

# MODEL STATE ANIMAL PROTECTION STATUTES

*proposed by:*

COMMITTEE FOR HUMANE LEGISLATION, INC.

11 West 60th Street

New York, New York

## CONTENTS

Introduction

Part I     An Act Establishing a State Department of Animal Protection

Part II    Model Acts Concerning Specific Animal Protection Problems

*Prepared by:*

JAMES BRYAN MASON

February 22, 1973

Westport, Connecticut

## INTRODUCTION

Recently acquired knowledge of the effects of pollution has led to an increased concern for our environment. It is now a matter of common knowledge that the successful advancement of our standard of living has been costly to the environment. We know that our demands are leading to a depletion of coal, oil, natural gas and many other native mineral resources. It is well known that many of our fresh-water lakes and streams are contaminated with industrial and human wastes. Many citizens are beginning to question the propriety of the exploitation of our environment; an environmental movement is afoot. Legislatures are responding to these concerns. Many states have enacted laws regulating the use of certain chemicals in products such as food, pesticides, soaps and cosmetics. Several states have adopted laws to force industry to clean up its wastes. Automobile manufacturers have been required to install devices in their automobiles that reduce toxic pollutants. In short, we are beginning to take steps to control our use of the environment in order that exploitation by a few will not destroy enjoyment by all. We are in the process of building a new environmental ethic that will, hopefully, provide restraints on, as well as direction for, future progress.

One aspect of this new ethic deserves much more attention and development: The relationship of human beings to other life, particularly animals. Our concerns for the environment are anthropocentric. We seek to clean up the air and waters to make them safer and more pleasant for ourselves and our children. We strive to conserve natural resources to ensure heat for our homes, power for our machines and products for our comfort and convenience. Human history is largely a record of our successes at using or altering nature according to our own purposes and needs. We have come to believe that the environment is at our disposal and that human purposes and needs justify any use or alteration. We do not always consider the effect of our actions on the total environment when we alter or make use of it. We tend to ignore the fact that we share the planet with millions of other living things. Each species, including *Homo sapiens*, has an interdependent role in the system called nature. The time has come for an expansion of some of our legal concepts to establish recognition of and extend protection to other species.

Existing animal protection laws tend to follow essentially pre-Darwinian concepts of the relationship of human beings to animals. Cicero expressed the idea that, "We are the absolute masters of what the earth produces." Descartes, the ultimate anthropocentricist, hypothesized that as animals do not think, they do not feel pain. Even the earliest American animal protection law reflects this anthropocentric attitude:

"No man shall exercise any Tyranny or Cruelty towards any brute Creature which are usuallie kept for man's use."<sup>1</sup>

The same attitude is reflected in the first state anti-cruelty law passed by New York in 1828. This statute, which served as a model for statutes enacted soon thereafter in other states, was worded as follows:

---

<sup>1</sup> Liberty 92, The Body of Liberties (Massachusetts Bay Colony), 1641.



"Every person who shall maliciously kill, maim or wound any horse, ox, or other cattle, or sheep, *belonging to another*, or shall maliciously and cruelly beat or torture any such animal, whether belonging to himself or another, shall, upon conviction, be adjudged guilty of a misdemeanor."<sup>2</sup>

These laws protected only domestic or "owned" animals. They were intended primarily to protect one's property and not to protect animals from suffering and abuse. Throughout the years, all of our states have enacted some form of anti-cruelty statute similar to the above. Most state statutes presently in effect have broadened the types of animals protected to include "any animal" or "any living creature." Eleven states still protect only "owned" or "domestic" animals.<sup>3</sup> Many of the current statutes contain words of qualification before the prohibited cruel acts as, for example, "unnecessarily," "maliciously," "willfully" or "unreasonably."

Anthropocentrism in our humane laws does not stop here. The legal justification supporting our state anti-cruelty statutes is that the states, under the police power granted by the U.S. Constitution, have authority to prohibit cruelty to animals as having a tendency to corrupt the public morals.<sup>4</sup> The basic purpose of these laws is to preserve the moral standards of human beings rather than to prevent the abuse of other living creatures.

Even our most strongly worded humane statutes have been effective against only the most overt and highly visible cruel practices. These laws have brought our society beyond the days when a teamster could beat a horse to death in the middle of a public street. Less visible cruelty still exists on a much broader scale. Crowds at horse shows enjoy viewing Tennessee Walking Horses without knowing of the painful methods used to produce the high-stepping gait. Patrons of roadside zoos are often unaware of the poor diet and sterile environment provided for the animals.

The anthropocentric attitude is most entrenched in the realm of commercial activities involving animals. Those in business usually regard their animals primarily as a "resource" or an "investment." Like any others in business, they care for their investments according to their own interests. Profit motives inherent in American business tend to result in a greater emphasis on low overhead than on expenditures for humane considerations. A pet shop owner may crowd a litter of puppies in the hot sun of a store window to catch the eye of a passer-by. Truckers move crowded loads of livestock over our highways with little, if any, provision for food, water, rest and protection from the elements. In order to produce hormones for pharmaceutical firms, mares are confined to stalls and kept continually in foal. The newborn foals, having no commercial value, are frequently destroyed. Owners of commercial riding stables do not operate on a profit margin substantial enough to enable them to afford such "luxuries" as professional veterinary care, proper nutrition and fireproof stables.

<sup>2</sup> Revised Statutes, 1827-28, Fourth Part, Chapter 1, Title VI. (*Emphasis added*).

<sup>3</sup> E. S. Leavitt, *Animals and their Legal Rights*, (New York, Animal Welfare Institute, 1968).

<sup>4</sup> Vol. 4, *American Jurisprudence*, *Animals* § 27.



The model statutes which follow are designed to ensure humane treatment in those commercial activities involving animals. A scheme of statutory regulation of these activities is necessary to ensure that humane considerations do not come in second to profit-and-loss considerations.

Existing animal protection laws must now be re-examined in light of advances made in science and philosophy. We now know that human beings are similar to our animal cousins in more ways than we are different. It is known that we share a great variety of the same experiences, sensations, habits and behavior. The vast differential between protections accorded humans and those extended to animals is inconsistent with this knowledge. It is no longer rational to distinguish so markedly between humans and other animals in our laws.

Existing laws should be re-examined also to see how the anthropocentric philosophy is being applied and the effects thereof on the environment. That we are dominating the earth is a fact. Whether we should continue to do so is a question we must decide soon. So awesome is our ability to destroy that it may be said that terrestrial life continues by our good graces. Our destructive capabilities lie not only in obvious means such as nuclear weapons, bulldozers, guns and pesticides. We are able to destroy equally thoroughly in more subtle ways—by permitting human population growth to continue unchecked, by assigning priority to technological advance and mass production as the only means of meeting the needs of people and by teaching the methods and values of commercial-industrial nations to so-called underdeveloped nations. This spiralling cycle of more people, more goods has the blind goal of permitting one or two generations to live better in full knowledge that ultimately succeeding generations will live worse, if at all.

Modern philosophy recognizes our species as one important element in the system called nature and assigns to us the role of protecting that system rather than exploiting it for short-time gain. One of the ways in which this philosophy may be implemented is through laws. The model acts which follow are designed to place human beings on a more nearly equal footing with other animals in our relationships with them.

Humane officials have long known the critical weakness of existing animal protection laws: inadequate enforcement. In these times when our law enforcement officers, prosecutors and court personnel are overburdened with an ever-increasing caseload of serious, violent crimes it is obvious that violations of humane laws must occur and pass unnoticed. A progressive society cannot afford to slip behind in one area while trying to forge ahead in others. Concern for animals on humanitarian and ecological grounds is as timely now as was the concern for industrial expansion in the last century, for health and sanitation early in this century and for equal rights for all citizens in the past decade. The implementation of this newest concern will be our most difficult step because it will offer none of us a chance for personal material gain yet it will affect so many adversely. Perhaps for that reason alone it will be our greatest step, if it can be made. If we make the step, we will have entered a new era of morality for we will have promoted the public morals for the sake of morality



and not just for the sake of the public.

The need for new, enlightened laws for the protection of animals and their effective enforcement has been stated. Our experience with the implementation of strong new social concerns that have necessarily upset established practices and attitudes has taught us that we cannot rely entirely upon enforcement of criminal laws to effect reform. In this century our society has adopted the use of administrative agencies and economic incentives as means of promoting constructive change. Part I of this work sets up a state department having jurisdiction over activities involving or affecting animals. The department would have the usual tools necessary for adequate regulation and enforcement of its policies; for example, authority to issue and revoke licenses, to promulgate regulations and standards, to conduct investigations, hold hearings, impose civil penalties and so on. The principal objection to the creation of a new state agency would be the expense necessary to provide the appropriate staff and facilities. For this reason, the provisions of Part I are designed to enable the department to meet most, if not all, of its operating expenses from revenue obtained from license fees. The greater share of the revenue will come from fees paid by the more lucrative and widespread businesses involving animals. In this way, our society will be able to afford to implement humane and ecological concerns.

Part II contains nineteen model statutes that deal with a variety of specific animal protection problems. Most of these are patterned after legislation recently introduced or enacted in some of our more progressive states. References to the state statute are given wherever appropriate. Number Five is new and is aimed at an abuse that may grow as more and more landowners attempt to prohibit hunting on their lands. Number Eight is new and is intended to replace the archaic anti-cruelty laws referred to in the first few pages of this introduction. It is felt that laws concerning the infliction of suffering on animals should no longer be so heavily qualified and ridden with loopholes. Number Ten introduces a new concept that is supported by sound justifications. The exotic pet trade is a major factor in the decimation of many of our wild species. Approximately three-fourths of the animals captured die before they reach their destination. Most of these animals are sought after as pets for a novelty or status symbol. After the new wears off and the owner realizes that the animal is unsuitable as a household pet or is just too much trouble, the animal is neglected, abandoned, traded off or perhaps dies of causes induced by the stresses of being in a strange environment. If people are to have pets they should stick to pet animals and leave wild animals in the wild. Number Thirteen proposes a prohibition against the taking of animals from public lands. If a society is to adopt an attitude toward the protection of wild creatures, it should begin on its own soil. Such a society should maintain its land for *all* inhabitants of the environment and not solely for the entertainment and recreation of the human population. Number Seventeen presents a new approach to the problem of pet overpopulation by promoting animal birth control and by requiring a license to keep pets. Those who wish to keep pets should bear the cost of administering the problems that flow from that keeping. The license fee schedule is designed to accomplish two objectives: To reduce



the surplus pet population by making it expensive to keep fertile animals that may contribute to that overpopulation and to raise the revenue necessary to carry out the costs of dealing with the problem of pet overpopulation. Numbers Eighteen and Nineteen introduce new concepts of animal protection in offering inducements to landowners to maintain their land as a refuge for wildlife. If a society is to implement successfully the new concern for the environment and its inhabitants it must attempt to do so at all levels. It cannot leave the job of protection and preservation solely up to the government and its officials. Private citizens and institutions should be allowed and encouraged to participate in the effort. The establishment of wilderness areas where "progress" and human alteration are forbidden may seem outrageous to most people at this time. Hopefully, we all will soon realize, perhaps too late, that the quality of our lives, culture and civilization is not determined by or measurable by growth or expansion. A nation that has acquired so much wealth from its land can now afford to set aside some of that land to let it rest; we need not spend it all on ourselves.

In the interest of brevity and simplicity "he," "his" and other forms of words denoting the masculine gender are used and are intended to include "she," "her" and other forms of words denoting the feminine gender.



## **PART I**

# **AN ACT ESTABLISHING A DEPARTMENT OF ANIMAL PROTECTION**

## **CONTENTS**

<b>Section Number</b>	<b>Title or Subject</b>
101	Policy of the state
102	Definition of Terms
103	Department; Commissioner
104	Divisions; Deputy Commissioners
105	Agents; Assistants; Employees; Consultants
106	Duties of Commissioner
107	Animal Protection Standards; Complaints; Hearings; Investigation
108	Cease and Desist Order; Civil Penalty
109	Statewide Animal Protection Plan
110	Commissioner as Agent of the State and Political Subdivisions
111	Payment of funds
112	Appropriation
113	Necessity of license
114	Partnership or Corporate Licenses; Requisites
115	Original Individual License; Application
116	Original Partnership or Corporate License; Application
117	Renewal License Application
118	Non-resident Applicants for License; Consent to Service of Process; Authority to do business
119	License; Term; Renewal; Expiration; Display; Branch Office Licenses
120	Refusal, Suspension or Revocation of License; Penalty; Grounds
121	Investigations, Hearing; Notice Order; Civil Penalty; Witnesses
122	Stenographer; Record of Proceedings; Transcript
123	Cases Involving Refusal, Suspension or Revocation of License; Service of Report; Motion for Hearing
124	Attendance of Witnesses and Production of Documents
125	Judicial Review
126	Surrender of License upon Revocation or Suspension
127	The Licensee shall:
128	Regulations
129	Seizure; Notice; Hearing; Lien; Civil Penalty
130	Penalties
131	License Fees
132	Record Keeping
133	Disposition of funds



## AN ACT ESTABLISHING A DEPARTMENT OF ANIMAL PROTECTION

### 101. POLICY OF THE STATE.

The legislature finds that the growing population and expanding economy of the State have had a profound impact on the living creatures in our environment. The growth of human life has resulted in the displacement of other life forms. It is now understood that human activity must be guided by and kept in harmony with the system of relationships among the creatures in nature in order to preserve the balance of life. The legislature recognizes that each species of terrestrial life plays an important role in the maintenance of this balance. No species is dispensable. We reject the age-old notion that earth was furnished with animals for human enjoyment. We must be viewed as we are: a complex, highly evolved animal distinguishable from other species primarily by our superior brain and its processes.

Therefore, the legislature hereby declares that the policy of the State of ..... is to allow the existing natural order and balance of life to remain as undisturbed and undisplaced by human activity as is possible. It shall further be the policy of the State to provide protections for life forms that have, due to human interference, become unable to protect themselves. It shall further be the policy of the State to elevate the quality of humankind by discontinuing those activities involving animals that appeal to and gratify, and thus maintain, our uncivilized urges.

### 102. DEFINITIONS OF TERMS USED IN THIS ACT

As used in this Act unless the context otherwise requires or unless specifically stated otherwise:

a. "Animal" means any member of a species classified within the sub-phylum *Vertebrata*, except *Homo sapiens*, human beings.

b. "Animal activity" means any business, enterprise, service, industry, or other activity, whether such activity is conducted for profit or not, wherein animals or their parts or products are sold, used, kept, transported, exhibited, cared-for or otherwise involved in the conduct of such activity. Except as specifically provided in this Act, the term "animal activity" shall not be construed to apply to ordinary farms or the operation thereof. The animal activities, their places of operation or the persons engaging therein, as the case may be, intended to be covered by this Act include, but are not limited to, the following:

1. Animal auction; Barn
2. Animal breeder; Facility
3. Animal dealer
4. Animal racing arena
5. Animal shelter
6. Animal transporter



7. Fur animal farm
8. Fur dealer
9. Fur trapper
10. Kennel
11. Livestock yard
12. Pet shop
13. Pregnant Mare Urine (PMU) farm
14. Riding stable
15. Sportshunter
16. Zoo

The Commissioner of Animal Protection may add or remove any activity pursuant to his rule-making authority under Section 107 of this Act.

c. "Animal auction" means an event or activity wherein animals are sold to the highest bidder at sales conducted by auction. "Animal auction barn" means any place or premises where animals are sold by auction.

d. "Animal breeder" means any person who keeps or receives any animal for the purpose of breeding the same to another animal to produce offspring for purposes of sale. "Animal breeding facility" means any place or premises kept, used or maintained by an animal breeder where animals are bred for the purpose of producing offspring for sale.

e. "Animal dealer" means any person who sells, exchanges or donates, or offers to sell, exchange or donate animals to a pet shop, research facility or another dealer.

f. "Animal racing arena" means any place or premises kept or maintained for the purpose of conducting races of horses, dogs or other animals.

g. "Animal shelter" means any place or premises kept for the care, keeping, impounding or boarding of stray, neglected or abandoned animals, whether such premises are owned or operated by a municipality, county, private association, institution or humane organization.

h. "Animal transporter" means a person who transports animals for compensation, whether by truck, train, aircraft or boat.

i. "Commissioner" means the Commissioner of the (state) Department of Animal Protection.

k. "Domestic animal" means any horse, bovine, swine, sheep, goat, mule, donkey or burro, chicken, turkey, duck, goose, guinea, peafowl, swan or other animal commonly kept for commercial or agricultural purposes which is a member of a species or breed not ordinarily found in the wild. The Commissioner may add or remove any species or breed pursuant to his rule-making authority under Section 107 of this Act.

l. "Fur animal farm" means any place or premises where fur-bearing animals are kept for the purpose of producing fur for sale.

m. "Fur dealer" means any person who buys, sells, trades or otherwise deals in pelts, furs or fur-bearing animals, alive or dead.

n. "Fur trapper" means any person who, using a trap, snare, or other mechanical device, captures fur-bearing animals for the purpose of selling or exchanging for compensation, the fur, pelt or fur-bearing animal, dead or alive.



o. "Kennel" means any place or premises, other than an animal shelter, where pet animals are bred, sheltered or watered and fed for a fee.

p. "Livestock" means cattle, calves, sheep, swine, horses, mules, goats, or any other animal that is or may be used in or for the preparation of meat or meat products for consumption by animals or humans.

g. "Livestock yard" means any place, plant, stockyard or facility commonly known as a stockyard, conducted or operated for compensation or profit as a public market, consisting of pens or other enclosures, and their appurtenances, for the handling, keeping or holding of livestock for the purpose of sale or shipment.

r. "Management" means action taken by human beings to maintain or preserve a life form or system of life forms in a status or condition as near to that of nature as possible, such action not having as its purpose commercial gain, human entertainment or sport or any other homocentric purpose.

s. "Meat Products" means any food product or meat by-product, other than meat, derived from livestock and edible by animals or human beings.

t. "Non-domestic animal" means any animal other than a domestic animal or any domestic animal which has reverted to a wild state, such as the American mustang.

u. "Non-pet animal" means any animal other than a pet animal.

v. "Packing" means engaging, either through one's own facilities or the facilities of others, in the business of slaughtering, or of manufacturing or preparing meat or meat products for sale or shipment.

w. "Person" means any individual, firm, corporation, partnership, association or other legal entity, whether for profit or otherwise, any public or private institution, the state of . . . . ., or any municipal corporation or political subdivision of the state.

x. "Pest" means any living creature, plant, animal or otherwise, that ordinarily causes undue destruction to the food sources or habitat of, or spreads disease to either humans or other animals.

y. "Pet animal" means any dog, cat, hamster, rabbit, mouse, gerbil, guinea pig, chinchilla, canary, parakeet, turtle, terrapin, snake, lizard or aquarium fish or such other animal as shall be specified by the Commissioner. When the Commissioner adds or removes any species or breed, he must do so pursuant to his rule-making authority under Section 107 of this Act.

z. "Pet shop" means every place or premises where pet animals are kept for the purpose of either wholesale or retail sale, and includes all brokers, commission merchants, factors, or other middlemen who import into the state any pet animals or through whose possession such pet animals pass.

aa. "Pregnant mare urine (PMU) farm" means any place or premises where horses are kept for the purpose of the collection of urine of pregnant mares to be sold, used or processed for commercial or pharmaceutical purposes.

bb. "Riding stable" means any place or premises where horses are



kept to be ridden by their owners or by others for hire. Provided, however, that where an owner's horses are kept on property also occupied by him as a private residence, such premises shall not be considered a riding stable.

cc. "Sportshunter" means any person who pursues, hunts, shoots, captures, wounds or kills or attempts to pursue, hunt, shoot, capture, wound or kill any non-pet or non-domestic animal but does not mean duly authorized officers of the Department engaging in any of the above acts pursuant to a Departmental plan of management.

dd. "Zoo" means any place or premises where any non-pet animal is confined to a cage, enclosure, pen, or otherwise confined solely for the purpose of being viewed by human beings, whether for profit or not and whether any such animal is privately owned or not.

### **103. DEPARTMENT; COMMISSIONER.**

There shall be a Department of Animal Protection which shall have jurisdiction over all matters relating to the preservation and protection of the animal life of the State. The Department shall be under the direction of a Commissioner of Animal Protection. No person shall be appointed Commissioner who has a financial or commercial interest in any activity to be regulated or prohibited by this Act.

### **104. DIVISIONS; DEPUTY COMMISSIONERS.**

The Commissioner may organize the Department into Divisions as is necessary to carry out the purposes of this Act. Each Division shall be under the control of a Deputy Commissioner who shall be responsible to the Commissioner for the operation of his Division. Each Deputy Commissioner shall be appointed by the Commissioner and shall be qualified and experienced in the functions performed by the Division under his charge. No person may be appointed as a Deputy Commissioner who has a financial or commercial interest in any activity to be regulated or prohibited by this Act.

### **105. AGENTS; ASSISTANTS; EMPLOYEES; CONSULTANTS.**

The Commissioner may employ such agents, assistants, and employees as he deems necessary to carry out his duties and responsibilities. He may retain and employ other consultants and assistants on a contract or other basis for rendering legal, financial, technical or other assistance and advice.

### **106. DUTIES OF COMMISSIONER.**

The Commissioner shall carry out the animal protection policies of the State and shall have all powers necessary and convenient to faithfully discharge this duty. In addition to, and consistent with, the animal protection policy of the State, the Commissioner shall:

- (a) promote and coordinate management of water, land and air resources



to assure their protection and availability for animal life;

(b) provide for the protection, management, maintenance and preservation of all types of plant and animal life;

(c) provide for the protection, enhancement and management of the public forests, parks and natural area preserves;

(d) provide for the protection, enhancement and management of inland, marine and coastal water resources, including, but not limited to, wetlands, rivers, estuaries and shorelines;

(e) upon the verified complaint in writing of any person setting forth facts which, if proved, would constitute a violation of any statute or regulation promulgated pursuant to this Act, investigate the acts or activities complained of and report the results thereof to the public and the complainant within 30 days from the date of the receipt of the complaint;

(f) provide for the enforcement of existing humane and animal protection laws not repealed by or inconsistent with this Act;

(g) regulate the care, keeping, transfer, sale, ownership, possession or handling of certain animals as provided in this Act;

(h) prohibit the keeping, transfer, sale or possession of certain animals as provided in this Act;

(i) regulate businesses, contests, exhibitions, spectator events, or other activities involving the use, keeping or sale of animals as provided in this Act;

(j) provide for reasonable control of pests and regulate the use, storage and disposal of pesticides and other chemicals or substances which may be harmful to animals.

## **107. ANIMAL PROTECTION:STANDARDS; COMPLAINTS; HEARINGS; INVESTIGATIONS.**

The Commissioner may:

(a) adopt, amend or repeal animal protection standards, criteria and regulations to carry out the purpose and provisions of this Act. No adoption, amendment or repeal of any standard, criterion or regulation shall take effect except after a public hearing, thirty days prior notice of the date, time, place and subject matter of which shall be published in the (*state law bulletin*), or earlier than thirty days after the publication thereof in the law bulletin;

(b) enter into contracts with any person, firm, corporation or association to do all things necessary or convenient to carry out the functions, powers and duties of the Department;

(c) by himself or his designated agent, initiate and receive complaints as to any actual or suspected activity involving animal abuse or for the purpose of ascertaining compliance or noncompliance with any provision of the (state) statutes or regulations which may be promulgated pursuant to this Act. The Commissioner or his designated agent shall have the power to hold hearings, administer oaths, take testimony and subpoena witnesses and evidence, enter orders and institute legal proceedings including but not limited to prosecution of criminal charges and suits for injunctions, for the enforcement of his orders and regulations in accordance with this Act;



(d) by himself or his designated agent, enter at all reasonable times upon any public or private property for the purpose of inspection and investigation to ascertain possible violations of this Act, the (state) statutes or of regulations made hereunder, in accordance with constitutional limitations, and the owner, managing agent or occupant of any such property shall permit such entry;

(e) undertake studies, inquiries, surveys or analyses he may deem relevant, through the personnel of the Department or in cooperation with any public or private agency, to accomplish the purposes of this Act;

(f) prepare and make public reports on, or documentation of, animal abuse. Such reports or documentation may be made through the use of print, broadcast or other media and may include commentaries and recommendations designed to enhance the effectiveness of this Act by education of the general public;

(g) in all cases wherein the Commissioner of Animal Protection is permitted or required to hold hearings, public or otherwise, on any matter within his jurisdiction, he may hold such hearings or may designate a member of his staff to act as a hearing examiner, such hearing examiner to hold such hearing at a time and place designated by the Commissioner;

(h) issue, pursuant to the provisions of this Act, licenses to animal activities.

#### **108. CEASE AND DESIST ORDER; CIVIL PENALTY.**

If the Commissioner has reason to believe that any person is causing, engaging in or maintaining any condition or activity which, in his judgment, will result in or is likely to result in irreversible or irreparable damage to an animal or its environment, or if any person licensed under this Act has violated or is violating any provision of this Act or any of the rules, regulations or standards promulgated by him, and it appears prejudicial to the interests of the State to delay action until an opportunity for a hearing can be provided, he may, without prior hearing, issue a cease and desist order in writing to such person to discontinue, abate or alleviate such condition, activity or violation and, if such person is licensed under this Act, the Commissioner may suspend such person's license temporarily, but not to exceed twenty days, and after notice and opportunity for hearing, may suspend for such additional period as he may specify, or revoke such license, if such violation is determined to have occurred. Within ten days of any cease and desist order, the Commissioner shall hold a hearing to provide the person an opportunity to show that such condition, activity or violation does not exist. Such cease and desist order shall remain in effect until ten days after the hearing can be held. Any person who knowingly fails to obey a cease and desist order made by the Commissioner under this section shall be subject to a civil penalty of up to \$500 for each offense, and each day during which such failure continues shall be deemed a separate offense.



## **109. STATE ANIMAL PROTECTION PLAN.**

The Commissioner shall formulate and from time to time revise a state-wide animal protection plan for the protection, preservation, and maintenance of the animal life and environment of the State in furtherance of the legislative policy and purpose of this Act. The first of such plans shall be submitted to the Governor for his approval on or before (month, year), and revisions, at least biennially thereafter, shall be made thereto. Upon its approval by the Governor, such plan shall serve as a guide for the people of the state and for the state and political subdivisions for the preservation of animal life and the environment.

## **110. COMMISSIONER AS AGENT OF THE STATE AND POLITICAL SUBDIVISIONS.**

The Commissioner shall act as the official agent of the state in all matters affecting the purposes of this Act and as the official agent of any municipality, district, region or authority or other recognized legal entity in connection with the grant or advance of any federal or other funds or credits to the state or through the state to its political subdivisions.

## **111. PAYMENT OF FUNDS.**

The State Comptroller, upon application of the Commissioner of Environmental Protection, may draw his order upon the Treasurer in favor of any person equitably entitled to the refund of any money paid to any component agency of the Department of Animal Protection for the amount of such refund as determined by said Commissioner, provided, if the amount of such refund exceed fifty dollars, such refund shall only be made with the approval of the Commissioner of Finance.

## **112. APPROPRIATION.**

The sum of . . . . . dollars is appropriated to the Department of Animal Protection for the fiscal year ending June 30, . . . . , to carry out the provisions of this Act, which sum shall be in addition to sums transferred to said Department under the provisions of the State Statutes.

## **113. NECESSITY OF LICENSE.**

No person shall engage in, or keep or maintain a place of operation of an animal activity in this state without a license therefor issued by the Commissioner. Only one license shall be required for any animal activity at one location.

## **114. PARTNERSHIP OR CORPORATE LICENSEES; REQUISITES.**

No license shall be issued to a partnership unless at least one of the partners is licensed hereunder, or to a corporation unless the persons to represent or act for it are listed with the Department.



#### **115. ORIGINAL INDIVIDUAL LICENSE; APPLICATION.**

Application by individuals for original licenses shall be made to the Commissioner, shall be in writing, under oath, on forms prescribed by the Department and shall be accompanied by the required fee, which shall not be returnable. Any such application shall require such information as in the judgment of the Commissioner will enable him to pass on the qualifications of the applicant for a license. It shall include, but need not be limited to information concerning age, citizenship, present residence, location of the business or activity to be licensed under this Act, description of facilities to be used for the animal activity, present and previous business connections and experience, bank and professional references, whether any license of the applicant under this Act or any federal, state, county or local law, ordinance or regulation, relating to any animal activity ever was suspended or revoked, whether the applicant ever was under any disqualification for any other license from the Department and, if so, the nature, duration and grounds for the disqualification and whether the applicant ever has been convicted of a felony. Such felony conviction may be taken into consideration by the Commissioner in determining qualifications for licensing but shall not operate as a bar to licensing.

#### **116. ORIGINAL PARTNERSHIP OR CORPORATE LICENSE; APPLICATION.**

Applications by partnerships or corporations for original licenses shall be made to the Commissioner, shall be in writing, under oath, on forms prescribed by him and shall be accompanied by the required fee, which shall not be returnable. Any such application shall list but need not be limited to, the name and address of each partner, if a partnership, each director and officer, if a corporation, its address, its financial resources, whether it ever was under any disqualification for any other license from the Department and, if so, the nature, duration and grounds for the disqualification, and list the partners, directors or officers, as the case may be, or other persons authorized to represent or act for it under this Act.

#### **117. RENEWAL LICENSE, APPLICATION.**

Applications for renewal licenses shall be made to the Commissioner, shall be in writing, under oath on forms prescribed by him, shall contain such information as will enable him to determine if the applicant is qualified for a renewed license and shall be accompanied by the required fee, which shall not be returnable.

#### **118. NON-RESIDENT APPLICANTS FOR LICENSE; CONSENT TO SERVICE OF PROCESS; AUTHORITY TO DO BUSINESS.**

Each non-resident applicant for an original or renewal license shall file with the Commissioner an irrevocable consent that actions against the appli-



cant may be filed in any appropriate court of any county or municipality of this state in which the plaintiff resides or in which some part of the transaction occurred out of which the alleged cause of action arose and that process in any action may be served on the applicant by leaving two copies thereof with the Commissioner. Such consent shall stipulate and agree that such service of process shall be taken and held to be valid and binding for all purposes. The Commissioner shall send forthwith one copy of such process to the applicant at the address shown on the records of the Department by certified mail. No foreign corporation shall receive a license under this Act until it has been authorized to do business in this State by the Secretary of State.

#### **119. LICENSE; TERM; RENEWAL; EXPIRATION; DISPLAY; BRANCH OFFICE LICENSES.**

Each license shall be issued for the term of one fiscal year or for part thereof as remains at the time of issuance of the license. Each license shall be renewed during the month of June of each year. Each license not renewed during June of each year shall expire on June 30 of that year. Failure to apply for license renewal before July 1 of each year forfeits the right of renewal. When such right has been forfeited, the licensee shall procure a new license.

A license must prominently displayed at each place of business of the licensee. Where the animal activity conducts business at more than one address, branch office licenses shall be issued on payment of the required fee.

Each license shall be signed by the Commissioner and shall be issued under the seal of the Department.

#### **120. REFUSAL, SUSPENSION OR REVOCATION OF LICENSE; PENALTY; GROUNDS.**

The Commissioner may refuse to issue or renew, may suspend or revoke a license or, in lieu thereof, impose a civil penalty as hereinafter provided, on any one or more of the following grounds:

a) Material misstatement in the application for original license or in the application for any renewal license under this act;

b) Knowing disregard or violation of this Act or any regulations or rules issued pursuant thereto;

c) Knowingly aiding or abetting another in the violation of this Act or of any regulations or rules issued pursuant thereto;

d) Allowing one's license under this Act to be used by an unlicensed person;

e) Conviction of any crime or essential element of which is misstatement, fraud or dishonesty or conviction of any felony, if the Commissioner determines, after investigation, that such person has not been sufficiently rehabilitated to warrant the public trust;

f) Making substantial misrepresentation or false promises of a character



likely to influence, persuade or induce in connection with the conduct of an animal activity;

g) Pursuing a continued course of misrepresentation or of making false promises through advertising, salesmen, agents or otherwise in connection with the animal activity; or

h) Failure to possess the necessary qualifications or to meet the requirements of this Act for the issuance or holding of a license;

i) Refusing, during reasonable hours, to allow the Commissioner or his agents access to the places of conduct of an animal activity and all the facilities, animals and records required to be kept by this Act or by regulations issued hereunder;

j) Forcibly assaulting, resisting, opposing, impeding, intimidating or interfering with any person while engaged in or on account of his performance of his official duties under this Act.

## **121. INVESTIGATIONS; HEARING; NOTICE ORDER; CIVIL PENALTY; WITNESSES.**

a) The Commissioner may, upon his own motion, and shall, upon the verified complaint in writing of any person setting forth facts which if proved would constitute grounds for refusal to issue or renew or for suspension or revocation of any license under this Act, investigate, the activities of any applicant or any person or persons holding or claiming to hold a license. The Commissioner shall, before refusing to issue or renew, and before suspension or revocation of a license, at least 10 days prior to the date set for the hearing, notify in writing the applicant for or holder of a license, hereinafter called the respondent, that a hearing will be held on the date designated to determine whether the respondent is privileged to hold such license and shall afford the respondent an opportunity to be heard in person or by counsel in reference hereto. Such written notice may be served by delivery of the same personally to the respondent, or by mailing the same by registered or certified mail to the place of business or activity last theretofore specified by the respondent in the last notification to the Department.

b) At the time and place fixed in the notice, the Commissioner or his designee shall proceed to hear the charges and both the respondent and the complainant shall be accorded ample opportunity to present in person or by counsel such statements, testimony, evidence and argument as may be pertinent to the charges or to any defense thereto. The Commissioner may continue such hearing from time to time.

c) Within 20 days after the conclusion of the hearing, the Commissioner shall issue a decision and may enter an order as provided below. Such decision shall be in writing and shall be based on all of the evidence presented at the hearing. In addition, the Commissioner may issue such order as, in his judgment, is appropriate under the circumstances of the case, to include suspension or revocation of a license, imposition of a civil penalty not to exceed \$500 for each violation, or both. Where a violation is of a continuing nature, each day of such violation shall be deemed a separate offense.



d) The Department, over the signature of the Commissioner, is authorized to subpoena and bring before the Department any person or persons in this State and to take testimony either orally or by deposition or by exhibit, with the same fees and mileage and in the same manner as prescribed by law in judicial procedure in civil cases in the courts of this state.

Any authorized agent of the Department may administer oaths to witnesses at any hearing which the Commissioner is authorized by law to conduct.

## **122. STENOGRAPHER; RECORD OF PROCEEDINGS; TRANSCRIPT.**

The Commissioner, at his expense, shall provide a stenographer to take down the testimony and preserve a record of all proceedings at the hearing of any case involving refusal to issue or renew, or the suspension or revocation of a license. The notice of hearing, complaint and all other documents in the nature of pleadings, the transcript of testimony, the report and orders of the Commissioner shall be the record of such proceedings.

The Commissioner shall furnish a transcript of such record to any person or persons interested in such hearing upon payment therefor of 75 cents per page for each original transcript and 25 cents per page for each carbon copy thereof ordered with the original; provided, that the charge for any part of such transcript ordered and paid for previous to the writing of the original record shall be 25 cents per page.

## **123. CASES INVOLVING REFUSAL, SUSPENSION, OR REVOCATION OF LICENSE; SERVICE OF REPORT; MOTION FOR REHEARING.**

In any case involving the refusal to issue or renew or the suspension or revocation of a license, a copy of the Commissioner's report shall be served upon the respondent, either personally or by registered or certified mail as provided in this Act, for the service of the notice of hearing. Within 20 days after such service, the respondent may present to the Commissioner a motion in writing for a rehearing, which written motion shall specify the particular grounds therefor. If no motion for rehearing is filed, then upon the expiration of the time specified for filing such motion, or if a motion for rehearing is denied, then upon such denial, the Commissioner may enter an order in accordance with recommendation of the report. If the respondent orders and pays for a transcript of the record within the time for filing a motion for rehearing, the 20 day period within such a motion may be filed shall commence upon the delivery of the transcript to the respondent.

## **124. ATTENDANCE OF WITNESSES AND PRODUCTION OF DOCUMENTS.**

Any circuit court may, upon application of the Commissioner or of the applicant or licensee against whom proceedings are pending under this Act, enter an order requiring the attendance of witnesses and their testimony, and



the production of documents, papers, files, books and records in connection with any hearing in any such proceeding, and the court may compel obedience to its order by proceedings for contempt.

#### **125. JUDICIAL REVIEW.**

Any person affected by a final administrative decision of the Commissioner may have such decision reviewed judicially by the circuit court of the county wherein such person resides, or in the case of a corporation, wherein the registered office is located.

The Commissioner shall not be required to certify the record of the proceedings unless the plaintiff in the review proceedings shall first pay the sum of 75 cents per page of such record. Exhibits shall be certified without cost.

#### **126. SURRENDER OF LICENSE UPON REVOCATION OR SUSPENSION.**

Upon the revocation or suspension of any license, the licensee shall forthwith surrender the license and any branch office licenses to the Commissioner, and if the licensee fails or refuses to do so, the Commissioner may seize the same.

#### **127. THE LICENSEE SHALL:**

- a. maintain sanitary conditions,
- b. provide proper ventilation,
- c. provide proper nutrition,
- d. provide proper space and facilities for confinement,
- e. provide adequate periods of rest,
- f. provide proper medical care, and
- g. provide humane care and treatment of all animals under his jurisdiction,
- h. provide proper shelter and protection from the elements,
- i. provide for adequate periods of exercise.

#### **128. REGULATIONS.**

The Commissioner may issue regulations, consistent with the provisions of this Act, for the administration and enforcement hereof and may prescribe forms which shall be used in connection herewith.

#### **129. SEIZURE; NOTICE; HEARING; LIEN; CIVIL PENALTY.**

The Commissioner or any of his agents may remove, shelter and care for any animal found subjected to any condition constituting a violation of this Act or the regulations issued hereunder where such animal is in a deteriorating state of health due to such condition. In all such cases the owner, if known, shall be immediately notified of opportunity for a hearing to determine if such



confiscation was warranted, such hearing to be held within 10 days after notice, and the Commissioner shall have a lien on the animal for its care, keeping, medical and other expenses. If the owner or custodian is unknown and cannot with reasonable effort be ascertained, or does not within ten days after notice redeem such animal by paying the expenses and any other costs incurred or does not appear for the hearing, the Commissioner shall dispose of the animal in a humane manner. If the animal's condition warrants, the Commissioner may transfer it to a reputable licensee for compensation to be applied by him toward the costs and expenses incurred in the confiscation. If, after hearing it is determined that the confiscation was warranted, the Commissioner may order the owner or custodian to pay for the care, keeping, medical and other expenses incurred and, in addition, a civil penalty of not more than \$500 for each violation. Where a violation is of a continuing nature, each day such violation continues shall be deemed a separate offense. The Commissioner may, if the animal's condition warrants, if he is satisfied that the violative condition has been abated, alleviated, or corrected, and if all expenses and penalties have been paid in full, return the animal to the owner or custodian.

### **130. PENALTIES.**

Any person violating any provision of this Act or any rule, regulation, or order of the Commissioner issued pursuant to this Act is guilty of a misdemeanor and shall, upon conviction, be punished by a fine of not more than \$5000 or imprisonment for not more than one year, or both.

### **131. LICENSE FEES.**

The following fees shall accompany each application for a license, which fees shall not be returnable:

a. For the following activities or the place or premises of their operation

1. Animal Auction; Barn
2. Animal Breeder; Facility
3. Animal Dealer
4. Animal Racing Arena
5. Animal Transporter
6. Fur Animal Farm
7. Fur Dealer
8. Livestock Yard
9. Packing, Packing Facility
10. Pregnant Mare Urine Farm
11. Zoo

original license	\$200.00
annual renewal license	\$100.00
each branch office or facility	\$100.00

b. For the following activities or the place or premises of their operation

1. Animal shelter
2. Fur Trapper



3. Kennel
4. Pet Shop
5. Riding Stable
6. Sportshunter

original license	\$50.00
annual renewal license	\$25.00
each branch office or facility	\$25.00

- c. In addition to the foregoing fees, each licensee shall be subject to additional license fees according to the number of animals involved in the conduct of an activity during each year. A schedule of such additional license fees shall be established by the Commissioner and published together with his regulations relating to each activity.

### 132. RECORD-KEEPING.

Licensees shall maintain such records concerning the conduct of their animal activity as the Commissioner requires under his regulations.

### 133. DISPOSITION OF FUNDS.

All fees and other money received by the Department under this Act shall become the property of the Department and may be used in addition to sums of money appropriated for the Department.



## **PART II**

### **CONTENTS**

#### **MODEL ACTS CONCERNING SPECIFIC ANIMAL PROTECTION PROBLEMS**

<b>Number</b>	<b>Title or Subject</b>
1	An Act Relating to Steel Traps
2	An Act Relating to the Mutilation of Animals
3	An Act Relating to the Exhibition of Mutilated Animals
4	An Act Prohibiting Hunting from a Vehicle
5	An Act Prohibiting Game Farms, Hunting Preserves
6	An Act Concerning the Transportation of Animals
7	An Act Relating to the Sale of Animals by Mail
8	An Act Prohibiting Cruelty to Animals
9	An Act Prohibiting Poisoning of Animals
10	An Act Prohibiting the Keeping of Non-pet Animals
11	An Act Relating to Experiments in Schools
12	An Act Relating to Animals as Toys, Prizes and Advertising Devices
13	An Act Prohibiting the Taking of Animals on Public Lands
14	An Act Concerning the Taking of Animals on Privately-Owned Land
15	An Act Relating to Bounty Laws
16	An Act Concerning the Protection of Endangered Species
17	An Act Relating to Animal Control
18	An Act to Allow Certain Land to Qualify for Tax Exemption
19	An Act to Establish Wilderness Areas



## 1. AN ACT RELATING TO STEEL TRAPS

Section 1. No person may set, use, sell, offer for sale, transfer, give or possess a steel-jaw or leg-hold trap, pole trap, snare trap or any trap which operates in such a way as to kill, injure or maim an animal.

Section 2. Any such trap found in the possession of any person will be prima facie evidence of violation of this act.

Section 3. Nothing in this act shall be construed to prohibit the sale, transfer or possession or the setting or use indoors of mouse and rat traps for the purpose of controlling mice and rats.

Section 4. The provisions of this act shall not apply to a person in the act of turning over possession of traps covered by this act to a local law enforcement agency or the Department of Animal Protection (or similar state agency).

Section 5. Any person who violates a provision of this act shall be guilty of a misdemeanor. A first offense shall be punishable by a fine not to exceed \$100. Subsequent offenses shall be punishable by a fine not to exceed \$1000 or by imprisonment for not more than one year, or both.

Section 6. This act shall take effect . . . . . (six months after date of enactment).

### REFERENCES:

New York Statutes—Environmental Conservation Law §11-1101

California Statutes—Agricultural Code §11221

Fish and Game Code §3005, §3011

## 2. AN ACT RELATING TO THE MUTILATION OF ANIMALS

### 1. Definitions:

As used in this Act:

- a. "Animal" means any animal of a species within the sub-phylum *Vertebrata*, except *Homo sapiens*, human beings.
- b. "Person" means any individual, firm, corporation, partnership, association or other legal entity, whether for profit or otherwise, any public or private institution, the state of . . . . ., or any municipal corporation or political subdivision of the state.
- c. "Soring" means the application of drugs, chemicals, tacks, wedges, nails, chains or boots or the infliction of burns, cuts or lacerations on the feet, legs or other parts of any horse, or the use of any other method or device on a horse which may reasonably be expected to result in pain to the horse when walking, trotting or otherwise moving, to cause fear or distress to the horse, or to cause inflammation.

### 2. Except as provided in Section 3 below, any person who performs or causes to be performed any of the following operations shall be guilty of mutilation of animals:

- a. docking or nicking the tail of a horse;
- b. soring of a horse;
- c. cropping or cutting the ears or tail of a dog or cat;
- d. removal of any portion of the beak of any bird or fowl, domestic or wild;



- e. removal of the horns of any animal;
- f. removal of the claws of a dog or cat, or
- g. any other alteration of the gait, posture or physical structure of any animal, or any part of any animal by surgical, chemical, mechanical or any other means.

3. This act shall not apply to the following:

- a. An operation not listed above in Section 2, deemed necessary to an animal's health by a licensed veterinarian so long as such operation is performed by a licensed veterinarian or para-professional;
- b. The clipping of the wings of any bird confined to a zoological park or institution;
- c. An operation performed by a physician, surgeon, veterinarian or para-professional to render an animal sexually sterile;
- d. The act of slaughtering an animal by a method whereby the animal is rendered unconscious and insensible to pain by mechanical, electrical or chemical means before being thrown, cast, shackled, hoisted, cut or bled.

4. Violation of any provision of this Act is a misdemeanor punishable by a fine of not more than \$ . . . . . or by imprisonment for not more than one year, or both.

REFERENCES:

Federal Statutes—15 U.S.C. § 1821

Virginia Statutes—§ 18.1-216.1

Connecticut Statutes—§ 53-251

## AN ACT RELATING TO THE EXHIBITION OF MUTILATED ANIMALS

### Section 1. Definitions:

As used in this Act:

- a. "Animal" means any animal of a species within the sub-phylum *Vertebrata* except *Homo sapiens*, human beings.
- b. "Person" mean any individual, firm, corporation, partnership, association or other legal entity, whether for profit or otherwise, any public or private institution, the state of . . . . ., or any municipal corporation or political subdivision of the state.
- c. "Soring" means the application of drugs, chemicals, tacks, wedges, nails, chains or boots or the infliction of burns, cuts or lacerations on the feet, or other parts of any horse or the use of any other method or device on a horse which may reasonably be expected to result in pain to the horse when walking, trotting or otherwise moving, to cause fear or distress to the horse, or to cause inflammation.
- d. "Mutilated animal" means any animal on which has been performed any of the following operations:
  - 1. the docking or nicking the tail of any horse;
  - 2. the soring of any horse;
  - 3. the cropping or cutting the ears or tail of any dog or cat;



4. the removal of any portion of the beak of any bird or fowl, domestic or wild;
5. removal of the horns of any animal;
6. removal of the claws of any dog or cat, or
7. any other alteration of the gait, posture or physical structure of any animal or any part of any animal by surgical, chemical, mechanical or any other means.

Section 2. No person shall ship, transport, or otherwise move, or deliver or receive for movement in commerce, for the purpose of showing or exhibition, any animal which has been mutilated or any animal which bears evidence of having been mutilated.

Section 3. No person shall show or exhibit, or enter for the purpose of showing or exhibiting, in any show or exhibition any animal which has been mutilated or any animal which bears evidence of having been mutilated.

Section 4. No person shall conduct any show or exhibition in which there is shown or exhibited an animal which has been mutilated unless such person can establish that he took all reasonable precautions to prevent the showing or exhibiting of such mutilated animals.

Section 5. The Commissioner of Animal Protection (or similar state official) shall investigate complaints concerning mutilations of animals at any show or exhibition in this state. If the Commissioner or his agent finds that a provision of this Act has been violated, he may file a complaint with any court having jurisdiction of such violation, charging commission of a misdemeanor.

Section 6. The person or persons in charge of any animal show or exhibition shall keep such records as the Department of Animal Protection (or similar state agency) may prescribe by regulation in order to enable the department to determine whether any animal has been mutilated, the identity of the owner on exhibition and other facts necessary for enforcement of this Act. The person or persons in charge of any horse show or exhibition shall afford the representatives of the department access to and opportunity to inspect and copy such records at all reasonable times.

Section 7. Any person who violates a provision of this Act shall be guilty of a misdemeanor. A first offense shall be punishable by a fine not to exceed \$100. Subsequent offenses shall be punishable by a fine not to exceed \$1,000 or by imprisonment for not more than one year, or both.

#### REFERENCES:

- Kentucky Statutes—§ 436.185
- Florida Statutes—§ 535.10
- Virginia Statutes—§ 18.1-216.1
- Federal Statutes—15 U.S.C. 1821

## 4. AN ACT PROHIBITING HUNTING FROM A VEHICLE

### 1. Definitions:

- a. "Animal" means any animal of a species within the sub-phylum *Vertebrata* except *Homo sapiens*, human beings.



b. "Domestic animal" means any horse, bovine, swine, sheep, goat, mule, donkey or burro, chicken, turkey, duck, guinea fowl, pea fowl, swan or other animal commonly kept for commercial or agricultural purposes which is a member of a species not ordinarily found in the wild.

c. "Non-domestic animal" means any animal other than a domestic animal or any domestic animal which has reverted to a wild state, such as the American mustang.

2. Any person who:

a. uses a motor-propelled vehicle of any kind to chase, drive or attempt to drive any non-domestic animal;

b. uses a motor-propelled vehicle of any kind to run over, wound, injure or kill any animal;

c. while in an aircraft, whether as pilot, passenger or otherwise, endangers, chases, wounds, injuries, kills or attempts to wound, injure, or kill any animal or uses any aircraft for the purpose of concentrating, driving, rallying or stirring up any herd, flock or other group of animals, or

d. while in or on a motor-propelled vehicle of any kind, whether or not such vehicle is in motion, shoots or attempts to shoot, with any type of weapon, any animal  
shall be guilty of hunting from a vehicle.

3. Violation of any provision of this Act is a misdemeanor punishable by a fine of not more than \$ . . . . . or by imprisonment for not more than one year or both.

REFERENCES:

California Statutes—§ 3003.5 Fish and Game Code

Wisconsin Statutes—§ 350.07

Federal Statutes—16 U.S.C. 3742

P.L. 92-502

Connecticut Statutes—§ 14-387

Illinois Statutes—61 Game Code § 2.33

**5. AN ACT PROHIBITING GAME FARMS, HUNTING PRESERVES**

1. Definitions:

As used in this Act:

a. "Game Farm" means any area or structure where animals are bred, raised or kept for the purpose of being released on a hunting preserve.

b. "Hunting preserve" means any area on which animals have been released or placed to provide game for hunters or targets for shooting.

c. "Person" means any individual, firm, corporation, partnership, association or other legal entity, whether for profit or otherwise, any public or private institution, the state of . . . . ., or any municipal corporation or political subdivision of the state.



d. "Animal" means any animal of a species within the sub-phylum *Vertebrata*, except *Homo sapiens*, human beings.

2. No person, whether acting alone or with others, shall establish, use, maintain or operate either a game farm or hunting preserve in this state.
3. Violation of this Section is a misdemeanor punishable by a fine of not more than \$ . . . . . or by imprisonment for not more than one year, or both.

**REFERENCES:**

New, but see: Connecticut Statutes—§ 26-48 et seq.

Illinois Statutes—61 Game Code § 3.27 et seq.

New York Statutes—E.C.L. § 11-1901

## **6. AN ACT CONCERNING THE TRANSPORTATION OF ANIMALS**

### **1. Definitions:**

As used in this Act:

- a. "Animal" means any animal of a species within the sub-phylum *Vertebrata* except *Homo sapiens*, human beings.
  - b. "Person" means any individual, firm, corporation, partnership, association or other legal entity, whether for profit or otherwise, any public or private institution, the state of . . . . ., or any municipal corporation or political subdivision of the state.
  - c. "Commissioner" means the Commissioner of Animal Protection (or similar state agency).
2. The Commissioner shall promulgate regulations relating to the humane transportation of animals into, within and from this state. Such regulations shall establish standards relating to the following aspects of animal transporting:
- a. Loading methods;
  - b. Equipment and facilities for loading animals;
  - c. Protection from atmospheric and weather conditions;
  - d. Restrictions on overcrowding;
  - e. Provisions for food, water and rest;
  - f. Restrictions on length of confinement to vehicle.
3. Any person who transports any animal into, within or from this state, in any way not in substantial compliance with the regulations of the Department of Animal Protection (or similar agency) concerning the humane transportation of animals shall be guilty of inhumane transportation of animals.
4. Inhumane transportation of animals is a misdemeanor punishable by a fine of not more than \$ . . . . . or by imprisonment for not more than one year, or both.

**REFERENCES:**

Florida Statutes—§ 828.14

Connecticut Statutes—§ 53-252

New York Statutes—Agriculture and Markets Law § 359



**7. AN ACT RELATING TO THE SALE OF ANIMALS BY MAIL**

**1. Definitions:**

As used in this Act:

- a. "Person" means any individual, firm, corporation, partnership, association or other legal entity, whether for profit or otherwise, any public or private institution, the state of . . . . ., or any municipal corporation or political subdivision of the state.
  - b. "Animal" means any animal of a species within the sub-phylum *Vertebrata*, except *Homo sapiens*, human beings.
2. No person shall purchase, order or offer to purchase any animal where such person knows or has reason to believe that such animal will be delivered through the use of any postal or package delivery service.
3. No person shall publish or cause to be published any advertisement, offer to sell, or invitation for offers to purchase any animal wherein it is stated or implied that such animal will be delivered through the use of any postal or package delivery service.
4. No person shall deposit in the mail, send, deliver, or cause to be delivered any animal through the use of any postal or package delivery service.
5. Violation of any provision of this Act is a misdemeanor punishable by a fine of not more than \$ . . . . . or by imprisonment for not more than one year, or both.

**REFERENCES:**

All new.

**8. AN ACT PROHIBITING CRUELTY TO ANIMALS**

**1. Definitions:**

As used in this Act unless the context otherwise requires or unless specifically stated otherwise:

- a. "Animal" means any animal of a species within the sub-phylum *Vertebrata* except *Homo sapiens*, human beings.
- b. "Contest" means any sport, event or activity wherein animals are placed, by human beings, in competition with one another.
- c. "Exhibition" means any display, show, sport event, spectator event or other event or activity conducted to be viewed, whether directly in time or space or remotely, as by television broadcast, video tape or motion pictures, by one person or more.

**2. Criminal Cruelty in the First Degree: Felony**

A person is guilty of criminal cruelty in the first degree when:

- a. by act or omission, he knowingly causes, to a point of observable distress, pain, suffering, terror, torment or deprivation of necessary sustenance, or he knowingly injures, mutilates or causes disease or death to any animal; or
- b. he arranges, promotes, organizes, manages, advertises, produces, conducts or participates in any contest or exhibition wherein it is reasonable to expect that an animal may be caused pain, suffering,



terror, torment, deprivation of necessary sustenance or may be injured, mutilated, killed or caused to be diseased and during which an animal is caused, to a point of observable distress, pain, suffering, terror, torment or deprivation of necessary sustenance or is injured, mutilated, killed or caused to be diseased.

- c. Criminal cruelty in the first degree is a felony punishable by imprisonment for not more than two years, or by a fine of not more than \$ . . . . . or both.

### 3. Criminal cruelty in the Second Degree: Misdemeanor

A person is guilty of criminal cruelty in the second degree when:

- a. by act or omission, he recklessly causes, to a point of observable distress, pain, suffering, terror, torment or deprivation of necessary sustenance, or he recklessly injures, mutilates or causes disease or death to any animal.
- b. Criminal cruelty in the second degree is a misdemeanor punishable by imprisonment for not more than one year, or by a fine of not more than \$ . . . . . or both.

### 4. Nothing in this Act prohibits:

- a. Normal and accepted veterinary practices.
- b. The use of firearms in conformity with all State laws and regulations.

### 5. Affirmative defense:

It shall be an affirmative defense to Sections 2 and 3 above that the defendant was licensed or authorized to commit the act from which pain, suffering, terror, torment, deprivation of necessary sustenance, disease, mutilation, injury or death resulted and that it was necessary to do so considering:

- a. the immediate health or safety of human beings or other animals, or
- b. in the case of death, that death was necessary to terminate needless pain or suffering not inflicted by the defendant.

### REFERENCES:

New, but see:

New York Statutes—Agriculture and Markets Law §351 and §352

## 9. AN ACT PROHIBITING POISONING OF ANIMALS

### 1. Definitions:

As used in this Act:

- a. "Animal" means any member of a species classified within the sub-phylum *Vertebrata*, except *Homo sapiens*, human beings.

### 2. Poisoning of Animals, Misdemeanor

- a. Any person who administers or applies any poisonous or toxic drug or substance or any material injurious to tissue or organs to any animal, or procures or permits the same to be done, or exposes any such drug, substance or material with intent that the same shall be taken by any animal, whether such animal be the property of himself or another, shall be guilty of poisoning animals.



- b. Poisoning animals is a misdemeanor punishable by imprisonment for not more than one year or by a fine of not more than \$ . . . . ., or both.

REFERENCES:

New York Statutes—Agriculture and Markets Law § 360  
Minnesota Statutes—§ 346.25  
Florida Statutes—§ 828.08

10. AN ACT PROHIBITING THE KEEPING OF NON-PET ANIMALS

1. Definitions:

As used in this Act:

- a. "Animal" means any member of a species classified within the sub-phylum *Vertebrata*, except *Homo sapiens*, human beings.
- b. "Non-pet animal" means any animal other than a pet animal.
- c. "Pet animal" means any dog, cat, hamster, rabbit, mouse, gerbil, guinea pig, chinchilla, canary, parakeet, turtle, terrapin, snake, lizard or aquarium fish or such other animal as shall be specified by the Commissioner of Animal Protection (or other state agency).
- d. "Non-domestic animal" means any animal other than a domestic animal, or any domestic animal which has reverted to a wild state.
- e. "Domestic animal" means any horse, bovine, swine, sheep, goat, mule, donkey or burro, chicken, turkey, duck, goose, guinea, pea fowl, swan or other animal commonly kept for commercial or agricultural purposes which is a member of a species or breed not ordinarily found in the wild.
- f. "Person" means any individual, firm, corporation, partnership, association or other legal entity, whether for profit or otherwise, any public or private institution, the state of . . . . ., or any municipal corporation or political subdivision of the state.

2. Except as specifically provided in this act, no person may keep, confine, sell, offer for sale, transfer, give or import into this state any non-pet or non-domestic animal.

3. This act shall not apply to:

- a. The keeping or confinement of non-pet or non-domestic animals by a state- or municipally-owned zoo or wildlife refuge;
- b. The sale, offer for sale, transfer or gift of any non-pet or non-domestic animal to any state- or municipality-owned zoo or wildlife refuge; or
- c. The importing of a non-pet or non-domestic animal into this state by, or for the purpose of being kept by a state- or municipally-owned zoo or wildlife refuge.

4. The Commissioner of Animal Protection (or similar state official) shall establish standards and issue such rules and regulations as are necessary to carry out the purposes of this Act.

5. Violation of this act is a misdemeanor and is punishable by imprisonment for not more than one year or by a fine of not more than \$ . . . . . or both.



#### REFERENCES:

New York Statutes—Environmental Conservation Law §11-0511

Florida Statutes—§ 372.921

Illinois Statutes—8 Animals § 241

### 11. AN ACT RELATING TO EXPERIMENTS IN SCHOOLS

#### 1. Definition:

As used in this Act:

“Animal” means any member of a species classified within the sub-phylum *Vertebrata*, except *Homo sapiens*, human beings.

2. No pupil, teacher or other person may conduct or participate in any experiment or demonstration upon any animal, dead or alive, in any public or private elementary or secondary school in the state.
3. No teacher or school official shall assign, promote or encourage experiments or projects for contests, science fairs or exhibits wherein animals are used.
4. No public or private elementary or secondary school shall keep any animal for the purposes of experimentation, demonstration or dissection.
5. The provisions of this act are applicable to field trips and classes or assignments held elsewhere than on school property.
6. Violation of this act is a misdemeanor and is punishable by a fine of not more than \$ . . . . . or by imprisonment for not more than one year or both.

#### REFERENCES:

All new.

### 12. AN ACT RELATING TO ANIMALS AS TOYS, PRIZES AND ADVERTISING DEVICES

#### 1. Definitions:

As used in this Act:

- a. “Animal” means any member of a species classified within the sub-phylum *Vertebrata*, except *Homo sapiens*, human beings.
- b. “Person” means any individual, firm, corporation, partnership, association or other legal entity, whether for profit or otherwise, any public or private institution, the state of . . . . ., or any municipal corporation or political subdivision of the state.
2. No person shall dye or artificially color any animal, including but not limited to rabbits, baby chickens, ducklings and goslings, or bring any dyed or artificially colored animals into this state.
3. No person shall offer to give, give, offer to sell, sell or raffle any animal as a prize, premium or as an advertising or fund-raising device.
4. No person shall sell, offer for sale, give or offer to give baby chickens, ducklings or other fowl under four weeks of age or rabbits under two months of age to be used as pets, toys or retail premiums.



5. Nothing in this Act shall be construed to apply to any animal to be used or raised for agricultural purposes by persons with proper facilities to care for them.
6. Violation of any provision of this Act is a misdemeanor, punishable by a fine of not more than \$ . . . . . or by imprisonment for not more than one year, or both.

**REFERENCES:**

Florida Statutes—§ 828.161  
 Minnesota Statutes—§ 346.30 et seq.  
 Connecticut Statutes—§§ 53-250, 53-249a  
 New York Statutes—Agriculture and Markets Law § 354  
 Illinois Statutes—8 Animals § 225

### **13. AN ACT PROHIBITING THE TAKING OF ANIMALS ON PUBLIC LANDS**

**1. Definitions:**

As used in this Act:

- a. "Animal" means any member of a species classified within the sub-phylum *Vertebrata*, except *Homo sapiens*, human beings.
- b. "Person" means any individual, firm, corporation, partnership, association or other legal entity, whether for profit or otherwise, any public or private institution, the state of . . . . ., or any municipal corporation or political subdivision of the state.
- c. "Take" means to pursue, hunt, shoot, capture, collect, kill, or attempt to pursue, hunt, shoot, capture, collect or kill.

2. No person may take any animal on land owned by the State, or any county or municipal government.
3. Possession of firearms, BB guns, air guns, archery equipment, slings, traps or dangerous weapons of any kind while on public land shall be prima facie evidence of a violation of this Act; provided, however, that this section shall not apply to possession of such weapons by law enforcement officers.
4. Violation of this Section is a misdemeanor punishable by imprisonment for not more than one year, or by a fine of not more than \$ . . . . . or both.

**REFERENCES:**

New, but see:  
 Connecticut Statutes—§ 26-107  
 Wisconsin Statutes—§ 29.56, § 29.57

### **14. AN ACT CONCERNING THE TAKING OF ANIMALS WHILE ON PRIVATELY-OWNED LAND**

**1. Definitions:**

As used in this Act:

- a. "Animal" means any member of a species classified within the sub-phylum *Vertebrata*, except *Homo sapiens*, human beings.



- b. "Person" means any individual, firm, corporation, partnership, association or other legal entity, whether for profit or otherwise, any public or private institution, the state of . . . . ., or any municipal corporation or political subdivision of the state.
  - c. "Take" means to pursue, hunt, shoot, capture, collect, kill, or attempt to pursue, hunt, shoot, capture, collect or kill.
2. No person may take any animal on land belonging to another without first having obtained written permission from the owner of the land.
  3. Possession of firearms, BB guns, air guns, archery equipment, slings, traps or dangerous weapons of any kind while on the land of another shall be prima facie evidence of the act of taking animals; provided, however, that this section shall not apply to possession of such weapons by law enforcement officers.
  4. Violation of this Act is a misdemeanor punishable by imprisonment for not more than one year, or by a fine of not more than \$ . . . . ., or both.

**REFERENCES:**

All new.

## **15. AN ACT TO ALLOW CERTAIN LAND TO QUALIFY FOR TAX EXEMPTION**

### **1. Definitions:**

- a. "Person" means any individual, firm, corporation, partnership, association or other legal entity, whether for profit or otherwise, any public or private institution, the state of . . . . ., or any municipal corporation or political subdivision of the state.
  - b. "Take" means to pursue, hunt, shoot, capture, collect, kill, or attempt to pursue, hunt, shoot, capture, collect or kill.
  - c. "Animal" means any member of a species classified within the subphylum *Vertebrata*, except *Homo sapiens*, human beings.
2. The Commissioner of Animal Protection (or similar state official) may issue a certificate authorizing an exemption, the amount to be determined by the Commissioner, from any State, county and municipal real property taxes, such exemption to apply to land on which the owner prohibits the taking of any animal.
  3. Any such exemption shall be made only on the basis of an application submitted to the Commissioner in such form and containing such information and assurances as he may prescribe.
  4. Any person who enters upon any land exempt from taxes under this Act for the purpose of taking any animal shall be guilty of a misdemeanor and punishable by a fine not to exceed \$ . . . . . or by imprisonment not to exceed one year, or both.
  5. Any land-owner, having been granted an exemption from taxes under this Act who personally takes or authorizes another to take animals on the tax-exempt land shall be guilty of a misdemeanor and punishable by a fine not to exceed \$ . . . . . or by imprisonment not to exceed one year, or both.



6. The Commissioner shall establish standards and issue such rules and regulations as are necessary to carry out the purposes of this act.

REFERENCES:

All new.

## 6. AN ACT RELATING TO BOUNTY LAWS

### 1. Definitions:

- a. "Animal" means any member of a species classified within the sub-phylum *Vertebrata*, except *Homo sapiens*, human beings.
- b. "Person" means any individual, firm, corporation, partnership, association or other legal entity, whether for profit or otherwise, any public or private institution, the state of . . . . ., or any municipal corporation or political subdivision of the state.
- c. "Taking" means trapping, capturing, killing or removing a part of an animal.

2. Sections . . . . . (cite all statutes establishing a bounty or reward for the taking of any animal) . . . . . are hereby repealed.

3. Notwithstanding any other provision of this chapter, or any other law, rule or regulation to the contrary, on and after the first day of July, nineteen hundred seventy . . . . ., it shall be unlawful for any person to pay a bounty or reward for the taking of any animal.

4. Any person who violates the provisions of this Act shall be guilty of a misdemeanor and punishable by a fine of not more than \$ . . . . . or by imprisonment for not more than one year, or both.

REFERENCES:

New York Statutes—Environmental Conservation Law § 11-0531

Minnesota Statutes—§ 348.073

## 7. AN ACT CONCERNING THE PROTECTION OF ENDANGERED SPECIES

1. The Commissioner of Animal Protection (or similar State official) is hereby authorized and directed to cooperate with and aid the proper officials of the Federal Government and to take any other action appropriate toward effective enforcement of any federal legislation now in effect or hereinafter to be enacted for the protection of endangered species.

2. In addition to those species or sub-species designated as endangered by such federal legislation, the Commissioner may designate other species or sub-species as endangered by publication of a notice in the state law journal and in a newspaper of general circulation in the state.

3. No person may possess, sell, offer for sale, give or dispose of any animal or part of any animal which is designated an endangered species by either the Commissioner or by any federal legislation now in effect or hereinafter to be enacted.



4. Any officer or agent authorized by the Department of Animal Protection, or any police officer of any municipality within the State may execute any warrant to search for and seize any goods, merchandise or wildlife sold or offered for sale in violation of this Act. Such goods, merchandise, wildlife, or property shall be held pending proceedings in any court of proper jurisdiction. Upon conviction, such seized goods, merchandise or wildlife shall be forfeited and, upon forfeiture, either offered to a recognized institution for scientific or educational purposes, or destroyed.
5. Any person who violates any provision of this Act shall be fined not more than \$ . . . . . or imprisoned for not more than one year, or both. Each day any violation continues constitutes a separate offense.
6. All fines collected under this Act shall be paid to the Commissioner of Animal Protection for the Department.

#### REFERENCES:

New York Statutes—E.C.L. § 11-0535

Connecticut Statutes—§ 26-406

Federal Statutes—P.L. 89-669

P.L. 91-135

## 18. AN ACT RELATING TO ANIMAL CONTROL

### 1. Declaration of Policy:

The Legislature finds and declares that there is an overpopulation of dogs and cats in the State produced by indiscriminate breeding. There are countless thousands of homeless and stray animals on the streets and highways that suffer starvation, inhumane treatment, cause accidents that result in property damage and injury to motorists and pedestrians and, if diseased, constitute a serious health hazard to the public. Disposition of these animals costs the taxpaying public hundreds of thousands of dollars annually in public animal control programs without resolving the basic overpopulation problem. Existing animal control programs are a shock to the conscience of a civilized society in that they destroy the lives of millions of dogs and cats in the nation annually. A more humane, effective and economical approach must be adopted. Society must ensure, and those who wish to keep dogs or cats must recognize, that certain responsibilities attend that keeping. Pet owners must either use care not to add to the overpopulation problem or bear the costs of controlling that problem. It is the intent of the legislature to provide a humane, effective and economical system of animal control by establishing standards to be observed by pet owners and by promoting animal birth control.

### 2. Definitions.

As used in this act:

- a. "Owner" means any person owning, keeping or harboring animals;
- b. "Person" means any individual, firm, corporation, partnership, association or other legal entity, whether for profit or otherwise, any public or private institution, the state of . . . . ., or any municipal corporation or political subdivision of the state.
- c. "Pet animal" means any dog, cat, hamster, rabbit, mouse, gerbil,



guinea pig, chinchilla canary, parakeet, turtle, terrapin, snake, lizard, aquarium fish, domestic animal kept as a household pet or other animal as may be specified by the Commissioner of Animal Protection (or other state official).

- d. "Domestic animal" means any horse, bovine, swine, sheep, goat, mule, donkey or burro, chicken, turkey, duck, goose, guinea, pea fowl or swan.
  - e. "Non-pet animal" means any animal other than a pet animal.
  - f. "Non-domestic animal" means any animal other than a domestic animal.
  - g. "Commissioner" means the Commissioner of the Department of Animal Protection (or similar agency) of the State of .....
  - h. "Animal shelter" means any place or premises designated by city administrative authority for the purpose of impounding and caring for animals held under authority of this ordinance;
  - i. "Humane society" means any organization for the prevention of cruelty to animals incorporated under the laws of the State of .....
  - j. "Humane officer" means any person designated by the Commissioner to carry out or enforce the provisions of this Act and who qualifies to perform such duties under the laws of the State of .....
  - k. "Restraint", an animal is under restraint if it is on the premises of its owner or if it is accompanied by and under the control of a responsible person.
  - l. "Licensing official" means the appropriate official of a county, city or town government with authority to issue permits and licenses.
3. No person shall keep, possess or harbor a non-domestic or non-pet animal in this state; provided, however, that this section shall not apply to the keeping of non-pet or non-domestic animals by a state or municipally-owned zoo or wildlife refuge.
4. No person shall, without first having obtained a license pursuant to this Act own, keep, harbor or have custody of any dog or cat within the State.
5. An owner's permit may be issued by a licensing official on the basis of an application containing information and assurances as prescribed by the Commissioner including, but not limited to, the following:
- a. The breed, if any, age and sex of any cat or dog to be acquired.
  - b. A description of the cat or dog;
  - c. Whether the applicant or member of his household has owned or kept a dog or cat before and, if so, what became of it;
  - d. The applicant's experience or education in the care and treatment of animals;
  - e. A description of any building, enclosure or environment in which the dog or cat is intended to be kept and
  - f. The names, ages, occupations and working or school hours of all persons residing in the household in which the dog or cat will be kept.



Falsification of information shall be grounds for refusal or revocation of a permit and the applicant may be punished in accordance with Section 21 of this Act.

6. The Commissioner shall establish standards and issue such rules and regulations as are necessary to carry out the purposes of this Act.
7. Upon a showing by any applicant for a permit that he is in compliance with the regulations promulgated by the Commissioner, a licensing official may issue a permit upon payment of the applicable fee, as follows:
  - a. For each neutered or spayed dog or cat or each dog or cat under six months of age ..... \$6.00
  - b. For each dog or cat over six months of age not spayed or neutered ..... \$25.00
  - c. No fee shall be required of any humane society, veterinary hospital or municipal animal control facility.
8. A permit, if not revoked, shall be valid for three years from the date of issue. In the event of a change in ownership of an animal or facility, the new owner may have the current permit transferred to his name upon payment of a transfer fee of \$1.00.
9. A licensing official shall revoke any permit held by, or deny any application for a permit by a person who fails to comply with the provisions of this Act, state or local laws relating to cruelty to animals or keeping of animals or any standard, rule or regulation issued pursuant to this act. Any person whose permit is revoked shall, within ten days thereafter, humanely dispose of all animals being owned, kept or harbored by such person and no part of the permit fee shall be refunded. It shall be a condition to the issuance of any permit to any operator of a pet shop, shelter or kennel or any person who keeps or raises dogs or cats for commercial purposes that the Commissioner or his agents shall be permitted to inspect animals and the premises where animals are kept at any time and the licensing official shall, if permission for such inspections is refused, revoke the permit of the refusing owner.
10. Upon issuing a permit to keep any dog or cat, the licensing official shall issue to the owner a durable tag or identification collar, stamped with an identifying number and with the year of issuance. Tags should be so designed that they may conveniently be fastened to the dog's collar or harness. Dogs and cats must wear identification tags or collars at all times when the animal is off the premises of the owner. The licensing official shall maintain a record of the identifying numbers and shall make this record available to the public.
11. All dogs shall be kept under restraint.
12. Unrestrained dogs may be taken by police, an animal control officer or a Humane Officer and impounded in an animal shelter, and there confined in a humane manner. Impounded dogs and cats shall be kept for not less than seven days unless reclaimed by their owners. If by a permit tag or by other means the owner can be identified, the licensing official shall immediately upon impoundment notify the owner by telephone or mail of the impoundment of the animal. Dogs and cats not claimed by their owners within seven days, or placed in suitable new homes, shall be



humanely euthanized by the licensing official or by an agency delegated by him to exercise that authority.

13. An owner reclaiming an impounded animal shall pay a fee of \$10, plus \$3.00 for each day that the animal has been impounded. The owner may also be proceeded against for violation of this act and his permit may be revoked.
14. In addition to, or in lieu of, impounding an animal found at large, the animal control officer, Humane Officer, or police officer may issue to the known owner of such animal a notice of violation. Such notice shall impose upon the owner a penalty of \$10 which may, at the discretion of the animal owner, be paid to any agency designated by the licensing official within seventy-two (72) hours in full satisfaction of the assessed penalty. In the event that such penalty is not paid within the time period prescribed, a criminal proceeding shall be initiated before a magistrate and upon conviction of a violation of this act, the owner shall be punished as provided in Section 20 of this act.
15. Every female dog or cat in heat shall be confined in a building or secure enclosure in such manner that such female dog or cat cannot come into contact with another animal except for planned breeding.
16. No owner shall fail to exercise proper care and control of his animals to prevent them from becoming a public nuisance. Excessive, continuous or untimely barking, molesting passersby, chasing vehicles, habitually attacking other domestic animals, trespassing upon school grounds, or trespassing upon private property in such manner as to damage property, shall be deemed a nuisance.
17. Any animal which bites a person shall be quarantined for ten days if ordered by the Director of Public Health. During quarantine the animal shall be securely confined and kept from contact with any other animal. At the discretion of the Director of Public Health, the quarantine may be on the premises of the owner. If the Director of Public Health requires other confinement, the owner shall surrender the animal for the quarantine period to an animal shelter or shall, at his own expenses, place it in a veterinary hospital.
18.
  - a. No person shall sell for less than five dollars (\$5) or give away any female cat or dog of breeding age that has not been spayed, or any male cat or dog of breeding age that has not been neutered, unless such person receives the cost of spaying or neutering, to be paid to a veterinarian or clinic which shall perform the spaying or neutering.
  - b. No person shall sell for less than five dollars (\$5) or give away any kitten or puppy not of breeding age unless a substantial deposit of the cost of, or the total cost of, spaying or neutering of such kitten or puppy is received by such person for payment to a veterinarian or clinic for the performance of the spaying or neutering of such kitten at a future date specified by the veterinarian or spaying and altering clinic.



19. The sections of this act requiring a permit shall not apply to non-residents of the state who are keeping pet animals, provided that animals of such owners shall not be kept in the state longer than 30 days and that the animals are kept under restraint.
20. The Commissioner may employ or appoint agents, assistants, humane offices and employees as he deems necessary to carry out his duties and responsibilities.
21. Violation of any provision of this act is a misdemeanor punishable by a fine of not more than \$ . . . . . or by imprisonment for not more than one year, or both. If any violation be of a continuing nature, each day of violation shall be deemed a separate offense.
22. All fees, fines and other money received by the Commissioner under this Act shall become the property of the Department and shall be used in addition to sums of money appropriated for the Department's animal control work.
23. The Commissioner is authorized to make grants to cities, towns or counties within the state of sums of money for the establishment of low-cost, non-profit municipal spay and neuter clinics.
24. Each clinic established in whole or in part with funds under this Act shall employ at least one trained veterinarian to supervise the spaying and neutering when such a veterinarian is available. The actual spaying and neutering may be performed by qualified para-professional personnel, and, when no veterinarian is available, a properly trained and qualified para-professional may supervise the spaying or neutering operations.
25.
  - a. The Commissioner is authorized to make grants to qualified individuals or institutions for the setting up and giving of short term courses for the training of para-professionals in the anesthetising, spaying and neutering of dogs and cats.
  - b. Any such grant shall be made only on the basis of an application submitted to the Commissioner in such form and containing such information and assurances as he may prescribe.
  - c. Grants shall be limited to \$25,000 per annum to any one individual or institution.
26. The Commissioner shall establish standards and issue such rules and regulations as are necessary to carry out the purposes of this Act.
27. If any part of this Act shall be held invalid such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this Act.

#### REFERENCES:

Humane Society of the United States—A Suggested Ordinance for the Prevention of Cruelty to Animals, for the Control of Animals, and for Other Purposes.



## 19. AN ACT TO ESTABLISH WILDERNESS AREAS

### 1. Definition of wilderness area:

An area where the earth and its community of life will be untrammelled by man, where man will share, not dominate, the environment. An area of undeveloped land retaining its primeval character without man's improvements or developments which is protected and administered so as to preserve its natural conditions and which:

- a. generally appears to be affected primarily by the forces of nature, with the imprint of man's work relatively unnoticeable;
- b. is of sufficient size and contains features adequate to support a self-sustaining ecosystem free from maintenance or interference by man; and
- c. is relatively safe and distant from factories, airports, cities and other major works of man that would pose a threat to the wilderness and its balance of life.

### 2. The Commissioner of Animal Protection (or similar state official) is authorized to designate privately-owned land or land acquired by him through purchase, donation or otherwise as a wilderness area.

### 3. The Commissioner shall, before designating land as a wilderness area:

- a. obtain written consent of all owners, in the case of privately-owned land. Such written consent may contain such stipulations and conditions, not inconsistent with this act or any regulations hereunder, as the owners and Commissioner see fit; or
- b. in the case of acquired land, give public notice of the proposed action as he deems appropriate, including publication in the state law journal and in a newspaper of general circulation in and around the proposed area, and
- c. hold public hearings at a location convenient to the area.

### 4. Except as specifically provided in this act, the following are prohibited in a wilderness area, whether owned privately or by the state:

- a. hunting, fishing or trapping;
- b. commercial enterprises of any kind or any phase thereof;
- c. permanent roads, railroads, air strips, reservoirs, power plants, residences, power lines and poles or any other man-made installation;
- d. picnicking, camping or hiking;
- e. motor vehicles, boats, aircraft, or other form of transport;
- f. removal of any plant, or animal or part thereof, whether dead or alive, mineral material or any other thing from the boundaries of the area;
- g. prospecting, timber cutting, live stock grazing or mining.

### 5. Except as specifically provided in this act, no person other than an owner or a member of his household or immediate family may enter a wilderness area for any purpose under any circumstances without a permit issued by the Commissioner. Such permission to enter an area shall be limited in time not to exceed one week and shall be restricted to conduct of the following activities:

- a. Photography.



- b. A scientific study or research program not inconsistent with the provisions of this act and approved by the Commissioner.
  - c. Nature studies or field trips for educational purposes.
  - d. Such other activities, not inconsistent with the provisions of this act, as approved by the Commissioner.
6. Notwithstanding the provisions of sections 4 and 5, personnel of law enforcement, fire and health agencies acting in their official capacities may enter a wilderness area without having first obtained permission of the Commissioner where:
- a. entry is necessary to protect the wilderness area or the health and safety of its inhabitants, and
  - b. the situation calling for entry is of such an emergency nature that the purpose of entry would be thwarted by the delays inherent in obtaining such permission.
7. Notwithstanding the provisions of sections 4 and 5, owners, members of their household or immediate family may continue to reside within a wilderness area where such persons resided in such area at the time of designation. Such residents may, notwithstanding the provisions of sections 4 and 5:
- a. use roads in existence at the time of designation;
  - b. use motor vehicles or boats within restrictions established by the Commissioner;
  - c. use and maintain wells, water sources, telephone and power lines poles existing at the time of designation;
  - d. use and maintain structures and other man-made facilities in existence at the time of designation;
  - e. Subject to the approval of the Commissioner, build, use and maintain any other man-made facility or installation not inconsistent with this act and reasonably necessary for their health or survival;
  - f. keep household or domestic animals subject to regulations on type, number and confinement to be established by the Commissioner.
8. Except as specifically provided in this act, no transfer by an owner other than the Commissioner, whether by sale, gift or otherwise, of an interest in land within a wilderness area shall be effective and valid unless the owner has first:
- a. Given written notice to the Commissioner of his intention to transfer at least one year prior to the date of transfer; and
  - b. made said interest available to the Commissioner for purchase at least six months prior to the date of transfer at a price not to exceed in the case of a sale, the actual sale price or, in the case of a gift, the fair market value thereof.
9. Nothing contained in section 8 above shall apply to invalidate any transfer to the Commissioner of an interest in land designated as a wilderness area where such transfer is by gift or donation or otherwise transferred upon consideration of a value of \$100 or less.
10. Nothing contained in section 8 above shall apply to invalidate any transfer of an interest in land designated as a wilderness area where:



- a. The transferee has executed, prior to the transfer, a consent agreement referred to above in section 3(a) subject to the same stipulations and conditions as that of the transferor;
  - b. Such consent agreement, by its own terms, becomes operative and binding upon the transfer of title from the transferor to the transferee; and
  - c. The transferee is approved by the Commissioner and the owners of other interests in land within the wilderness area.
11. All privately-owned land designated as a wilderness area shall be exempt from one-half of any taxes that would accrue if such land were not a wilderness area.
  12. The Commissioner may deny an owner such exemption if, after hearing, it is established that the owner violated any provision of this act, any regulation issued by the Commissioner or any term, condition of stipulation of the consent agreement referred to in § 3 of this act.
  13. The Commissioner shall establish standards and make such rules and regulations as may be necessary to carry out the provisions of this act.
  14. In addition to penal sanctions granted to the Commissioner, violation of any provision of this act is a misdemeanor punishable by a fine of \$ . . . . . or by imprisonment for not more than one year.

**REFERENCES:**

16 USC § 1121 et seq.

New York Statutes—E.C.L. § 11-2105

§ 11-2109 et seq.

Wisconsin Statutes—§ 29.56, § 29.57



Committee for Humane Legislation, Inc.  
11 West 60 Street, New York, N. Y. 10023

Please send me . . . . . copies of "MODEL STATE ANIMAL  
PROTECTION STATUTES," at \$1.00 each. My check, pay-  
able to C.H.L. is enclosed.

.....  
Name

.....  
Number and Street

.....  
City

.....  
State

.....  
Zip