

HOUSE BILL 3184
By Givens

AN ACT to amend Tennessee Code Annotated, Title 39, Chapter 14, Part 2, to create the offense of cruelty to non-livestock animals and to provide for the basic care and humane treatment of non-livestock animals.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-14-202, is amended by adding the following as a new, appropriately designated subsection:

() The provisions of this section shall only apply to livestock.

SECTION 2. Tennessee Code Annotated, Title 39, Chapter 14, Part 2, is amended by adding the following as a new, appropriately designated section:

§39-14-2__.

(a) A person commits an offense who intentionally or knowingly:

(1) Tortures, maims or grossly overworks a non-livestock animal;

(2) Fails unreasonably to provide necessary food, necessary water, necessary care, necessary shelter and all other basic care requirements for a non-livestock animal in the person's custody;

(3) Abandons unreasonably a non-livestock animal in the person's custody; or

(4) Transports, confines, tethers or collars a non-livestock animal in a cruel manner.

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(b) It is a defense to prosecution under this section that the person was engaged in accepted veterinary practices, that medical treatment was being provided by the person having custody of a non-livestock animal or with such person's consent, or that bona fide experimentation was being conducted for scientific research.

(c) Whenever any person is taken into custody by any officer for violation of subdivision (a)(4), the officer may take charge of the vehicle or conveyance, and its contents, used by the person to transport the non-livestock animal or animals. The officer shall deposit such items in a safe place for custody. Any necessary expense incurred for taking charge of and sustaining such non-livestock animal or animals shall create a lien against the vehicle or conveyance, and its contents, in which such non-livestock animal or animals was transported. All such expenses shall be paid before such lien is released and such vehicle or conveyance, and its contents, may lawfully be recovered. Such expenses, or any part thereof, remaining unpaid may be recovered by the person incurring such expenses from the owners of the non-livestock animal or animals in an action therefor.

(d) In addition to the penalty imposed in subsection (f), the court making the sentencing determination for a person convicted under this section shall order the person convicted to surrender custody and forfeit the non-livestock animal or animals whose treatment was the basis of the conviction. Custody shall be given to a humane society incorporated under the laws of this state. The court may prohibit the person convicted from having custody of other non-livestock animals for any period of time the court determines to be reasonable, or impose any other reasonable restrictions on the person's custody of non-livestock animals as necessary for the protection of the non-livestock animals.

(e) The provisions of this section shall apply to all animal shelters, pounds, dealers, pet shops, exhibitors, kennels, groomers, boarding establishments, and flea markets in Tennessee that provide care and/or services for or have custody of non-livestock animals.

(f) An offense under this section is a Class A misdemeanor.

(g) For the purposes of this section, unless the context clearly requires otherwise:

(1) "Abandon" means to desert, forsake, or absolutely give up a non-livestock animal without first having secured another owner or custodian or by failing to provide basic care requirements for a period of five (5) consecutive days;

(2) "Animal shelter" means a facility which is used to house or contain non-livestock animals and which is owned, operated, or maintained by a duly incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other non-profit organization devoted to the welfare, protection and humane treatment of animals;

(3) "Basic care requirements" means the provision to each non-livestock animal in a person's custody, the following: necessary food, necessary water, necessary care, necessary shelter, humane collar and humane tether;

(4) "Boarding establishment" means a place or establishment, other than a pound or animal shelter, where non-livestock animals not owned by the proprietor are sheltered, fed, and watered in exchange for a fee or other consideration;

(5) "Dealer" means any person who for compensation or profit buys, sells, transfers, exchanges, or barter non-livestock animals;

(6) "Exhibitor" means any person who has in such person's custody non-livestock animals for public display or on public display, excluding an exhibitor licensed by the United States Department of Agriculture;

(7) "Groomer" means a person who, for a fee or other consideration, cleans, trims, brushes, makes neat or manicures non-livestock animals, or treats non-livestock animals for external parasites.

(8) "Humane Collar" means a well-fitted device appropriate to the age, size, and species of non-livestock animal, attached to the non-livestock animals neck in such a way as to prevent trauma or injury to the non-livestock animal;

(9) "Humane tether" means a chain, rope, coated cable or other device which permits a non-livestock animal to easily sit, stand, lie, and make all normal body movements in comfort and is appropriate to the age, size and species of the non-livestock animal; is attached to the non-livestock animal by a properly fitting collar, halter or harness; and is at least three (3) times the length of the non-livestock animal measured from tip of nose to base of tail, except when the non-livestock animal is being walked on a leash or when such length of tether could cause strangulation or injury;

(10) "Kennel" means all establishments in which five (5) or more non-livestock animals are kept for the purpose of breeding, hunting, training, renting, buying, boarding, selling or showing;

(11) "Necessary care" means the responsible practice of good animal husbandry in the handling, confinement, feeding, watering, tethering, collaring, transportation and sheltering of non-livestock animals; with provision for veterinary care when needed to prevent suffering or impairment of health, and when necessary euthanasia;

(12) "Necessary food" means access to food which is of sufficient quantity and nutritive value to maintain each non-livestock animal in good health; is accessible to each non-livestock animal; and is provided at suitable intervals for the species, age, and condition of the non-livestock animal, but at least once daily, except as prescribed by a veterinarian;

(13) "Necessary shelter" means the provision of and access to a structure with a floor or resting platform that is suitable for the age, size and species of non-livestock animal, which structure permits the non-livestock animal to easily sit, stand, lie and make all normal body movements in comfort; and protects the non-livestock animal from adverse effects of sunlight or cold; and is maintained in a sanitary and dry manner;

(14) "Necessary water", means the provision of and access to a constant supply of clean, fresh, potable water, to maintain normal hydration of each non-livestock animal, except as prescribed by a veterinarian;

(15) "Non-livestock animal" as defined in Section 39-14-201(3);

(16) "Pet shop" means an establishment where non-livestock animals are bought, sold, exchanged or offered for sale to the general public;

(17) "Pound" means a facility operated by an agency of the state or any county or municipal government, or any political subdivision thereof, for the purpose of impounding or harboring seized, stray, homeless, abandoned, or unwanted non-livestock animals, or a facility operated for the same purpose under a contract with the state or any county, municipality or incorporated society for the prevention of cruelty to animals; and

(18) "Torture" as defined in Section 39-14-201(4).

SECTION 3. This act shall take effect July 1, 1998, the public welfare requiring it, and shall apply to all offenses committed on or after such date.