

# NH RSA's Related to Cruelty to Animals 2009

## TITLE LXII CRIMINAL CODE

### CHAPTER 644 BREACHES OF THE PEACE AND RELATED OFFENSES

#### **644:8 Cruelty to Animals. –**

I. In this section, "cruelty" shall include, but not be limited to, acts or omissions injurious or detrimental to the health, safety or welfare of any animal, including the abandoning of any animal without proper provision for its care, sustenance, protection or shelter.

II. In this section, "animal" means a domestic animal, a household pet or a wild animal in captivity.

II-a. In this section, "shelter" or "necessary shelter" for dogs shall mean any natural or artificial area which provides protection from the direct sunlight and adequate air circulation when that sunlight is likely to cause heat exhaustion of a dog tied or caged outside. Shelter from the weather shall allow the dog to remain clean and dry. Shelter shall be structurally sound and have an area within to afford the dog the ability to stand up, turn around and lie down, and be of proportionate size as to allow the natural body heat of the dog to be retained.

III. A person is guilty of a misdemeanor for a first offense, and of a class B felony for a second or subsequent offense, who:

(a) Without lawful authority negligently deprives or causes to be deprived any animal in his possession or custody necessary care, sustenance or shelter;

(b) Negligently beats, cruelly whips, tortures, mutilates or in any other manner mistreats or causes to be mistreated any animal;

(c) Negligently overdrives, overworks, drives when overloaded, or otherwise abuses or misuses any animal intended for or used for labor;

(d) Negligently transports any animal in his possession or custody in a manner injurious to the health, safety or physical well-being of such animal;

(e) Negligently abandons any animal previously in his possession or custody by causing such animal to be left without supervision or adequate provision for its care, sustenance or shelter; or

(f) Otherwise negligently permits or causes any animal in his possession or custody to be subjected to cruelty, inhumane treatment or unnecessary suffering of any kind.

III-a. A person is guilty of a class B felony who purposely beats, cruelly whips, tortures, or mutilates any animal or causes any animal to be beaten, cruelly whipped, tortured, or mutilated.

IV. (a) In addition to being guilty of crimes as provided in paragraphs III and III-a, any person charged with cruelty to animals may have his or her animal confiscated by the arresting officer and, upon said person's conviction of cruelty to animals, the court may dispose of said animal in any manner it decides. Courts shall give cases in which animals have been confiscated by an arresting officer priority on the court calendar. The costs, if any, incurred in boarding and treating the animal, pending disposition of the case, and in disposing of the animal, upon a

conviction of said person for cruelty to animals, shall be borne by the person so convicted. In addition, the court may prohibit any person convicted of animal cruelty from having future ownership or custody of other animals for any period of time the court deems reasonable or impose any other reasonable restrictions on the person's future ownership or custody of animals as necessary for the protection of the animals.

(b) If a person convicted of cruelty to animals appeals the conviction and any confiscated animal remains in the custody of the arresting officer or the officer's designee pending disposition of the appeal, in order for the appellant to maintain a future interest in the animal, the trial court may require the appellant to post a bond or other security in an amount not exceeding \$2,000 for each animal in custody for costs expected to be incurred for the board and care of the animal during the appeal. If the conviction is affirmed on appeal, the costs incurred for the board and care of the animal shall be paid to the custodian from the posted security and the balance, if any, returned to the person who posted it.

IV-a. (a) Except as provided in subparagraph (b) any appropriate law enforcement officer, animal control officer, or officer of a duly licensed humane society may take into temporary protective custody any animal when there is probable cause to believe that it has been or is being abused or neglected in violation of paragraphs III or III-a when there is a clear and imminent danger to the animal's health or life and there is not sufficient time to obtain a court order. Such officer shall leave a written notice indicating the type and number of animals taken into protective custody, the name of the officer, the time and date taken, the reason it was taken, the procedure to have the animal returned and any other relevant information. Such notice shall be left at the location where the animal was taken into custody. The officer shall provide for proper care and housing of any animal taken into protective custody under this paragraph. If, after 7 days, the animal has not been returned or claimed, the officer shall petition the municipal or district court seeking either permanent custody or a one-week extension of custody or shall file charges under this section. If a week's extension is granted by the court and after a period of 14 days the animal remains unclaimed, the title and custody of the animal shall rest with the officer on behalf of the officer's department or society. The department or society may dispose of the animal in any lawful and humane manner as if it were the rightful owner. If after 14 days the officer or the officer's department determines that charges should be filed under this section, the officer shall petition the court.

(b) For purposes of subparagraph (a) the investigating officer for livestock, as defined in RSA 427:38, III, <sup>1</sup> shall be accompanied by a veterinarian licensed under RSA 332-B <sup>2</sup> or the state veterinarian who shall set the probable cause criteria for taking the animal or animals.

(c)(1) For purposes of subparagraph (a), for facilities licensed to conduct live running or harness horseracing or live dog racing pursuant to RSA 284 <sup>3</sup>, the appropriate law enforcement

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<sup>1</sup> **427:38 Definitions.** – As used in this subdivision:

III. "Livestock" shall mean all cattle, goats, sheep, swine, horses or other equidae, as well as domesticated strains of buffalo, bison, llamas, alpacas, emus, ostriches, yaks, elk (*cervus elephus canadensis*), fallow deer (*dama dama*), red deer (*cervus elephus*), reindeer (*Rangifer taradus*).

**Source.** 1985, 72:1. 1995, 130:5. 1998, 310:2, eff. Aug. 25, 1998.

<sup>2</sup> NH Veterinary Practice Act

<sup>3</sup> Laws pertaining to horse and dog racing

officer, animal control officer, or officer of a duly licensed humane society shall:

(A) Notify the director of the pari-mutuel commission of the circumstances arising under subparagraph (a);

(B) Enter the grounds of the facility with the director of the pari-mutuel commission or such person designated by the director of the pari-mutuel commission;

(C) Take such horses or dogs into temporary protective custody as determined by the director of the pari-mutuel commission or such person designated by the director of the pari-mutuel commission; and

(D) Comply with subparagraph (a) after taking a horse or dog from a facility licensed pursuant to RSA 284 into temporary protective custody.

(2) This paragraph shall not preempt existing or enforcement authority of the pari-mutuel commission, pursuant to RSA 284 or rules and regulations adopted pursuant to such authority.

V. A veterinarian licensed to practice in the state shall be held harmless from either criminal or civil liability for any decisions made for services rendered under the provisions of this section or RSA 435:11-16.<sup>4</sup> Such a veterinarian is, therefore, under this paragraph, protected from a lawsuit for his part in an investigation of cruelty to animals.

**Source.** 1971, 518:1. 1975, 460:1. 1979, 23:1. 1981, 575:2. 1982, 8:4. 1983, 231:2. 1985, 72:3. 1989, 57:1. 1994, 234:1-3. 1998, 283:1. 1999, 152:1; 308:1. 2000, 4:1, eff. Feb. 4, 2000. 2008, 240:1, eff. Jan. 1, 2009; 288:1, 2, eff. July 1, 2008.

#### **644:8-a Exhibitions of Fighting Animals. –**

I. No person shall keep, breed, or train any bird, dog, or other animal, with the intent that it or its offspring shall be engaged or used in an exhibition of fighting, or shall establish or promote an exhibition of the fighting thereof. Whoever violates the provisions of this paragraph shall be guilty of a class B felony.

II. Any person present at any place or building when preparations are being made for an exhibition of such fighting with intent to be present at such exhibition, or present at, aiding in or contributing to, such an exhibition, shall be guilty of a class B felony .

III. All animals so kept, bred, or trained by a person charged with violating the provisions of paragraph I may be seized by the arresting officer, pursuant to RSA 595-A:6<sup>5</sup> and RSA 644:8. Upon said person's conviction, said animals may, at the discretion of the court, be destroyed in a humane manner by a licensed veterinarian. The costs, if any, incurred in boarding the animals, pending disposition of the case, and in disposing of the animals, upon a conviction of said person for violating paragraph I, shall be borne by the person so convicted.

IV. Upon conviction of a violation of this section, all animals used or to be used in training, fighting, or baiting, and all equipment, paraphernalia, and money involved in a violation of this section may be forfeited to the state at the discretion of the court, pursuant to RSA 595-A:6. Proceeds of any such forfeiture shall be used to reimburse local government and state agencies for the costs of prosecution of animal fighting cases. Proceeds which are not needed for such

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<sup>4</sup> Law related to the Treatment of horses. This section follows.

<sup>5</sup> Pertaining to Search Warrants

reimbursement shall be deposited in the companion animal neutering fund, established in RSA 437-A:4-a.

V. In addition to other penalties prescribed by law, the court may issue an order prohibiting a person who is convicted of a violation of this section from owning or possessing any animals within the species that is the subject of the conviction, or any animals kept for the purpose of training, fighting, or baiting, for a period of time determined by the court.

**Source.** 1979, 30:1. 2003, 98:1, eff. Jan. 1, 2004. 2008, 326:1, eff. Jan. 1, 2009.

**644:8-aa Animals in Motor Vehicle. –**

I. It shall be cruelty to confine an animal in a motor vehicle or other enclosed space in which the temperature is either so high or so low as to cause serious harm to the animal. "Animal" means a domestic animal, household pet, or wild animal held in captivity.

II. Any person in violation of this section shall be guilty of a misdemeanor as set forth in RSA 644:8.

III. Any law enforcement officer or agent of a licensed humane organization may take action necessary to rescue a confined animal endangered by extreme temperatures, and to remove the threat of further serious harm.

IV. No officer or agent taking action under paragraph III shall be liable for damage reasonably necessary to rescue the confined animal.

**Source.** 1981, 575:1, eff. July 7, 1981.

**644:8-b Docking Tail of Horse. –** If any person shall cut the bone of the tail of a horse for the purpose of docking the tail, or shall cause or knowingly permit the same to be done upon the premises of which he is in control, or shall assist in or be present at such cutting, he shall be guilty of a misdemeanor. Written permission from the state veterinarian shall be obtained by a licensed veterinarian to perform surgical operations pursuant to this section. The state veterinarian shall promulgate rules relative to granting authorization for such operation.

**Source.** 1979, 263:1, eff. Aug. 20, 1979.

**644:8-c Animal Use in Science Classes and Science Fairs. –**

I. In this section:

(a) "Animal" means any member of the kingdom of Animalia.

(b) "Vertebrate animal" means any animal belonging to the subphylum Vertebrata of the phylum Chordata, and specifically includes all mammals, fishes, birds, reptiles and amphibians.

II. Live vertebrate animals shall not be used in experiments or observational studies, with the following exceptions:

(a) Observational studies may be made of the normal living patterns of wild animals, in the free living state or in zoological parks, gardens, or aquaria.

(b) Observational studies may be made of the living patterns of vertebrate animals in the classroom.

(c) Observational studies on bird egg embryos are permitted. However, if normal bird embryos are to be allowed to hatch, satisfactory humane consideration shall be made for disposal of the baby birds.

(d) Vertebrate animal cells such as red blood cells or other tissue cells, plasma or serum, or anatomical specimens, such as organs, tissues, or skeletons, may be used in experiments or observational studies.

III. No school principal, administrator or teacher shall allow any live vertebrate animal to be used in any elementary or secondary school, or in any activity associated with such school, such as science fairs, as part of a scientific experiment or procedure in which the health of the animal is interfered with, or in which pain, suffering, or distress is caused. Such experiments and procedures include, but are not limited to, surgery, anesthetization, and the inducement by any means of painful, lethal, or pathological conditions through techniques that include, but are not limited to:

(a) Administration of drugs;

(b) Exposure to pathogens, ionizing radiation, carcinogens, or to toxic or hazardous substances;

(c) Deprivation; or

(d) Electric shock or other distressing stimuli.

IV. All experiments on live vertebrate animals which are not prohibited by this section shall be carried out under the supervision of a competent science teacher who shall be responsible for ensuring that the student has the necessary comprehension for the study to be undertaken.

V. No person shall, in the presence of a pupil in any elementary or secondary school, perform any of the procedures or experiments described in paragraph III or exhibit any vertebrate animal that has been used in such manner. Dissection of any dead animal, or portions thereof, shall be confined to the presence of students engaged in the study to be promoted by the dissections.

VI. Science fair projects originating in other states that do not conform with the provisions of this section shall not be exhibited within the state.

VII. Any live animal kept in any elementary or secondary school shall be housed and cared for in a humane and safe manner and shall be the personal responsibility of the teacher or other adult supervisor of the project or study.

VIII. Ordinary agricultural procedures taught in animal husbandry courses shall not be prohibited by this section.

IX. Any person who violates this section is guilty of a misdemeanor.

**Source.** 1985, 54:1, eff. June 22, 1985.

**644:8-d Maiming or Causing the Death of or Willful Interference With Police Dogs or Horses. –**

I. Whoever willfully tortures, beats, kicks, strikes, mutilates, injures, disables, or otherwise mistreats, or whoever willfully causes the death of a dog or horse owned or employed by or on behalf of a law enforcement agency and whoever knows that such dog or horse is owned or employed by or on behalf of a law enforcement agency shall be guilty of a class B felony.

II. Whoever willfully interferes or attempts to interfere with the lawful performance of a dog or horse owned or employed by or on behalf of a law enforcement agency and whoever knows that such dog or horse is owned or employed by or on behalf of a law enforcement agency shall be guilty of a misdemeanor.

**Source.** 1988, 203:1. 1994, 111:1, eff. Jan. 1, 1995. 1998, 365:1, eff. Jan. 1, 1999.

**644:8-e Willful Interference With Organizations or Projects Involving Animals or With Animal Facilities. –**

I. Whoever willfully causes bodily injury or willfully interferes with any property, including animals or records, used by any organization or project involving animals, or with any animal facility shall be guilty of a class A misdemeanor.

II. Whoever in the course of a violation of paragraph I causes serious bodily injury to another individual or economic loss in excess of \$10,000 shall be guilty of a class B felony, and may be subject to an order of restitution pursuant to RSA 651:63.<sup>6</sup>

III. For the purposes of this section:

(a) "An organization or project involving animals" means:

(1) A commercial or academic enterprise that uses animals for food or fiber production, agriculture, research, education, or testing.

(2) Any lawful competitive animal event, including but not limited to conformation shows or obedience trials, field trials, agility events, hunts, sled races, or training activities.

(3) Any fair or similar event intended to advance the agricultural arts and sciences.

(b) "Animal facilities" means any vehicle, building, structure, research facility, or premises where an animal is kept, handled, housed, exhibited, bred or offered for sale.

(c) "Economic loss" means "economic loss" as defined in RSA 651:62, III.<sup>7</sup>

IV. Nothing in this section shall be construed to restrict any constitutional, statutory, regulatory or common law right.

**Source.** 1993, 170:1, eff. May 24, 1993.

**644:8-f Transporting Dogs in Pickup Trucks. –**

I. No person driving a pickup truck shall transport any dog in the back of the vehicle on a public way, unless the space is enclosed or has side and tail racks to a height of at least 46 inches extending vertically from the floor, the dog is cross tethered to the vehicle, the dog is protected

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<sup>6</sup> Restitution laws

<sup>7</sup> III. "Economic loss" means out-of-pocket losses or other expenses incurred as a direct result of a criminal offense.

by a secured container or cage, or the dog is otherwise protected, in a manner which will prevent the dog from being thrown or from falling or jumping from the vehicle.

II. Notwithstanding paragraph I, this section shall not apply to the following:

(a) A dog being used by a farmer or farm employee while actually engaged in farming activities requiring the services of a dog; or

(b) A hunting dog being used at a hunting site or between hunting sites by a licensed hunter who is in possession of all applicable licenses and permits for the species being pursued during the legal season for such activity.

III. Any person who violates this section shall be guilty of a violation.

**Source.** 1996, 191:1, eff. Jan. 1, 1997.

**644:16 Exposing Poisons.** – If any person shall in any way or place purposely expose an active poison or deadly substance for the destruction of any animal, or for any other purpose except the destruction of rats or other vermin in his own building or upon his crops, he shall be guilty of a violation.

**Source.** 1971, 518:1, eff. Nov. 1, 1973.

## **TITLE XL AGRICULTURE, HORTICULTURE AND ANIMAL HUSBANDRY**

### **CHAPTER 435 ANIMAL CARE, BREEDING AND FEED**

#### **Treatment of Horses**

**435:11 Similar Animals.** – The term "horse" as used in this subdivision shall include all members of the equine species.

**Source.** 1985, 72:1, eff. July 1, 1985

**435:12 Proper Care.** – No person shall overdrive, overwork or overload a horse in his or her care. No person shall buy, sell or exchange any horse that is unfit to be used for riding, driving, draft or reproduction purposes, unless it is for rehabilitation or slaughter. No person shall torture, beat, mutilate or abandon any horse, or aid in such abuse, or permit any horse in his or her care to be subject to abuse of any kind.

**Source.** 1985, 72:1, eff. July 1, 1985. 2003, 9:1, eff. April 22, 2003.

**435:13 Proper Feeding.** – All horses shall receive roughage in proportion to their size, age, temperament and amount of work they are required to perform. Grain may also be required when roughage alone will not meet their daily nutritional requirements. All horses shall be fed on a regular daily schedule, and all food shall be clean and free from excessive moisture. All horses shall have available a sufficient quantity of fresh water to maintain hydration.

**Source.** 1985, 72:1, eff. July 1, 1985. 2003, 9:1, eff. April 22, 2003.

**435:14 Shelter Available.** – Horses shall be provided either:

I. An adequately ventilated, dry barn with stalls of sufficient size so that the horse is able to lie down, and shall be provided adequate and suitable exercise in arenas, barn yards, paddocks or pastures; or

II. A roofed shelter, with at least 3 sides from November 1 through April 15, shall be provided for horses kept in paddocks or pastures, and said horses shall not be kept tied but shall be able to move around freely.

**Source.** 1985, 72:1, eff. July 1, 1985. 2003, 9:2, eff. April 22, 2003.

**435:15 Veterinarian Services and Probable Cause Determinations.** –

I. A probable cause determination for seizing horses pursuant to a cruelty investigation shall be made only by the state veterinarian or a veterinarian licensed under the provisions of RSA 332-B. No seizing or taking of horses shall be made without a probable cause determination.

II. Pursuant to RSA 644:8, V, a veterinarian licensed to practice in the state shall be held harmless from either criminal or civil liability for any decisions made for services rendered under the provisions of this subdivision.

**Source.** 1985, 72:1, eff. July 1, 1985. 2003, 9:2, eff. April 22, 2003.

**435:15-a Rulemaking.** – The commissioner shall adopt rules, under RSA 541-A,<sup>8</sup> relative to the care, shelter, and feeding of horses, and the enforcement of this subdivision.

**Source.** 2003, 9:3, eff. April 22, 2003.

**435:16 Penalty.** – Any owner failing to comply with the provisions of this subdivision shall be notified as to the proper care of horses. Upon a second offense, the horse shall be seized and not returned until restitution for the expenses involved in the seizure is made and proof of proper care is given. Upon a third or subsequent offense, the horse shall be permanently seized. Whoever violates the provisions of this subdivision shall be guilty of a violation.

**Source.** 1985, 72:1, eff. July 1, 1985

## **TITLE VII SHERIFFS, CONSTABLES, AND POLICE OFFICERS**

### **CHAPTER 105**

#### **POLICE OFFICERS AND WATCHMEN**

##### **Domestic Animals**

**105:14 Cruelty to Animals.** – Whenever an officer makes an arrest upon view, or upon a warrant for a violation of any provision of RSA 441:4-a,<sup>9</sup> he may take into his possession the

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<sup>8</sup> ADMINISTRATIVE PROCEDURE ACT

<sup>9</sup> This law was recodified in 1985 and the reference now is

animal which is the subject of such cruelty, and if the owner has no knowledge of such taking he shall give him notice forthwith.

**Source.** 1870, 4:4. GL 281:29. 1881, 10:1. PS 267:2. PL 382:2. RL 445:2. RSA 575:2. 1973, 532:15, eff. Nov. 1, 1973.

**105:15 Examination, etc.** – Whenever an officer shall take any such animal into his possession, which appears by reason of age, injury or other cause to be disabled for use, said officer shall call upon 3 disinterested citizens, who, under oath, shall examine such animal, and if they shall find such animal to be disabled for use said officer shall at once cause such animal to be killed.

**Source.** 1881, 10:2. PS 267:3. 1897, 22:1. PL 382:3. RL 445:3. RSA 575:3. 1973, 532:15, eff. Nov. 1, 1973.

**105:16 Expenses.** – All expenses incurred under RSA 105:14 and 15 shall be paid by the owner of such animal, and may be collected by an action on the case, or by enforcing a lien upon the animal.

**Source.** 1881, 10:2. PS 267:3. 1897, 22:1. PL 382:4. RL 445:4. RSA 575:4. 1973, 532:15, eff. Nov. 1, 1973

**105:17 Arrest.** – If any person shall be found violating the laws in relation to cruelty to animals he may be arrested and held without warrant, in the same manner as in case of persons found breaking the peace.

**Source.** 1870, 4:4. GL 281:29. PS 267:8. PL 382:12. RL 445:12. RSA 575:12. 1973, 532:15, eff. Nov. 1, 1973.

**105:18 Special Deputies.** – Any officer or agent of any incorporated society for the prevention of cruelty to animals, upon being designated in writing for that purpose by the sheriff of any county in this state, may, within such county, make arrests and bring before any court or magistrate having jurisdiction offenders found violating the provisions of this subdivision.

**Source.** 1870, 4:7. GL 281:32. PS 267:10. PL 382:14. RL 445:14. RSA 575:14. 1973, 532:15, eff. Nov. 1, 1973.

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435:5 Colts Less Than 90 Days Old. –

I. It is unlawful for any person in this state to have in his possession an equine colt that is less than 90 days old that is not being nursed by its dam, unless the colt was born in this state, and its dam has died within this state before the colt became 90 days old.

II. It is unlawful for any person in this state to sell an equine colt that is less than 90 days old that is not being nursed by its dam.

III. If convicted of a violation of this section a person shall be guilty of a misdemeanor.

**Source.** 1985, 72:1, eff. July 1, 1985.

Most likely there was a broader reference in 1870 when the law was first written.