State or federal agencies when the federal agency has approved a nonanimal alternative test method pursuant to subsection a. of this section and the federal agency concludes that the nonanimal alternative test does not assure the health or safety of consumers.

No Applicable Case Law.

**N.J. STAT. ANN. § 4:22-60. Cause of action; relief**

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

No Applicable Case Law.

**3. HORSES**

**N.J. STAT. ANN. § 39:4-23. Ill-treatment of horses**

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

No Applicable Case Law.

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

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

No Applicable Case Law.