



**ANIMAL LEGAL  
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## Animal Protection Laws of Delaware

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*This chapter contains Delaware’s general animal protection and related statutes with an effective date on or before September 1, 2018. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories with the relevant part of each statute italicized.*

*Delaware may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.*

## ANIMAL PROTECTION LAWS OF DELAWARE

## DELAWARE

1. <u>DEFINITION OF "ANIMAL"</u>	<p>"Animal" does not include fish, crustacea, or molluska."          DEL. CODE ANN. tit. 11, § 1325(a)(11)</p>
2. <u>GENERAL CRUELTY *</u>	<p>General cruelty to animals          DEL. CODE ANN. tit. 11, § 1325(b)  <i>Class A misdemeanor, and \$1,000 fine</i></p> <p>Cruelly or unnecessarily killing or injuring an animal          DEL. CODE ANN. tit. 11, § 1325(b)(4)  <i>Class F felony, and \$1,000 fine</i></p> <p>Intentionally killing a service animal          DEL. CODE ANN. tit. 16, § 3056F</p> <p>Offenses against law-enforcement animals          DEL. CODE ANN. tit. 11, § 1250</p>
3. <u>EXEMPTIONS</u>	<p>Veterinary practice, research animals, slaughter, other          DEL. CODE ANN. tit. 11, § 1325(b)</p> <p>Wildlife          DEL. CODE ANN. tit. 11, § 1325(f)</p>
4. <u>FIGHTING &amp; RACKETEERING</u>	<p>Various animal fighting activities          DEL. CODE ANN. tit. 11, § 1326  <i>Class E felony</i></p> <p>Being at premises where an animal fighting exhibit is being prepared          DEL. CODE ANN. tit. 11, § 1326  <i>Class F felony</i></p> <p>Animal fighting is a racketeering offense.          DEL. CODE ANN. tit. 11, § 1502 (9)(b)(13)</p> <p>Racketeering violations.          DEL. CODE ANN. tit. 11, § 1503</p>

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<p><b>5. <u>SEXUAL ASSAULT</u></b></p>	<p>Intentionally engaging in any sexual act involving sexual contact, penetration or intercourse with the genitalia of an animal or intentionally causing another person to engage in any such sexual act with an animal for purposes of sexual gratification  <b>DEL. CODE ANN. tit. 11, § 775</b>  <i>Class D felony</i></p> <p>Bestiality is a sex offense.  <b>DEL. CODE ANN. tit. 11, § 4121</b></p>
<p><b>6. <u>MAXIMUM PENALTIES &amp; STATUTE OF LIMITATIONS**</u></b></p>	<p>Unclassified misdemeanor  <i>Definite sentence fixed by court; if no sentence specified, may include up to 30 days incarceration and fine up to \$575, or other conditions</i>  <b>DEL. CODE ANN. tit. 11, § 4206(c)</b></p> <p>Class B misdemeanor  <i>6 months incarceration, fine up to \$1,150, or other conditions</i>  <b>DEL. CODE ANN. tit. 11, § 4206(b)</b></p> <p>Class A misdemeanor  <i>1 year incarceration and/or \$2,300 fine, restitution, or other conditions</i>  <b>DEL. CODE ANN. tit. 11, § 4206(a)</b></p> <p>Class F felony  <i>3 years imprisonment and fine determined by court</i>  <b>DEL. CODE ANN. tit. 11, § 4205(b)(6)</b></p> <p>Class E felony  <i>5 years imprisonment and fine determined by court</i>  <b>DEL. CODE ANN. tit. 11, § 4205(b)(5)</b></p> <p>Class D felony  <i>8 years imprisonment and fine determined by court</i>  <b>DEL. CODE ANN. tit. 11, § 4205(b)(4)</b></p> <p>Statute of Limitations  <i>Unclassified misdemeanors: 2 years</i>  <b>Del. Code Ann. Tit. 11, § 205(b)(3)</b>  <i>Class B misdemeanors: 2 years</i>  <b>Del. Code Ann. Tit. 11, § 205(b)(3)</b>  <i>Class A misdemeanor: 3 years</i></p>

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	<p>Del. Code Ann. Tit. 11, § 205(b)(2)  <i>Felony: 5 years</i>  Del. Code Ann. Tit. 11, § 205(b)(1)</p>
<b>7. <u>CROSS ENFORCEMENT &amp; REPORTING</u></b>	-----
<b>8. <u>VETERINARIAN REPORTING &amp; IMMUNITY</u></b>	<b>EDITOR'S NOTE:</b> 24 Del. Admin. Code 3300-3.0 exempts the protection of animal welfare from privileged communications.
<b>9. <u>LAW ENFORCEMENT POLICIES</u></b>	<p>The Office of Animal Welfare within the Department of Health and Social Services shall enforce all animal cruelty laws.  DEL. CODE ANN. tit. 16, § 3031F(a)</p> <p>Enforcement officers of the Office of Animal Welfare or the Department of Agriculture shall have police powers similar to those of constables, peace officers, and police officers when investigating and enforcing animal cruelty laws.  DEL. CODE ANN. tit. 16, § 3031F(d)</p> <p>Constables and police shall assist in the enforcement of cruelty statutes.  DEL. CODE ANN. tit. 16, § 3032F</p> <p>Animal Welfare Officers may execute arrest warrants.  DEL. CODE ANN. tit. 16, § 3034F</p>
<b>10. <u>SEIZURE</u></b>	<p>A humane agent or any law enforcement officer may impound cruelly mistreated or neglected animals.  DEL. CODE ANN. tit. 16, § 3035F(a),  DEL. CODE ANN. tit. 11, § 1325(e)</p>
<b>11. <u>COURTROOM ANIMAL ADVOCATE PROGRAM</u></b>	-----
<b>12. <u>PROTECTION ORDERS†</u></b>	-----

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<p><b>13. <u>RESTITUTION †</u></b></p>	<p>All fines, penalties and forfeitures, imposed and collected for cruelty to animals offenses shall be remitted to the enforcing agency.  <b>DEL. CODE ANN. tit. 16, § 3033F</b></p> <p>Upon a finding of probable cause that an offense occurred, defendant shall be required to pay costs of care for impounded animal or lose ownership rights.  <b>DEL. CODE ANN. tit. 16, § 3035F(c)</b></p> <p>After a conviction, owner or custodian must reimburse costs of care and any veterinary fees in order to repossess animal when repossession is allowed by court.  <b>DEL. CODE ANN. tit. 16, § 3035F(d)</b></p> <p>Court may order restitution for misdemeanors.  <b>DEL. CODE ANN. tit. 11, § 4206</b></p>
<p><b>14. <u>FORFEITURE &amp; POSSESSION BANS †</u></b></p>	<p>Court shall prohibit owning or possessing any animal (other than those involved in some commercial operations) for five years for a misdemeanor conviction,  <b>DEL. CODE ANN. tit. 11, § 1325(c),</b>  and for 15 years for a felony conviction  <b>DEL. CODE ANN. tit. 11, § 1325(d).</b></p> <p>Upon conviction for animal fighting, animals, equipment, devices and proceeds are forfeited. Offender is prohibited from owning any animal for fifteen years.  <b>DEL. CODE ANN. tit. 11, § 1326</b></p> <p>R.I.C.O. forfeiture proceedings  <b>DEL. CODE ANN. tit. 11, § 1506</b></p> <p>Defendant's failure to pay costs of care for seized animal within 30 days results in transfer of ownership to state or appropriate humane society.  <b>DEL. CODE ANN. tit. 16, § 3035F(c)</b></p> <p>Court makes final decision on disposition of animal upon conviction.  <b>DEL. CODE ANN. tit. 16, § 3035F(b)</b></p>

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<p><b>15. <u>COURT-ORDERED TREATMENT</u><sup>†</sup></b></p>	<p>Psychological evaluation required for pardon or commutation of sentence.  <b>DEL. CODE ANN. tit. 11, § 4362</b></p> <p>Court may require a person convicted of animal fighting to attend and participate in treatment or obtain appropriate psychiatric or psychological counseling, or both.  <b>DEL. CODE ANN. tit. 11, § 1326(h)</b></p>
<p><b>16. <u>HOT CARS</u></b></p>	<p>Certain law enforcement authorities may use reasonable force to remove an animal left unattended in a vehicle in conditions likely to cause suffering/injury/death  <b>DEL. CODE ANN. tit. 11, § 1325(b)(6)</b></p>
<p><b>17. <u>CIVIL NUISANCE ABATEMENT</u></b></p>	<p>-----</p>
<p><b>18. <u>AG-GAG LAWS</u></b></p>	<p>-----</p>
<p><b>19. <u>BREED SPECIFIC LEGISLATION</u></b></p>	<p>Breed specific legislation prohibited.  <b>DEL. CODE ANN. tit. 22, § 116</b></p>

\* States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.

\*\* Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.

† This table generally references only those provisions that are within each state's animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

## ANIMAL PROTECTION LAWS OF DELAWARE

### 1. DEFINITION OF “ANIMAL”

#### DEL. CODE ANN. tit. 11, § 1325. Cruelty to animals; class A misdemeanor; class F felony.

(a) *For the purpose of this section, the following words and phrases shall include, but not be limited to, the meanings respectively ascribed to them as follows:*

- (1) “Abandonment” includes completely forsaking or deserting an animal originally under one’s custody without making reasonable arrangements for custody of that animal to be assumed by another person.
- (2) “Animal” shall not include fish, crustacea or molluska.
- (3) “Cruel” includes every act or omission to act whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted.
- (4) “Cruel mistreatment” includes any treatment whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted.
- (5) “Cruel neglect” includes neglect of an animal, which is under the care and control of the neglecter, whereby pain or suffering is caused to the animal or abandonment of any domesticated animal by its owner or custodian. By way of example, cruel neglect shall also include allowing an animal to live in unsanitary conditions, such as keeping an animal where the animal’s own excrement is not removed from the animal’s living area and/or other living conditions which are injurious to the animal’s health.
- (6) “Cruelty to animals” includes mistreatment of any animal or neglect of any animal under the care and control of the neglecter, whereby unnecessary or unjustifiable physical pain or suffering is caused. By way of example this includes: Unjustifiable beating of an animal; overworking an animal; tormenting an animal; abandonment of an animal; tethering of dog for 18 hours or more in any 24-hour period, except on land owned or leased by the dog’s owner that is not less than 10 acres; tethering any dog for any amount of time if the dog is under 4 months of age or is a nursing mother while the offspring are present, except on land owned or leased by the dog’s owner that is not less than 10 acres; and failure to feed properly or give proper shelter or veterinary care to an animal.
- (7) “Custody” includes the responsibility for the welfare of an animal subject to one’s care and control whether one owns it or not. A person who provides sterilization or care to a free-roaming cat that lacks discernible owner identification is not deemed to have “custody,” “care,” or “control” of the cat for the purposes of this section.
- (8) “Person” includes any individual, partnership, corporation or association living and/or doing business in the State.
- (9) “Proper feed” includes providing each animal with daily food and water of sufficient quality and quantity to prevent unnecessary or unjustifiable physical pain or suffering by the animal.
- (10) “Proper shelter” includes providing each animal with adequate shelter from the weather elements as required to prevent unnecessary or unjustifiable physical

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- pain or suffering by the animal.
- (11) “Proper veterinary care” includes providing each animal with veterinary care sufficient to prevent unnecessary or unjustifiable physical pain or suffering by the animal.
  - (12) “Serious injury” shall include any injury to any animal which creates a substantial risk of death, or which causes prolonged impairment of health or prolonged loss or impairment of the function of any bodily organ.
  - (13) “Tethering” shall include fastening or restraining with a rope, chain, cord, or similar device creating a fixed radius; tethering does not include walking a dog on a leash, regardless of the dog’s age.
- (b) A person is guilty of cruelty to animals when the person intentionally or recklessly:
- (1) Subjects any animal to cruel mistreatment; or
  - (2) Subjects any animal in the person’s custody to cruel neglect; or
  - (3) Kills or injures any animal belonging to another person without legal privilege or consent of the owner; or
  - (4) Cruelly or unnecessarily kills or injures any animal. This section does not apply to the killing of any animal normally or commonly raised as food for human consumption, provided that such killing is not cruel. A person acts unnecessarily if the act is not required to terminate an animal’s suffering, to protect the life or property of the actor or another person or if other means of disposing of an animal exist which would not impair the health or well-being of that animal; or
  - (5) Captures, detains, transports, removes or delivers any animal known to be a pet or owned or unowned companion animal, or any other animal of scientific, environmental, economic or cultural value, under false pretenses to any public or private animal shelter, veterinary clinic or other facility, or otherwise causes the same through acts of deception or misrepresentation of the circumstances and disposition of any such animal; or
  - (6) Confines an animal unattended in a standing or parked motor vehicle in which the temperature is either so high or so low as to endanger the health or safety of the animal. A law-enforcement officer, animal control officer, animal cruelty investigator, or firefighter who has probable cause to believe that an animal is confined in a motor vehicle under conditions that are likely to cause suffering, injury, or death to the animal may use reasonable force to remove the animal left in the vehicle in violation of this provision. A person removing an animal under this section shall use reasonable means to contact the owner. If the person is unable to contact the owner, the person may take the animal to an animal shelter and must leave written notice bearing his or her name and office, and the address of the location where the animal can be claimed. This provision shall not apply to the legal transportation of horses, cattle, swine, sheep, poultry, or other agricultural animals in motor vehicles designed to transport such animals. The owner of the vehicle from which the animal is rescued and the owner of the animal rescued are not liable for injuries suffered by the person rescuing the animal.



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Paragraphs (b)(1), (2) and (4) of this section are inapplicable to accepted veterinary practices and activities carried on for scientific research.

Cruelty to animals is a class A misdemeanor, unless the person intentionally kills or causes serious injury to any animal in violation of paragraph (b)(4) of this section or unless the animal is killed or seriously injured as a result of any action prohibited by paragraph (b)(5) of this section, in which case it is a class F felony.

- (c) Any person convicted of a misdemeanor violation of this section shall be prohibited from owning or possessing any animal for 5 years after said conviction, except for animals grown, raised or produced within the State for resale, or for sale of a product thereof, where the person has all necessary licenses for such sale or resale, and receives at least 25 percent of the person's annual gross income from such sale or resale. Any person convicted of a second or subsequent misdemeanor violation of this section shall be prohibited from owning or possessing any animal for 5 years after said conviction without exception.

A violation of this subsection is subject to a fine in the amount of \$ 1,000 in any court of competent jurisdiction and to forfeiture of any animal illegally owned in accordance with the provisions of § 3035F of Title 16.

- (d) Any person convicted of a felony violation of this section shall be prohibited from owning or possessing any animal for 15 years after said conviction, except for animals grown, raised or produced within the State for resale, or for sale of a product thereof, where the person has all necessary licenses for such sale or resale, and receives at least 25 percent of the person's annual gross income from such sale or resale. Any person convicted of a second or subsequent felony violation of this section shall be prohibited from owning or possessing any animal for 15 years after said conviction without exception.

A violation of this subsection is subject to a fine in the amount of \$ 5,000 in any court of competent jurisdiction and to forfeiture of any animal illegally owned in accordance with the provisions of § 3035F of Title 16.

- (e) Any trained and certified animal welfare officer of the Department of Health and Social Service's Office of Animal Welfare or the Department of Agriculture may impound an animal owned or possessed in apparent violation of this section, consistent with § 3035F of Title 16.
- (f) This section shall not apply to the lawful hunting or trapping of animals as provided by law.
- (g) Notwithstanding any provision to the contrary, for a first offense misdemeanor violation of this section relating to animals left in motor vehicles or the tethering of dogs, a warning shall be issued.
- (h) Exclusive jurisdiction of offenses under this section relating to animals left in motor vehicles or the tethering of dogs shall be in the Superior Court.

**ANIMAL PROTECTION LAWS OF DELAWARE****2. GENERAL CRUELTY****DEL. CODE ANN. tit. 11, § 1325. Cruelty to animals; class A misdemeanor; class F felony.**

- (a) *For the purpose of this section, the following words and phrases shall include, but not be limited to, the meanings respectively ascribed to them as follows:*
- (1) *“Abandonment” includes completely forsaking or deserting an animal originally under one’s custody without making reasonable arrangements for custody of that animal to be assumed by another person.*
  - (2) *“Animal” shall not include fish, crustacea or molluska.*
  - (3) *“Cruel” includes every act or omission to act whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted.*
  - (4) *“Cruel mistreatment” includes any treatment whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted.*
  - (5) *“Cruel neglect” includes neglect of an animal, which is under the care and control of the neglecter, whereby pain or suffering is caused to the animal or abandonment of any domesticated animal by its owner or custodian. By way of example, cruel neglect shall also include allowing an animal to live in unsanitary conditions, such as keeping an animal where the animal’s own excrement is not removed from the animal’s living area and/or other living conditions which are injurious to the animal’s health.*
  - (6) *“Cruelty to animals” includes mistreatment of any animal or neglect of any animal under the care and control of the neglecter, whereby unnecessary or unjustifiable physical pain or suffering is caused. By way of example this includes: Unjustifiable beating of an animal; overworking an animal; tormenting an animal; abandonment of an animal; tethering of dog for 18 hours or more in any 24-hour period, except on land owned or leased by the dog’s owner that is not less than 10 acres; tethering any dog for any amount of time if the dog is under 4 months of age or is a nursing mother while the offspring are present, except on land owned or leased by the dog’s owner that is not less than 10 acres; and failure to feed properly or give proper shelter or veterinary care to an animal.*
  - (7) *“Custody” includes the responsibility for the welfare of an animal subject to one’s care and control whether one owns it or not. A person who provides sterilization or care to a free-roaming cat that lacks discernible owner identification is not deemed to have “custody,” “care,” or “control” of the cat for the purposes of this section.*
  - (8) *“Person” includes any individual, partnership, corporation or association living and/or doing business in the State.*
  - (9) *“Proper feed” includes providing each animal with daily food and water of sufficient quality and quantity to prevent unnecessary or unjustifiable physical pain or suffering by the animal.*
  - (10) *“Proper shelter” includes providing each animal with adequate shelter from the weather elements as required to prevent unnecessary or unjustifiable physical*

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*pain or suffering by the animal.*

- (11) *“Proper veterinary care” includes providing each animal with veterinary care sufficient to prevent unnecessary or unjustifiable physical pain or suffering by the animal.*
  - (12) *“Serious injury” shall include any injury to any animal which creates a substantial risk of death, or which causes prolonged impairment of health or prolonged loss or impairment of the function of any bodily organ.*
  - (13) *“Tethering” shall include fastening or restraining with a rope, chain, cord, or similar device creating a fixed radius; tethering does not include walking a dog on a leash, regardless of the dog’s age.*
- (b) *A person is guilty of cruelty to animals when the person intentionally or recklessly:*
- (1) *Subjects any animal to cruel mistreatment; or*
  - (2) *Subjects any animal in the person’s custody to cruel neglect; or*
  - (3) *Kills or injures any animal belonging to another person without legal privilege or consent of the owner; or*
  - (4) *Cruelly or unnecessarily kills or injures any animal. This section does not apply to the killing of any animal normally or commonly raised as food for human consumption, provided that such killing is not cruel. A person acts unnecessarily if the act is not required to terminate an animal’s suffering, to protect the life or property of the actor or another person or if other means of disposing of an animal exist which would not impair the health or well-being of that animal; or*
  - (5) *Captures, detains, transports, removes or delivers any animal known to be a pet or owned or unowned companion animal, or any other animal of scientific, environmental, economic or cultural value, under false pretenses to any public or private animal shelter, veterinary clinic or other facility, or otherwise causes the same through acts of deception or misrepresentation of the circumstances and disposition of any such animal; or*
  - (6) *Confines an animal unattended in a standing or parked motor vehicle in which the temperature is either so high or so low as to endanger the health or safety of the animal. A law-enforcement officer, animal control officer, animal cruelty investigator, or firefighter who has probable cause to believe that an animal is confined in a motor vehicle under conditions that are likely to cause suffering, injury, or death to the animal may use reasonable force to remove the animal left in the vehicle in violation of this provision. A person removing an animal under this section shall use reasonable means to contact the owner. If the person is unable to contact the owner, the person may take the animal to an animal shelter and must leave written notice bearing his or her name and office, and the address of the location where the animal can be claimed. This provision shall not apply to the legal transportation of horses, cattle, swine, sheep, poultry, or other agricultural animals in motor vehicles designed to transport such animals. The owner of the vehicle from which the animal is rescued and the owner of the animal rescued are not liable for injuries suffered by the person rescuing the animal.*

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Paragraphs (b)(1), (2) and (4) of this section are inapplicable to accepted veterinary practices and activities carried on for scientific research.

*Cruelty to animals is a class A misdemeanor, unless the person intentionally kills or causes serious injury to any animal in violation of paragraph (b)(4) of this section or unless the animal is killed or seriously injured as a result of any action prohibited by paragraph (b)(5) of this section, in which case it is a class F felony.*

- (c) Any person convicted of a misdemeanor violation of this section shall be prohibited from owning or possessing any animal for 5 years after said conviction, except for animals grown, raised or produced within the State for resale, or for sale of a product thereof, where the person has all necessary licenses for such sale or resale, and receives at least 25 percent of the person's annual gross income from such sale or resale. Any person convicted of a second or subsequent misdemeanor violation of this section shall be prohibited from owning or possessing any animal for 5 years after said conviction without exception.

A violation of this subsection is subject to a fine in the amount of \$ 1,000 in any court of competent jurisdiction and to forfeiture of any animal illegally owned in accordance with the provisions of § 3035F of Title 16.

- (d) Any person convicted of a felony violation of this section shall be prohibited from owning or possessing any animal for 15 years after said conviction, except for animals grown, raised or produced within the State for resale, or for sale of a product thereof, where the person has all necessary licenses for such sale or resale, and receives at least 25 percent of the person's annual gross income from such sale or resale. Any person convicted of a second or subsequent felony violation of this section shall be prohibited from owning or possessing any animal for 15 years after said conviction without exception.

A violation of this subsection is subject to a fine in the amount of \$ 5,000 in any court of competent jurisdiction and to forfeiture of any animal illegally owned in accordance with the provisions of § 3035F of Title 16.

- (e) Any trained and certified animal welfare officer of the Department of Health and Social Service's Office of Animal Welfare or the Department of Agriculture may impound an animal owned or possessed in apparent violation of this section, consistent with § 3035F of Title 16.
- (f) This section shall not apply to the lawful hunting or trapping of animals as provided by law.
- (g) Notwithstanding any provision to the contrary, for a first offense misdemeanor violation of this section relating to animals left in motor vehicles or the tethering of dogs, a warning shall be issued.
- (h) Exclusive jurisdiction of offenses under this section relating to animals left in motor vehicles or the tethering of dogs shall be in the Superior Court.

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### DEL. CODE ANN. tit. 11, § 1250. Offenses against law-enforcement animals.

- (a) Harassment of law-enforcement animals.
  - (1) *A person is guilty of harassment of a law-enforcement animal when such person intentionally harasses, taunts, menaces, challenges or alarms a law-enforcement animal in such a manner as is likely to provoke from such animal a violent, defensive or threatening response, such as lunging, baring of teeth, kicking, spinning or jumping, if such response from the animal causes alarm, distress, fear or risk of injury to any person or to the animal.*
  - (2) Harassment of a law-enforcement animal is an unclassified misdemeanor.
- (b) Assault in the second degree against a law-enforcement animal.
  - (1) *A person is guilty of assault in the second degree against a law-enforcement animal when such person intentionally or recklessly engages in conduct which creates a substantial risk of physical injury or death to a law-enforcement animal, including, but not limited to, beating, poisoning or torturing such animal.*
  - (2) Assault in the second degree against a law-enforcement animal is a class A misdemeanor.
- (c) Assault in the first degree against a law-enforcement animal.
  - (1) *A person is guilty of assault in the first degree against a law-enforcement animal when such person intentionally or recklessly causes serious physical injury or death to such law-enforcement animal.*
  - (2) Assault in the first degree against a law-enforcement animal is a class D felony.
- (d) "Law-enforcement animal" defined. For purposes of this section, the words "law-enforcement animal" shall mean any animal, including, but not limited to, canines, K-9 dogs and horses utilized by any law-enforcement officer, including any corrections officer, in the performance of such officer's duties.

### DEL. CODE ANN. tit. 16, § 3056F. Unauthorized acts against a service dog; penalties

- (a) For the purposes of this section, "service dog" means any guide dog, signal dog, or other animal individually trained to do work or perform tasks for the benefit of an individual with a disability, including guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.
- (b) *No person shall intentionally interfere with the use of a service dog by obstructing, intimidating, or otherwise jeopardizing the safety of the user or animal. Whoever violates this subsection shall be guilty of a class B misdemeanor.*
- (c) No person shall intentionally injure or disable a service dog that is being used by its owner or the officer teamed with the dog. Whoever violates this subsection shall be guilty of a class A misdemeanor.
- (d) No person shall intentionally kill a service dog owned by a private person or agency. Whoever violates this subsection shall be guilty of a class D felony. This subsection,

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however, does not apply to a law-enforcement officer as defined by § 222 of Title 11 who is forced to take such action pursuant to the lawful performance of the officer's duties.

- (e) No person shall intentionally steal, take, or wrongfully obtain a service dog owned by a private person or agency. Whoever violates this subsection shall be guilty of a class E felony.
- (f) In any case where a person is convicted under subsection (b), (c), (d) or (e) of this section, that person shall also be ordered to make full restitution for all damages, including incidental and consequential expenses incurred by the service, guide, or seeing eye dog owner and the dog which arise out of or are related to the criminal offense.

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### 3. EXEMPTIONS

#### DEL. CODE ANN. tit. 11, § 1325. Cruelty to animals; class A misdemeanor; class F felony.

- (a) For the purpose of this section, the following words and phrases shall include, but not be limited to, the meanings respectively ascribed to them as follows:
- (1) “Abandonment” includes completely forsaking or deserting an animal originally under one’s custody without making reasonable arrangements for custody of that animal to be assumed by another person.
  - (2) “Animal” shall not include fish, crustacea or molluska.
  - (3) “Cruel” includes every act or omission to act whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted.
  - (4) “Cruel mistreatment” includes any treatment whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted.
  - (5) “Cruel neglect” includes neglect of an animal, which is under the care and control of the neglecter, whereby pain or suffering is caused to the animal or abandonment of any domesticated animal by its owner or custodian. By way of example, cruel neglect shall also include allowing an animal to live in unsanitary conditions, such as keeping an animal where the animal’s own excrement is not removed from the animal’s living area and/or other living conditions which are injurious to the animal’s health.
  - (6) “Cruelty to animals” includes mistreatment of any animal or neglect of any animal under the care and control of the neglecter, whereby unnecessary or unjustifiable physical pain or suffering is caused. By way of example this includes: Unjustifiable beating of an animal; overworking an animal; tormenting an animal; abandonment of an animal; tethering of dog for 18 hours or more in any 24-hour period, except on land owned or leased by the dog’s owner that is not less than 10 acres; tethering any dog for any amount of time if the dog is under 4 months of age or is a nursing mother while the offspring are present, except on land owned or leased by the dog’s owner that is not less than 10 acres; and failure to feed properly or give proper shelter or veterinary care to an animal.
  - (7) “Custody” includes the responsibility for the welfare of an animal subject to one’s care and control whether one owns it or not. A person who provides sterilization or care to a free-roaming cat that lacks discernible owner identification is not deemed to have “custody,” “care,” or “control” of the cat for the purposes of this section.
  - (8) “Person” includes any individual, partnership, corporation or association living and/or doing business in the State.
  - (9) “Proper feed” includes providing each animal with daily food and water of sufficient quality and quantity to prevent unnecessary or unjustifiable physical pain or suffering by the animal.
  - (10) “Proper shelter” includes providing each animal with adequate shelter from the weather elements as required to prevent unnecessary or unjustifiable physical

## ANIMAL PROTECTION LAWS OF DELAWARE

- pain or suffering by the animal.
- (11) “Proper veterinary care” includes providing each animal with veterinary care sufficient to prevent unnecessary or unjustifiable physical pain or suffering by the animal.
  - (12) “Serious injury” shall include any injury to any animal which creates a substantial risk of death, or which causes prolonged impairment of health or prolonged loss or impairment of the function of any bodily organ.
  - (13) “Tethering” shall include fastening or restraining with a rope, chain, cord, or similar device creating a fixed radius; tethering does not include walking a dog on a leash, regardless of the dog’s age.
- (b) A person is guilty of cruelty to animals when the person intentionally or recklessly:
- (1) Subjects any animal to cruel mistreatment; or
  - (2) Subjects any animal in the person’s custody to cruel neglect; or
  - (3) Kills or injures any animal belonging to another person without legal privilege or consent of the owner; or
  - (4) Cruelly or unnecessarily kills or injures any. *This section does not apply to the killing of any animal normally or commonly raised as food for human consumption, provided that such killing is not cruel. A person acts unnecessarily if the act is not required to terminate an animal’s suffering, to protect the life or property of the actor or another person or if other means of disposing of an animal exist which would not impair the health or well-being of that animal;* or
  - (5) Captures, detains, transports, removes or delivers any animal known to be a pet or owned or unowned companion animal, or any other animal of scientific, environmental, economic or cultural value, under false pretenses to any public or private animal shelter, veterinary clinic or other facility, or otherwise causes the same through acts of deception or misrepresentation of the circumstances and disposition of any such animal; or
  - (6) Confines an animal unattended in a standing or parked motor vehicle in which the temperature is either so high or so low as to endanger the health or safety of the animal. A law-enforcement officer, animal control officer, animal cruelty investigator, or firefighter who has probable cause to believe that an animal is confined in a motor vehicle under conditions that are likely to cause suffering, injury, or death to the animal may use reasonable force to remove the animal left in the vehicle in violation of this provision. A person removing an animal under this section shall use reasonable means to contact the owner. If the person is unable to contact the owner, the person may take the animal to an animal shelter and must leave written notice bearing his or her name and office, and the address of the location where the animal can be claimed. This provision shall not apply to the legal transportation of horses, cattle, swine, sheep, poultry, or other agricultural animals in motor vehicles designed to transport such animals. The owner of the vehicle from which the animal is rescued and the owner of the animal rescued are not liable for injuries suffered by the person rescuing the animal.



## ANIMAL PROTECTION LAWS OF DELAWARE

*Paragraphs (b)(1), (2) and (4) of this section are inapplicable to accepted veterinary practices and activities carried on for scientific research.*

Cruelty to animals is a class A misdemeanor, unless the person intentionally kills or causes serious injury to any animal in violation of paragraph (b)(4) of this section or unless the animal is killed or seriously injured as a result of any action prohibited by paragraph (b)(5) of this section, in which case it is a class F felony.

- (c) Any person convicted of a misdemeanor violation of this section shall be prohibited from owning or possessing any animal for 5 years after said conviction, except for animals grown, raised or produced within the State for resale, or for sale of a product thereof, where the person has all necessary licenses for such sale or resale, and receives at least 25 percent of the person's annual gross income from such sale or resale. Any person convicted of a second or subsequent misdemeanor violation of this section shall be prohibited from owning or possessing any animal for 5 years after said conviction without exception.

A violation of this subsection is subject to a fine in the amount of \$ 1,000 in any court of competent jurisdiction and to forfeiture of any animal illegally owned in accordance with the provisions of § 3035F of Title 16.

- (d) Any person convicted of a felony violation of this section shall be prohibited from owning or possessing any animal for 15 years after said conviction, except for animals grown, raised or produced within the State for resale, or for sale of a product thereof, where the person has all necessary licenses for such sale or resale, and receives at least 25 percent of the person's annual gross income from such sale or resale. Any person convicted of a second or subsequent felony violation of this section shall be prohibited from owning or possessing any animal for 15 years after said conviction without exception.

A violation of this subsection is subject to a fine in the amount of \$ 5,000 in any court of competent jurisdiction and to forfeiture of any animal illegally owned in accordance with the provisions of § 3035F of Title 16.

- (e) Any trained and certified animal welfare officer of the Department of Health and Social Service's Office of Animal Welfare or the Department of Agriculture may impound an animal owned or possessed in apparent violation of this section, consistent with § 3035F of Title 16.
- (f) *This section shall not apply to the lawful hunting or trapping of animals as provided by law.*
- (g) Notwithstanding any provision to the contrary, for a first offense misdemeanor violation of this section relating to animals left in motor vehicles or the tethering of dogs, a warning shall be issued.
- (h) Exclusive jurisdiction of offenses under this section relating to animals left in motor vehicles or the tethering of dogs shall be in the Superior Court.

## ANIMAL PROTECTION LAWS OF DELAWARE

### 4. FIGHTING AND RACKETEERING

**NOTE:** statutes concerning forfeiture of animals used in fighting can be found in the [Forfeiture & Possession Bans](#) section of this document.

**DEL. CODE ANN. tit. 11, § 1326. Animals; fighting and baiting prohibited; class E felony.**

- (a) *A person who owns, possesses, keeps, trains, or uses a bull, bear, dog, cock, or other animal or fowl for the purpose of fighting or baiting; or a person who is a party to or who causes the fighting or baiting of a bull, bear, dog, cock, or other animal or fowl; or a person who rents or otherwise obtains the use of a building, shed, room, yard, ground, or premises for the purpose of fighting or baiting an animal or fowl; or a person who knowingly suffers or permits the use of a building, shed, room, yard, ground, or premises belonging to the person, or that is under the person's control, for any of the purposes described in this section, is guilty of a class E felony.*
- (b) *A person who is present at a building, shed, room, yard, ground, or premises where preparations are being made for an exhibition prohibited by subsection (a) of this section, and who knows that the exhibition is taking place or is about to take place, is guilty of a class F felony.*
- (c) *A person who gambles on the outcome of an exhibition prohibited by subsection (a) of this section is guilty of a class F felony.*
- (d) *All animals, equipment, devices, and money involved in a violation of this section must be forfeited to the State. Animals so forfeited must be evaluated by a duly incorporated society for the prevention of cruelty to animals, an authorized state agency, or a duly incorporated humane society in charge of animals for eligibility for adoption. After evaluation, animals may also be transferred to a rescue organization. Animals forfeited may be adopted to individuals other than the convicted person or person dwelling in the same household, who conspired, aided or abetted in the unlawful act which was the basis of the conviction, or who knew or should have known of the unlawful act, or humanely disposed of according to the provisions of subchapter I of Chapter 30F of Title 16.*
- (e) *Prosecution for any offense under this section may not be commenced after five (5) years from the commission of the offense.*
- (f) *A person convicted of a violation of this section is prohibited from owning or possessing any animal or fowl for 15 years after conviction.*
- (g) *A fine issued as a result of a violation of this section may not be suspended.*
- (h) *In addition to the penalties provided under this section, the court may require a person convicted of violating this section to attend and participate in an appropriate treatment program or to obtain appropriate psychiatric or psychological counseling, or both. The court may impose the costs of any treatment program or counseling upon the person convicted.*

## ANIMAL PROTECTION LAWS OF DELAWARE

### DEL. CODE ANN. tit. 11, § 1502. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1)
  - a. "Beneficial interest" shall include any of the following:
    1. The interests of a person as a beneficiary under any trust arrangement under which a trustee holds legal or record title to personal or real property; or
    2. The interests of a person, under any other form of express fiduciary arrangement, pursuant to which any other person holds legal or record title to personal or real property for the benefit of such person.
  - b. The term "beneficial interest" shall not include the interest of a stockholder in a corporation, or the interest of a partner in either a general partnership or a limited partnership.
- (2) "Documentary materials" shall mean any book, paper, document, writing, drawing, graph, chart, photograph, phonorecord, magnetic tape, computer printout, and any data compilation from which information can be obtained or from which information can be translated into useable form, or other tangible item.
- (3) "Enterprise" shall include any individual, sole proprietorship, partnership, corporation, trust or other legal entity; and any union, association or group of persons associated in fact, although not a legal entity. The word "enterprise" shall include illicit as well as licit enterprises, and governmental as well as other entities.
- (4) "Foreign corporation" shall have the same definition as is set forth in § 371 of Title 8.
- (5) "Pattern of racketeering activity" shall mean 2 or more incidents of conduct:
  - a. That:
    1. Constitute racketeering activity;
    2. Are related to the affairs of the enterprise;
    3. Are not so closely related to each other and connected in point of time and place that they constitute a single event; and
  - b. Where:
    1. At least 1 of the incidents of conduct occurred after July 9, 1986;
    2. The last incident of conduct occurred within 10 years after a prior occasion of conduct; and
    3. As to criminal charges, but not as to civil proceedings, at least 1 of the incidents of conduct constituted a felony under the Delaware Criminal Code, or if committed subject to the jurisdiction of the United States or any state of the United States, would constitute a felony under the Delaware Criminal Code if committed in the State.
- (6) "Pecuniary value" shall mean:
  - a. Anything of value in the form of money, a negotiable instrument, a commercial interest or anything else which constitutes an economic advantage; or
  - b. Any other property or service that has a value in excess of \$ 100.

## ANIMAL PROTECTION LAWS OF DELAWARE

- (7) "Personal property" shall include any personal property or any interest in such personal property, or any right, including bank accounts, debts, corporate stocks, patents or copyrights. An item of personal property or a beneficial interest in personal property shall be deemed to be located where the trustee is, where the personal property is or where the instrument evidencing the right is.
- (8) "Principal" shall mean a person who engages in conduct constituting a violation, or one who is legally accountable for the unlawful conduct of another person or entity.
- (9) "*Racketeering*" shall mean to engage in, to attempt to engage in, to conspire to engage in or to solicit, coerce or intimidate another person to engage in:
- a. Any activity defined as "racketeering activity" under 18 U.S.C. § 1961(1)(A), (1)(B), (1)(C) or (1)(D); or
  - b. Any activity constituting any felony which is chargeable under the Delaware Code or any activity constituting a misdemeanor under the following provisions of the Delaware Code:
    1. Chapter 53 of Title 30 relating to evasion of payment of cigarette taxes;
    2. Chapter 73 of Title 6 relating to the sale of securities;
    3. Chapter 5 of Title 11 relating to prostitution;
    4. Chapter 5 of Title 11 and Title 6 relating to forgery and counterfeiting;
    5. Chapter 5 of Title 11 relating to perjury;
    6. Chapter 5 of Title 11 and Title 28 relating to bribery and misuse of public office and improper influence;
    7. Chapter 5 of Title 11 relating to obscenity;
    8. Chapter 5 of Title 11 and Title 28 relating to gambling;
    9. Title 11 and Title 16 relating to drug abuse, prevention and control;
    10. Chapter 5 of Title 11 relating to tampering with jurors, evidence and witnesses;
    11. Chapter 51 of Title 30 relating to motor fuel tax offenses;
    12. Chapter 5 of Title 11 relating to human trafficking; or
    13. *Chapter 5 of Title 11 relating to animal fighting and baiting;*
- (10) "Real property" shall mean any real property situated in this State or any interest in such real property, including, but not limited to, any lease of or mortgage upon such real property.
- (11)
- a. "Trustee" shall include:
    1. Any person acting as trustee under a trust in which the trustee holds legal or record title to personal or real property; or
    2. Any person who holds legal or record title to personal or real property, for which any other person has a beneficial interest; or
    3. Any successor trustee.
  - b. The term "trustee" shall not include an assignee or trustee for an insolvent debtor, nor an executor, administrator, administrator with will annexed, testamentary trustee, conservator, guardian or committee appointed by, under the control of, or accountable to, a court.

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**ANIMAL PROTECTION LAWS OF DELAWARE**

- (12) "Unlawful debt" shall mean a debt incurred or contracted in an illegal gambling activity or business; or a debt which is unenforceable under state law, in whole or in part, as to either principal or interest.

**DEL. CODE ANN. tit. 11, § 1503. Violations.**

- (a) It shall be unlawful for any person employed by, or associated with, any enterprise to conduct or participate in the conduct of the affairs of the enterprise through a pattern of racketeering activity or collection of an unlawful debt.
- (b) It is unlawful for any person, through a pattern of racketeering activity or proceeds derived therefrom, to acquire or maintain, directly or indirectly, any interest in or control of any enterprise, real property or personal property, of any nature, including money.
- (c) It is unlawful for any person who has received any proceeds derived, directly or indirectly, from a pattern of racketeering activity in which such person has participated, to use or invest, directly or indirectly, any part of such proceeds or any proceeds derived from the investment or use thereof, in the acquisition of any interest in, or the establishment or operation of, any enterprise or real property.
- (d) It is unlawful for any person to conspire or attempt to violate any of the provisions of subsection (a), (b) or (c) of this section.

## ANIMAL PROTECTION LAWS OF DELAWARE

### 5. SEXUAL ASSAULT

#### DEL. CODE ANN. tit. 11, § 775. Bestiality.

*A person is guilty of bestiality when the person intentionally engages in any sexual act involving sexual contact, penetration or intercourse with the genitalia of an animal or intentionally causes another person to engage in any such sexual act with an animal for purposes of sexual gratification.*

*Bestiality is a class D felony.*

#### DEL. CODE ANN. tit. 11, § 4121. Community notification of sex offenders on probation, parole, conditional release or release from confinement.

**Editor's note:** Unrelated statutory text has been omitted.

(a) When used in this subchapter:

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- (4) "Sex offender" means any person who is, or has been:
- a. Convicted of any of the offenses specified in §§ 765 through 780, § 787(b)(3)-(4), § 1100A, §§ 1108 through 1112B, § 1335(a)(6), § 1335(a)(7), § 1352(2), § 1353(2) or § 1361(b) of this title, or of any attempt or conspiracy to commit any of the aforementioned offenses; or
  - b. Any juvenile who is adjudicated delinquent of any offense which would constitute any of the offenses set forth in paragraph (a)(4)a. of this section if that juvenile delinquent had been charged as an adult; or
  - c. Convicted or adjudicated delinquent of any offense specified in the laws of another state, commonwealth, territory, or other jurisdiction of the United States requiring registration in that jurisdiction, or a conviction or adjudication in any foreign government, which is the same as, or equivalent to, any of the offenses set forth in paragraph (a)(4)a., (a)(4)b. or (a)(4)d. of this section; or convicted of any federal or military offense enumerated in 42 U.S.C. § 16911(5)(A)(iii) and (iv); or
  - d. Convicted or adjudicated delinquent of a violation of § 783(4) or § 783(6) or § 783A(4) or § 783A(6) of this title; or
  - e. Charged by complaint, petition, information or indictment with any of the offenses set forth in paragraph (a)(4)a., (a)(4)b., (a)(4)c. or (a)(4)d. of this section, and who thereafter pleads guilty to any offense included in the originally charged offense, as provided in § 206 of this title, if the person is thereafter designated as a sex offender by the sentencing judge pursuant to subsection (c) of this section; or

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## ANIMAL PROTECTION LAWS OF DELAWARE

- f. Convicted or adjudicated delinquent of any of the offenses set forth in paragraph (a)(4)a., (a)(4)b., (a)(4)c. or (a)(4)d. of this section, or of any offense which is the same as or equivalent to such offenses as the same existed and were defined under the laws of this State existing at the time of such conviction; or
- g. Any person convicted after June 27, 1994, of a violation of § 764 of this title if the person had previously been convicted of the same offense or any other offense set forth in this paragraph, and the previous conviction occurred within 5 years of the date of the conviction for the current offense.

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## ANIMAL PROTECTION LAWS OF DELAWARE

### 6. MAXIMUM PENALTIES & STATUTES OF LIMITATIONS

**NOTE:** some penalties defined in substantive statutes, available in the [General Cruelty](#) section of this document.

#### Del. Code Ann. Tit. 11, § 205(b). Statutes of Limitations.

**NOTE:** Unrelated statutory text has been omitted.

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(b) Except as otherwise provided in this section, prosecutions for other offenses are subject to the following periods of limitation:

- (1) A prosecution for any felony except murder or any class A felony, or any attempt to commit said crimes, must be commenced within 5 years after it is committed;
- (2) *A prosecution for a class A misdemeanor must be commenced within 3 years after it is committed;*
- (3) *A prosecution for a class B misdemeanor, a class C misdemeanor, an unclassified misdemeanor or a violation must be commenced within 2 years after it is committed.*

#### DEL. CODE ANN. tit. 11, § 4205. Sentence for felonies.

- (a) *A sentence of incarceration for a felony shall be a definite sentence.*
- (b) *The term of incarceration which the court may impose for a felony is fixed as follows:*
  - (1) For a class A felony not less than 15 years up to life imprisonment to be served at Level V except for conviction of first-degree murder in which event § 4209 of this title shall apply.
  - (2) For a class B felony not less than 2 years up to 25 years to be served at Level V.
  - (3) For a class C felony up to 15 years to be served at Level V.
  - (4) *For a class D felony up to 8 years to be served at Level V.*
  - (5) *For a class E felony up to 5 years to be served at Level V.*
  - (6) *For a class F felony up to 3 years to be served at Level V.*
  - (7) For a class G felony up to 2 years to be served at Level V.
- (c) *In the case of the conviction of any felony, the court shall impose a sentence of Level V incarceration where a minimum sentence is required by subsection (b) of this section and may impose a sentence of Level V incarceration up to the maximum stated in subsection (b) of this section for each class of felony.*
- (d) *Where a minimum, mandatory, mandatory minimum or minimum mandatory sentence is required by subsection (b) of this section, such sentence shall not be subject to suspension by the court.*
- (e) *Where no minimum sentence is required by subsection (b) of this section, or with regard to any sentence in excess of the minimum required sentence, the court may suspend that*



## ANIMAL PROTECTION LAWS OF DELAWARE

*part of the sentence for probation or any other punishment set forth in § 4204 of this title.*

- (f) *Any term of Level V incarceration imposed under this section must be served in its entirety at Level V, reduced only for earned “good time” as set forth in § 4381 of this title.*
- (g) *No term of Level V incarceration imposed under this section shall be served in other than a full custodial Level V institutional setting unless such term is suspended by the court for such other level sanction.*
- (h) *The Department of Corrections, the remainder of this section notwithstanding, may house Level V inmates at a Level IV work release center or halfway house during the last 180 days of their sentence; provided, however, that the first 5 days of any sentence to Level V, not suspended by the court, must be served at Level V.*
- (i) *The Department of Corrections, the remainder of this section notwithstanding, may grant Level V inmates 48-hour furloughs during the last 120 days of their sentence to assist in their adjustment to the community.*
- (j) *No sentence to Level V incarceration imposed pursuant to this section is subject to parole.*
- (k) *In addition to the penalties set forth above, the court may impose such fines and penalties as it deems appropriate.*
- (l) *In all sentences for less than 1 year the Court may order that more than 5 days be served in Level V custodial setting before the Department may place the offender in Level IV custody.*

### **DEL. CODE ANN. tit. 11, § 4206. Sentence for misdemeanors.**

- (a) *The sentence for a class A misdemeanor may include up to 1 year incarceration at Level V and such fine up to \$2,300, restitution or other conditions as the court deems appropriate.*
- (b) *The sentence for a class B misdemeanor may include up to 6 months incarceration at Level V and such fine up to \$1,150, restitution or other conditions as the court deems appropriate.*
- (c) *The sentence for an unclassified misdemeanor shall be a definite sentence fixed by the court in accordance with the sentence specified in the law defining the offense. If no sentence is specified in such law, the sentence may include up to 30 days incarceration at Level V and such fine up to \$575, restitution or other conditions as the court deems appropriate. Notwithstanding the foregoing, in any municipality with a population greater than 50,000 people, any offense under the building, housing, health or sanitation code which is classified therein as a misdemeanor, the sentence for any person convicted of such a misdemeanor offense shall include the following fines and may include restitution or such other conditions as the court deems appropriate:*
  - (1) *For the 1st conviction: no less than \$250, nor more than \$1,000;*
  - (2) *For the 2nd conviction for the same offense; no less than \$500, nor more than*

**ANIMAL PROTECTION LAWS OF DELAWARE**

\$2,500; and

- (3) For all subsequent convictions for the same offense: no less than \$1,000 nor more than \$5,000.
- (a) In any municipality with a population greater than 50,000 people, a conviction for a misdemeanor offense, which is defined as a “continuing” or “ongoing” violation, shall be considered a single conviction for the purposes of subdivisions (1)-(3) of this subsection. For all convictions subsequent to the 2nd, the minimum fines required herein shall not be suspended, but such amounts imposed over the minimum may be suspended or subject to such other conditions as the court deems appropriate. The provisions of this subsection relating to municipalities with a population greater than 50,000 people shall not apply to offenses or convictions involving single family residences that are occupied by an owner of the property.
- (d) *The court may suspend any sentence imposed under this section for probation or any of the other sanctions set forth in § 4204 of this title.*
- (e) *Any term of Level V incarceration imposed under this section must be served in its entirety at Level V, reduced only for earned “good time” as set forth in § 4381 of this title.*
- (f) *No term of Level V incarceration imposed under this section shall be served in other than a full custodial Level V institutional setting unless such term is suspended by the court for such other level sanction.*
- (g) *The Department of Corrections, the remainder of this section notwithstanding, may house Level V inmates at a Level IV work release center or halfway house during the last 180 days of their sentence; provided, however, that the first 5 days of any sentence to Level V, not suspended by the court, must be served at Level V.*
- (h) *The Department of Corrections, the remainder of this section notwithstanding, may grant Level V inmates 48-hour furloughs during the last 120 days of their sentence to assist in their adjustment to the community.*
- (i) Any sentence for issuing a worthless check pursuant to § 900 of this title shall require restitution to the person to whom the check was given. For the purposes of this subsection, restitution shall mean the amount for which the check was written plus a service fee of \$30 for processing a worthless check, or a fee of \$50 if more than 1 check by same person was processed.
- (j) *In all sentences for less than 1 year the court may order that more than 5 days be served in Level V custodial setting before the Department may place the offender in Level IV custody.*

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**ANIMAL PROTECTION LAWS OF DELAWARE**

**7. CROSS ENFORCEMENT & REPORTING**

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## ANIMAL PROTECTION LAWS OF DELAWARE

### 8. VETERINARY REPORTING & IMMUNITY

**NOTE:** 24 Del. Admin. Code 3300-3.0 mandates that veterinarians protect the privacy of their clients by not willfully revealing privileged communications, but exempts “the sharing of veterinary medical information between veterinarians and peace officers, humane society officers, or animal control officers who are acting to protect the welfare of individuals or animals.”

## ANIMAL PROTECTION LAWS OF DELAWARE

### 9. LAW ENFORCEMENT POLICIES

#### **DEL. CODE ANN. tit. 16, § 3031F. Powers, duties, and functions of law-enforcement officers of the Department of Health and Social Services and the Department of Agriculture.**

- (a) *The Office of Animal Welfare within the Department of Health and Social Services shall enforce all animal cruelty laws in the State of Delaware, except in cases of domestic agricultural animals specified in § 101(8) of Title 3, where enforcement authority shall be concurrent with the Department of Agriculture.*
- (b) *The Office of Animal Welfare within the Department of Health and Social Services shall enforce all dog control, dangerous dog and animal fighting laws, and laws concerning the maintenance of a dangerous animal in the State.*
- (c) *The Office of Animal Welfare is a law-enforcement agency for purposes of § 8901(b) of Title 11 and any other purpose relating to communication and access to criminal justice information.*
- (d) *Animal welfare officers of the Office of Animal Welfare or Department of Agriculture shall be trained and certified pursuant to § 122(3)bb. of this title.*
- (e) *Animal welfare officers of the Office of Animal Welfare shall have the power to investigate, search, seize, detain and arrest when investigating and enforcing animal cruelty and fighting, dog control, or dangerous animal laws.*
- (f) *The Department of Agriculture shall have the power to investigate, and search, and seize when investigating and enforcing animal cruelty laws.*
- (g) *Animal welfare officers of the Office of Animal Welfare and the Department of Agriculture shall have no police powers to investigate or enforce laws other than those related to animal cruelty or fighting, dog control, or dangerous animal laws.*
- (h) *Animal welfare officers of the Office of Animal Welfare or the Department of Agriculture shall not be permitted to carry firearms while on duty as such.*

#### **DEL. CODE ANN. tit. 16, § 3032F. Enforcement of laws for protection of animals.**

*The constables of the several counties of this State, and the police force of the City of Wilmington, as well as all other places in the State where police organizations exist, shall, as occasion requires, assist the Office of Animal Welfare and the Department of Agriculture in the enforcement of all laws which are enacted for the protection of animals.*

#### **DEL. CODE ANN. tit. 16, § 3034F. Service of process.**

*Any warrant, subpoena, summons, or other process issued in relation to animal cruelty and fighting, dog control, or dangerous animal laws may be directed to and executed by any trained and certified animal welfare officer of the Office of Animal Welfare.*

**ANIMAL PROTECTION LAWS OF DELAWARE****10. SEIZURE****DEL. CODE ANN. tit. 16, § 3035F. Impoundment.**

- (a) *Any trained and certified animal welfare officer working for the Office of Animal Welfare or the Department of Agriculture, or any law-enforcement officer as defined in § 222 of Title 11, may, in instances of alleged acts of animal cruelty or animal fighting and as provided for by the laws of Delaware relating to seizure of property, impound in an appropriate shelter, animal rescue or, if required, in an appropriate veterinarian facility, any animal subjected to cruel mistreatment or cruel neglect. Should the owner or custodian of an animal not be available at or near the premises where the animal is located, upon taking an animal under this section the agent shall leave in an appropriate place written notice to the animal's owner or custodian of such action. The officer shall take all reasonable action to insure that owners or custodians of an animal, impounded under this section, shall have received notice of such action as soon as possible and no later than 24 hours after the impoundment.*
- (b) An animal impounded under this section shall not remain in the custody of the State longer than 48 hours and shall be returned to its owner or custodian unless a complaint is filed within the 48-hour period in the appropriate court under the animal cruelty laws against the owner or custodian, except that upon good cause shown a court may permit a reasonable extension of the 48-hour period not to exceed 30 days. When a complaint is filed in the appropriate court, the impounded animal shall remain in the custody of the State pending the outcome of the action. If the owner or custodian is found to be in violation of the animal cruelty laws the court shall make a final determination as to the disposition of the animal. Should the complaint be withdrawn, prior to a court hearing, the animal shall be immediately made available to its owner or custodian.
- (c) Upon a determination that probable cause exists to believe that the animal cruelty or animal fighting laws have been violated by the owner or custodian of any impounded animal, the State or its agent shall have the right to recover the costs of holding and caring for any animal impounded under this section from the owner or custodian of the animal. Upon impoundment, the State shall submit a detailed billing to the owner or custodian of the animal, listing the monthly costs of boarding, evaluation, veterinary and other costs associated with care. Notwithstanding any provision of this section or any other law to the contrary, failure of the animal's owner or custodian to pay these costs within 30 days of delivery of a detailed monthly billing will result in ownership of the animal reverting to the State and the State may determine the final disposition of said animal. The provisions of this subsection shall be applicable notwithstanding the final disposition of the criminal charges.
- (d) An owner or custodian of an animal impounded under this section who is found guilty of cruelty to the animal, and the court orders the animal returned to such owner or custodian, shall, prior to taking the animal, reimburse the State or its agent its regular standard fees charged for the care of animals while in the State's custody plus any veterinary fees incurred for the animal during the period of impoundment. Failure of

## ANIMAL PROTECTION LAWS OF DELAWARE

the animal's owner or custodian to pay such fees within 5 days after a finding of guilty will result in ownership of the animal reverting to the State. The State may then dispose of the animal in accord with its procedures for such disposition.

- (e) Should an animal which has been impounded under this section expire while in the custody of the State, the animal shall, as soon as possible, be turned over to the State Veterinarian at the Department of Agriculture. The State Veterinarian shall take whatever action necessary, including necropsy if required, to determine cause of the animal's death and shall record such cause. The cause of death shall, if requested, be furnished to the animal's owner and to the court handling the complaint relative to the animal. Disposition of the animal's remains shall be coordinated with the animal's owner and, provided a complaint has been filed, with the court handling the complaint.

### DEL. CODE ANN. tit. 11, § 1325. Cruelty to animals; class A misdemeanor; class F felony.

- (a) For the purpose of this section, the following words and phrases shall include, but not be limited to, the meanings respectively ascribed to them as follows:
- (1) "Abandonment" includes completely forsaking or deserting an animal originally under one's custody without making reasonable arrangements for custody of that animal to be assumed by another person.
  - (2) "Animal" shall not include fish, crustacea or molluska.
  - (3) "Cruel" includes every act or omission to act whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted.
  - (4) "Cruel mistreatment" includes any treatment whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted.
  - (5) "Cruel neglect" includes neglect of an animal, which is under the care and control of the neglecter, whereby pain or suffering is caused to the animal or abandonment of any domesticated animal by its owner or custodian. By way of example, cruel neglect shall also include allowing an animal to live in unsanitary conditions, such as keeping an animal where the animal's own excrement is not removed from the animal's living area and/or other living conditions which are injurious to the animal's health.
  - (6) "Cruelty to animals" includes mistreatment of any animal or neglect of any animal under the care and control of the neglecter, whereby unnecessary or unjustifiable physical pain or suffering is caused. By way of example this includes: Unjustifiable beating of an animal; overworking an animal; tormenting an animal; abandonment of an animal; tethering of dog for 18 hours or more in any 24-hour period, except on land owned or leased by the dog's owner that is not less than 10 acres; tethering any dog for any amount of time if the dog is under 4 months of age or is a nursing mother while the offspring are present, except on land owned or leased by the dog's owner that is not less than 10 acres; and failure to feed properly or give proper shelter or veterinary care to an animal.
  - (7) "Custody" includes the responsibility for the welfare of an animal subject to

## ANIMAL PROTECTION LAWS OF DELAWARE

one's care and control whether one owns it or not. A person who provides sterilization or care to a free-roaming cat that lacks discernible owner identification is not deemed to have "custody," "care," or "control" of the cat for the purposes of this section.

- (8) "Person" includes any individual, partnership, corporation or association living and/or doing business in the State.
  - (9) "Proper feed" includes providing each animal with daily food and water of sufficient quality and quantity to prevent unnecessary or unjustifiable physical pain or suffering by the animal.
  - (10) "Proper shelter" includes providing each animal with adequate shelter from the weather elements as required to prevent unnecessary or unjustifiable physical pain or suffering by the animal.
  - (11) "Proper veterinary care" includes providing each animal with veterinary care sufficient to prevent unnecessary or unjustifiable physical pain or suffering by the animal.
  - (12) "Serious injury" shall include any injury to any animal which creates a substantial risk of death, or which causes prolonged impairment of health or prolonged loss or impairment of the function of any bodily organ.
  - (13) "Tethering" shall include fastening or restraining with a rope, chain, cord, or similar device creating a fixed radius; tethering does not include walking a dog on a leash, regardless of the dog's age.
- (b) A person is guilty of cruelty to animals when the person intentionally or recklessly:
- (1) Subjects any animal to cruel mistreatment; or
  - (2) Subjects any animal in the person's custody to cruel neglect; or
  - (3) Kills or injures any animal belonging to another person without legal privilege or consent of the owner; or
  - (4) Cruelly or unnecessarily kills or injures any animal. This section does not apply to the killing of any animal normally or commonly raised as food for human consumption, provided that such killing is not cruel. A person acts unnecessarily if the act is not required to terminate an animal's suffering, to protect the life or property of the actor or another person or if other means of disposing of an animal exist which would not impair the health or well-being of that animal; or
  - (5) Captures, detains, transports, removes or delivers any animal known to be a pet or owned or unowned companion animal, or any other animal of scientific, environmental, economic or cultural value, under false pretenses to any public or private animal shelter, veterinary clinic or other facility, or otherwise causes the same through acts of deception or misrepresentation of the circumstances and disposition of any such animal; or
  - (6) Confines an animal unattended in a standing or parked motor vehicle in which the temperature is either so high or so low as to endanger the health or safety of the animal. A law-enforcement officer, animal control officer, animal cruelty investigator, or firefighter who has probable cause to believe that an animal is confined in a motor vehicle under conditions that are likely to cause suffering,



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injury, or death to the animal may use reasonable force to remove the animal left in the vehicle in violation of this provision. A person removing an animal under this section shall use reasonable means to contact the owner. If the person is unable to contact the owner, the person may take the animal to an animal shelter and must leave written notice bearing his or her name and office, and the address of the location where the animal can be claimed. This provision shall not apply to the legal transportation of horses, cattle, swine, sheep, poultry, or other agricultural animals in motor vehicles designed to transport such animals. The owner of the vehicle from which the animal is rescued and the owner of the animal rescued are not liable for injuries suffered by the person rescuing the animal.

Paragraphs (b)(1), (2) and (4) of this section are inapplicable to accepted veterinary practices and activities carried on for scientific research.

Cruelty to animals is a class A misdemeanor, unless the person intentionally kills or causes serious injury to any animal in violation of paragraph (b)(4) of this section or unless the animal is killed or seriously injured as a result of any action prohibited by paragraph (b)(5) of this section, in which case it is a class F felony.

- (c) Any person convicted of a misdemeanor violation of this section shall be prohibited from owning or possessing any animal for 5 years after said conviction, except for animals grown, raised or produced within the State for resale, or for sale of a product thereof, where the person has all necessary licenses for such sale or resale, and receives at least 25 percent of the person's annual gross income from such sale or resale. Any person convicted of a second or subsequent misdemeanor violation of this section shall be prohibited from owning or possessing any animal for 5 years after said conviction without exception.

A violation of this subsection is subject to a fine in the amount of \$ 1,000 in any court of competent jurisdiction and to forfeiture of any animal illegally owned in accordance with the provisions of § 3035F of Title 16.

- (d) Any person convicted of a felony violation of this section shall be prohibited from owning or possessing any animal for 15 years after said conviction, except for animals grown, raised or produced within the State for resale, or for sale of a product thereof, where the person has all necessary licenses for such sale or resale, and receives at least 25 percent of the person's annual gross income from such sale or resale. Any person convicted of a second or subsequent felony violation of this section shall be prohibited from owning or possessing any animal for 15 years after said conviction without exception.

A violation of this subsection is subject to a fine in the amount of \$ 5,000 in any court of competent jurisdiction and to forfeiture of any animal illegally owned in accordance with the provisions of § 3035F of Title 16.

- (e) *Any trained and certified animal welfare officer of the Department of Health and Social Service's Office of Animal Welfare or the Department of Agriculture may impound an animal owned or possessed in apparent violation of this section, consistent with § 3035F of Title 16.*

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## ANIMAL PROTECTION LAWS OF DELAWARE

- (f) This section shall not apply to the lawful hunting or trapping of animals as provided by law.
- (g) Notwithstanding any provision to the contrary, for a first offense misdemeanor violation of this section relating to animals left in motor vehicles or the tethering of dogs, a warning shall be issued.
- (h) Exclusive jurisdiction of offenses under this section relating to animals left in motor vehicles or the tethering of dogs shall be in the Superior Court.

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**ANIMAL PROTECTION LAWS OF DELAWARE**

**11. COURTROOM ANIMAL ADVOCATE PROGRAM**

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**ANIMAL PROTECTION LAWS OF DELAWARE**

**12. PROTECTION ORDERS**

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## ANIMAL PROTECTION LAWS OF DELAWARE

### 13. RESTITUTION

#### **DEL. CODE ANN. tit. 16, § 3033F. Fines and penalties in certain cases; disposition.**

*All fines, penalties and forfeitures, imposed and collected in any county of the State under every act relating to or affecting cruelty to animals, animal fighting, dog control, or dangerous animals, shall be remitted to the enforcing agency.*

#### **DEL. CODE ANN. tit. 16, § 3035F. Impoundment.**

- (a) Any trained and certified animal welfare officer working for the Office of Animal Welfare or the Department of Agriculture, or any law-enforcement officer as defined in § 222 of Title 11, may, in instances of alleged acts of animal cruelty or animal fighting and as provided for by the laws of Delaware relating to seizure of property, impound in an appropriate shelter, animal rescue or, if required, in an appropriate veterinarian facility, any animal subjected to cruel mistreatment or cruel neglect. Should the owner or custodian of an animal not be available at or near the premises where the animal is located, upon taking an animal under this section the agent shall leave in an appropriate place written notice to the animal's owner or custodian of such action. The officer shall take all reasonable action to insure that owners or custodians of an animal, impounded under this section, shall have received notice of such action as soon as possible and no later than 24 hours after the impoundment.
- (b) An animal impounded under this section shall not remain in the custody of the State longer than 48 hours and shall be returned to its owner or custodian unless a complaint is filed within the 48-hour period in the appropriate court under the animal cruelty laws against the owner or custodian, except that upon good cause shown a court may permit a reasonable extension of the 48-hour period not to exceed 30 days. When a complaint is filed in the appropriate court, the impounded animal shall remain in the custody of the State pending the outcome of the action. If the owner or custodian is found to be in violation of the animal cruelty laws the court shall make a final determination as to the disposition of the animal. Should the complaint be withdrawn, prior to a court hearing, the animal shall be immediately made available to its owner or custodian.
- (c) *Upon a determination that probable cause exists to believe that the animal cruelty or animal fighting laws have been violated by the owner or custodian of any impounded animal, the State or its agent shall have the right to recover the costs of holding and caring for any animal impounded under this section from the owner or custodian of the animal. Upon impoundment, the State shall submit a detailed billing to the owner or custodian of the animal, listing the monthly costs of boarding, evaluation, veterinary and other costs associated with care. Notwithstanding any provision of this section or any other law to the contrary, failure of the animal's owner or custodian to pay these costs within 30 days of delivery of a detailed monthly billing will result in ownership of the*

## ANIMAL PROTECTION LAWS OF DELAWARE

*animal reverting to the State and the State may determine the final disposition of said animal. The provisions of this subsection shall be applicable notwithstanding the final disposition of the criminal charges.*

- (d) *An owner or custodian of an animal impounded under this section who is found guilty of cruelty to the animal, and the court orders the animal returned to such owner or custodian, shall, prior to taking the animal, reimburse the State or its agent its regular standard fees charged for the care of animals while in the State's custody plus any veterinary fees incurred for the animal during the period of impoundment. Failure of the animal's owner or custodian to pay such fees within 5 days after a finding of guilty will result in ownership of the animal reverting to the State. The State may then dispose of the animal in accord with its procedures for such disposition.*
- (e) *Should an animal which has been impounded under this section expire while in the custody of the State, the animal shall, as soon as possible, be turned over to the State Veterinarian at the Department of Agriculture. The State Veterinarian shall take whatever action necessary, including necropsy if required, to determine cause of the animal's death and shall record such cause. The cause of death shall, if requested, be furnished to the animal's owner and to the court handling the complaint relative to the animal. Disposition of the animal's remains shall be coordinated with the animal's owner and, provided a complaint has been filed, with the court handling the complaint.*

### **DEL. CODE ANN. tit. 11, § 4206. Sentence for misdemeanors.**

- (a) *The sentence for a class A misdemeanor may include up to 1 year incarceration at Level V and such fine up to \$2,300, restitution or other conditions as the court deems appropriate.*
- (b) *The sentence for a class B misdemeanor may include up to 6 months incarceration at Level V and such fine up to \$1,150, restitution or other conditions as the court deems appropriate.*
- (c) *The sentence for an unclassified misdemeanor shall be a definite sentence fixed by the court in accordance with the sentence specified in the law defining the offense. If no sentence is specified in such law, the sentence may include up to 30 days incarceration at Level V and such fine up to \$575, restitution or other conditions as the court deems appropriate. Notwithstanding the foregoing, in any municipality with a population greater than 50,000 people, any offense under the building, housing, health or sanitation code which is classified therein as a misdemeanor, the sentence for any person convicted of such a misdemeanor offense shall include the following fines and may include restitution or such other conditions as the court deems appropriate:*
- (1) *For the 1st conviction: no less than \$250, nor more than \$1,000;*
  - (2) *For the 2nd conviction for the same offense; no less than \$500, nor more than \$2,500; and*
  - (3) *For all subsequent convictions for the same offense: no less than \$1,000 nor more than \$5,000.*

## ANIMAL PROTECTION LAWS OF DELAWARE

In any municipality with a population greater than 50,000 people, a conviction for a misdemeanor offense, which is defined as a “continuing” or “ongoing” violation, shall be considered a single conviction for the purposes of subdivisions (1)-(3) of this subsection. For all convictions subsequent to the 2nd, the minimum fines required herein shall not be suspended, but such amounts imposed over the minimum may be suspended or subject to such other conditions as the court deems appropriate. The provisions of this subsection relating to municipalities with a population greater than 50,000 people shall not apply to offenses or convictions involving single family residences that are occupied by an owner of the property.

- (d) The court may suspend any sentence imposed under this section for probation or any of the other sanctions set forth in § 4204 of this title.
- (e) Any term of Level V incarceration imposed under this section must be served in its entirety at Level V, reduced only for earned “good time” as set forth in § 4381 of this title.
- (f) No term of Level V incarceration imposed under this section shall be served in other than a full custodial Level V institutional setting unless such term is suspended by the court for such other level sanction.
- (g) The Department of Corrections, the remainder of this section notwithstanding, may house Level V inmates at a Level IV work release center or halfway house during the last 180 days of their sentence; provided, however, that the first 5 days of any sentence to Level V, not suspended by the court, must be served at Level V.
- (h) The Department of Corrections, the remainder of this section notwithstanding, may grant Level V inmates 48-hour furloughs during the last 120 days of their sentence to assist in their adjustment to the community.
- (i) Any sentence for issuing a worthless check pursuant to § 900 of this title shall require restitution to the person to whom the check was given. For the purposes of this subsection, restitution shall mean the amount for which the check was written plus a service fee of \$30 for processing a worthless check, or a fee of \$50 if more than 1 check by same person was processed.
- (j) In all sentences for less than 1 year the court may order that more than 5 days be served in Level V custodial setting before the Department may place the offender in Level IV custody.

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### 14. FORFEITURE & POSSESSION BANS

#### DEL. CODE ANN. tit. 11, § 1325. Cruelty to animals; class A misdemeanor; class F felony.

- (a) For the purpose of this section, the following words and phrases shall include, but not be limited to, the meanings respectively ascribed to them as follows:
- (1) “Abandonment” includes completely forsaking or deserting an animal originally under one’s custody without making reasonable arrangements for custody of that animal to be assumed by another person.
  - (2) “Animal” shall not include fish, crustacea or molluska.
  - (3) “Cruel” includes every act or omission to act whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted.
  - (4) “Cruel mistreatment” includes any treatment whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted.
  - (5) “Cruel neglect” includes neglect of an animal, which is under the care and control of the neglecter, whereby pain or suffering is caused to the animal or abandonment of any domesticated animal by its owner or custodian. By way of example, cruel neglect shall also include allowing an animal to live in unsanitary conditions, such as keeping an animal where the animal’s own excrement is not removed from the animal’s living area and/or other living conditions which are injurious to the animal’s health.
  - (6) “Cruelty to animals” includes mistreatment of any animal or neglect of any animal under the care and control of the neglecter, whereby unnecessary or unjustifiable physical pain or suffering is caused. By way of example this includes: Unjustifiable beating of an animal; overworking an animal; tormenting an animal; abandonment of an animal; tethering of dog for 18 hours or more in any 24-hour period, except on land owned or leased by the dog’s owner that is not less than 10 acres; tethering any dog for any amount of time if the dog is under 4 months of age or is a nursing mother while the offspring are present, except on land owned or leased by the dog’s owner that is not less than 10 acres; and failure to feed properly or give proper shelter or veterinary care to an animal.
  - (7) “Custody” includes the responsibility for the welfare of an animal subject to one’s care and control whether one owns it or not. A person who provides sterilization or care to a free-roaming cat that lacks discernible owner identification is not deemed to have “custody,” “care,” or “control” of the cat for the purposes of this section.
  - (8) “Person” includes any individual, partnership, corporation or association living and/or doing business in the State.
  - (9) “Proper feed” includes providing each animal with daily food and water of sufficient quality and quantity to prevent unnecessary or unjustifiable physical pain or suffering by the animal.
  - (10) “Proper shelter” includes providing each animal with adequate shelter from the weather elements as required to prevent unnecessary or unjustifiable physical



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pain or suffering by the animal.

- (11) "Proper veterinary care" includes providing each animal with veterinary care sufficient to prevent unnecessary or unjustifiable physical pain or suffering by the animal.
  - (12) "Serious injury" shall include any injury to any animal which creates a substantial risk of death, or which causes prolonged impairment of health or prolonged loss or impairment of the function of any bodily organ.
  - (13) "Tethering" shall include fastening or restraining with a rope, chain, cord, or similar device creating a fixed radius; tethering does not include walking a dog on a leash, regardless of the dog's age.
- (b) A person is guilty of cruelty to animals when the person intentionally or recklessly:
- (1) Subjects any animal to cruel mistreatment; or
  - (2) Subjects any animal in the person's custody to cruel neglect; or
  - (3) Kills or injures any animal belonging to another person without legal privilege or consent of the owner; or
  - (4) Cruelly or unnecessarily kills or injures any animal. This section does not apply to the killing of any animal normally or commonly raised as food for human consumption, provided that such killing is not cruel. A person acts unnecessarily if the act is not required to terminate an animal's suffering, to protect the life or property of the actor or another person or if other means of disposing of an animal exist which would not impair the health or well-being of that animal; or
  - (5) Captures, detains, transports, removes or delivers any animal known to be a pet or owned or unowned companion animal, or any other animal of scientific, environmental, economic or cultural value, under false pretenses to any public or private animal shelter, veterinary clinic or other facility, or otherwise causes the same through acts of deception or misrepresentation of the circumstances and disposition of any such animal; or
  - (6) Confines an animal unattended in a standing or parked motor vehicle in which the temperature is either so high or so low as to endanger the health or safety of the animal. A law-enforcement officer, animal control officer, animal cruelty investigator, or firefighter who has probable cause to believe that an animal is confined in a motor vehicle under conditions that are likely to cause suffering, injury, or death to the animal may use reasonable force to remove the animal left in the vehicle in violation of this provision. A person removing an animal under this section shall use reasonable means to contact the owner. If the person is unable to contact the owner, the person may take the animal to an animal shelter and must leave written notice bearing his or her name and office, and the address of the location where the animal can be claimed. This provision shall not apply to the legal transportation of horses, cattle, swine, sheep, poultry, or other agricultural animals in motor vehicles designed to transport such animals. The owner of the vehicle from which the animal is rescued and the owner of the animal rescued are not liable for injuries suffered by the person rescuing the animal.

Paragraphs (b)(1), (2) and (4) of this section are inapplicable to accepted veterinary

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practices and activities carried on for scientific research.

Cruelty to animals is a class A misdemeanor, unless the person intentionally kills or causes serious injury to any animal in violation of paragraph (b)(4) of this section or unless the animal is killed or seriously injured as a result of any action prohibited by paragraph (b)(5) of this section, in which case it is a class F felony.

- (c) *Any person convicted of a misdemeanor violation of this section shall be prohibited from owning or possessing any animal for 5 years after said conviction, except for animals grown, raised or produced within the State for resale, or for sale of a product thereof, where the person has all necessary licenses for such sale or resale, and receives at least 25 percent of the person's annual gross income from such sale or resale. Any person convicted of a second or subsequent misdemeanor violation of this section shall be prohibited from owning or possessing any animal for 5 years after said conviction without exception.*

A violation of this subsection is subject to a fine in the amount of \$ 1,000 in any court of competent jurisdiction and to forfeiture of any animal illegally owned in accordance with the provisions of § 3035F of Title 16.

- (d) *Any person convicted of a felony violation of this section shall be prohibited from owning or possessing any animal for 15 years after said conviction, except for animals grown, raised or produced within the State for resale, or for sale of a product thereof, where the person has all necessary licenses for such sale or resale, and receives at least 25 percent of the person's annual gross income from such sale or resale. Any person convicted of a second or subsequent felony violation of this section shall be prohibited from owning or possessing any animal for 15 years after said conviction without exception.*

A violation of this subsection is subject to a fine in the amount of \$ 5,000 in any court of competent jurisdiction and to forfeiture of any animal illegally owned in accordance with the provisions of § 3035F of Title 16.

- (e) Any trained and certified animal welfare officer of the Department of Health and Social Service's Office of Animal Welfare or the Department of Agriculture may impound an animal owned or possessed in apparent violation of this section, consistent with § 3035F of Title 16.
- (f) This section shall not apply to the lawful hunting or trapping of animals as provided by law.
- (g) Notwithstanding any provision to the contrary, for a first offense misdemeanor violation of this section relating to animals left in motor vehicles or the tethering of dogs, a warning shall be issued.
- (h) Exclusive jurisdiction of offenses under this section relating to animals left in motor vehicles or the tethering of dogs shall be in the Superior Court.

### **DEL. CODE ANN. tit. 11, § 1326. Animals; fighting and baiting prohibited; Class E felony**

- (a) A person who owns, possesses, keeps, trains, or uses a bull, bear, dog, cock, or other animal or fowl for the purpose of fighting or baiting; or a person who is a party to or

## ANIMAL PROTECTION LAWS OF DELAWARE

who causes the fighting or baiting of a bull, bear, dog, cock, or other animal or fowl; or a person who rents or otherwise obtains the use of a building, shed, room, yard, ground, or premises for the purpose of fighting or baiting an animal or fowl; or a person who knowingly suffers or permits the use of a building, shed, room, yard, ground, or premises belonging to the person, or that is under the person's control, for any of the purposes described in this section, is guilty of a class E felony.

- (b) A person who is present at a building, shed, room, yard, ground, or premises where preparations are being made for an exhibition prohibited by subsection (a) of this section, and who knows that the exhibition is taking place or is about to take place, is guilty of a class F felony.
- (c) A person who gambles on the outcome of an exhibition prohibited by subsection (a) of this section is guilty of a class F felony.
- (d) *All animals, equipment, devices, and money involved in a violation of this section must be forfeited to the State. Animals so forfeited must be evaluated by a duly incorporated society for the prevention of cruelty to animals, an authorized state agency, or a duly incorporated humane society in charge of animals for eligibility for adoption. After evaluation, animals may also be transferred to a rescue organization. Animals forfeited may be adopted to individuals other than the convicted person or person dwelling in the same household, who conspired, aided or abetted in the unlawful act which was the basis of the conviction, or who knew or should have known of the unlawful act, or humanely disposed of according to the provisions of subchapter I of Chapter 30F of Title 16.*
- (e) Prosecution for any offense under this section may not be commenced after five (5) years from the commission of the offense.
- (f) *A person convicted of a violation of this section is prohibited from owning or possessing any animal or fowl for 15 years after conviction.*
- (g) A fine issued as a result of a violation of this section may not be suspended.
- (h) In addition to the penalties provided under this section, the court may require a person convicted of violating this section to attend and participate in an appropriate treatment program or to obtain appropriate psychiatric or psychological counseling, or both. The court may impose the costs of any treatment program or counseling upon the person convicted.

### **DEL. CODE ANN. tit. 11, § 1506. Forfeiture proceedings.**

- (a) The Attorney General is authorized to institute and conduct any proceedings under this chapter for the forfeiture of real or personal property to the State. *All property of every kind used or intended for use in the course of, derived from, or realized through a pattern of racketeering conduct is subject to forfeiture to the State. Forfeiture shall be by means of a procedure which may be known and referred to as a "R.I.C.O. forfeiture proceeding."*

## ANIMAL PROTECTION LAWS OF DELAWARE

- (b) *A R.I.C.O. forfeiture proceeding under this chapter may be commenced before or after seizure of the property. If the complaint is filed before seizure, it shall state what property is sought to be forfeited; that the property is within the jurisdiction of the Court; the grounds for forfeiture; and the name of each person known to have or claim an interest in the property.*
- (c) To the extent that property which has been forfeited under this chapter cannot be located; has been transferred, sold or deposited with third parties; or has been placed beyond the jurisdiction of the State, the Attorney General may institute and conduct any proceedings to retrieve such property as are necessary and appropriate, including forfeiture of any other property of the defendant up to the value of the property that is unreachable.
- (d) No person convicted under this chapter nor any person acting in concert with or on behalf of the person shall be eligible to purchase forfeited property from the State. The interests of an innocent party in the property shall not be subject to forfeiture.
- (e) The Court may, upon such terms and conditions as it deems appropriate, order that the property be sold by an innocent party who holds a lien on, or security interest in, the property at any time during the proceedings. Any proceeds from such sale, over and upon the amount necessary to satisfy the lien or security interest, shall be paid into the court pending final judgment in the forfeiture proceeding. No such sale shall be ordered, however, unless the obligation upon which the lien or security interest is based is in default.
- (f) The proceeds of any sale or other disposition of forfeited property imposed under this chapter, whether by final judgment, settlement or otherwise, shall be applied in the following order:
  - (1) To the fees and costs of the forfeiture and sale, including expenses of seizure, maintenance and custody of the property pending its disposition, advertising and court costs;
  - (2) If any funds remain, then to all costs and expenses of investigation and prosecution, including costs of resources and personnel incurred in investigation and prosecution;
  - (3) If any funds remain, then the remainder or \$1,000, whichever is less, to the Crime Victim Compensation Fund;
  - (4) If any funds remain, to the Special Law Enforcement Assistance Fund, or its successor; or if no such fund is in existence, to the fund which is dedicated entirely to law enforcement.

### **DEL. CODE ANN. tit. 16, § 3035F. Impoundment.**

- (a) Any trained and certified animal welfare officer working for the Office of Animal Welfare or the Department of Agriculture, or any law-enforcement officer as defined in § 222 of Title 11, may, in instances of alleged acts of animal cruelty or animal fighting and as provided for by the laws of Delaware relating to seizure of property, impound in

## ANIMAL PROTECTION LAWS OF DELAWARE

an appropriate shelter, animal rescue or, if required, in an appropriate veterinarian facility, any animal subjected to cruel mistreatment or cruel neglect. Should the owner or custodian of an animal not be available at or near the premises where the animal is located, upon taking an animal under this section the agent shall leave in an appropriate place written notice to the animal's owner or custodian of such action. The officer shall take all reasonable action to insure that owners or custodians of an animal, impounded under this section, shall have received notice of such action as soon as possible and no later than 24 hours after the impoundment.

- (b) An animal impounded under this section shall not remain in the custody of the State longer than 48 hours and shall be returned to its owner or custodian unless a complaint is filed within the 48-hour period in the appropriate court under the animal cruelty laws against the owner or custodian, except that upon good cause shown a court may permit a reasonable extension of the 48-hour period not to exceed 30 days. When a complaint is filed in the appropriate court, the impounded animal shall remain in the custody of the State pending the outcome of the action. *If the owner or custodian is found to be in violation of the animal cruelty laws the court shall make a final determination as to the disposition of the animal. Should the complaint be withdrawn, prior to a court hearing, the animal shall be immediately made available to its owner or custodian.*
- (c) Upon a determination that probable cause exists to believe that the animal cruelty or animal fighting laws have been violated by the owner or custodian of any impounded animal, the State or its agent shall have the right to recover the costs of holding and caring for any animal impounded under this section from the owner or custodian of the animal. Upon impoundment, the State shall submit a detailed billing to the owner or custodian of the animal, listing the monthly costs of boarding, evaluation, veterinary and other costs associated with care. *Notwithstanding any provision of this section or any other law to the contrary, failure of the animal's owner or custodian to pay these costs within 30 days of delivery of a detailed monthly billing will result in ownership of the animal reverting to the State and the State may determine the final disposition of said animal. The provisions of this subsection shall be applicable notwithstanding the final disposition of the criminal charges.*
- (d) An owner or custodian of an animal impounded under this section who is found guilty of cruelty to the animal, and the court orders the animal returned to such owner or custodian, shall, prior to taking the animal, reimburse the State or its agent its regular standard fees charged for the care of animals while in the State's custody plus any veterinary fees incurred for the animal during the period of impoundment. Failure of the animal's owner or custodian to pay such fees within 5 days after a finding of guilty will result in ownership of the animal reverting to the State. The State may then dispose of the animal in accord with its procedures for such disposition.
- (e) Should an animal which has been impounded under this section expire while in the custody of the State, the animal shall, as soon as possible, be turned over to the State Veterinarian at the Department of Agriculture. The State Veterinarian shall take whatever action necessary, including necropsy if required, to determine cause of the animal's death and shall record such cause. The cause of death shall, if requested, be

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furnished to the animal's owner and to the court handling the complaint relative to the animal. Disposition of the animal's remains shall be coordinated with the animal's owner and, provided a complaint has been filed, with the court handling the complaint.

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## 15. COURT-ORDERED TREATMENT

**DEL. CODE ANN. tit. 11, § 4362. Psychiatric examinations.**

- (a) *When the Board of Pardons considers for recommendation to the Governor, for pardon or commutation of sentence, any person who has been convicted of an act causing death (subpart B of subchapter II of Chapter 5 of this title); sexual offenses (subpart D of subchapter II of Chapter 5 of this title); kidnapping and related offenses (subpart E of subchapter II of Chapter 5 of this title); arson and related offenses (subpart A of subchapter III of Chapter 5 of this title); home invasion; burglary in the first degree; burglary in the second degree; robbery (subpart C of subchapter III of Chapter 5 of this title); offenses relating to children and vulnerable adults (subchapter V of Chapter 5 of this title); cruelty to animals; abusing a corpse; unlawful use of an incendiary device, bomb or other explosive device; abuse of children (Chapter 9 of Title 16); and distribution of a controlled substance to a person under age 18 (§ 4761 of Title 16); or for an attempt as provided by statute to commit any of these crimes, there shall be furnished to each member of the Board of Pardons and to the Governor, in case recommendation for a pardon or commutation of sentence be made, a copy of the report of the psychiatrist and/or psychologist who have examined such person, as provided in subsection (b) of this section.*
- (b) *Prior to consideration by the Board of Pardons of any application for a pardon or a commutation of sentence made by any person who has been incarcerated for any of the crimes stated in subsection (a) of this section, such person shall be examined by a psychiatrist or by a psychologist within a 12-month period immediately preceding consideration of such person's case by the Board of Pardons. The Commissioner of the Department of Correction or the Commissioner's designee may request the Director of the Delaware Psychiatric Center to cause examination and studies to be made.*
- (c) *Any psychiatrist or psychologist who, pursuant to subsection (b) of this section, examines any applicant for a pardon or a commutation of sentence shall furnish to each member of the Board of Pardons a report containing their respective findings, opinions as to the mental and emotional health of the applicant, and opinions as to the probability of the applicant again committing any crime if released. If the Board of Pardons recommends a pardon or a commutation of sentence, a copy of any report submitted to the Board by any psychiatrist or psychologist shall be provided to the Governor.*
- (d) *If examination and clinical studies as provided in this section cannot be made at the correctional institution, the prisoner may be transferred, under adequate security safeguards, to the Delaware Psychiatric Center for such examination and studies.*

**DEL. CODE ANN. tit. 11, § 1326. Animals; fighting and baiting prohibited; Class E felony**

- (a) A person who owns, possesses, keeps, trains, or uses a bull, bear, dog, cock, or other animal or fowl for the purpose of fighting or baiting; or a person who is a party to or

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who causes the fighting or baiting of a bull, bear, dog, cock, or other animal or fowl; or a person who rents or otherwise obtains the use of a building, shed, room, yard, ground, or premises for the purpose of fighting or baiting an animal or fowl; or a person who knowingly suffers or permits the use of a building, shed, room, yard, ground, or premises belonging to the person, or that is under the person's control, for any of the purposes described in this section, is guilty of a class E felony.

- (b) A person who is present at a building, shed, room, yard, ground, or premises where preparations are being made for an exhibition prohibited by subsection (a) of this section, and who knows that the exhibition is taking place or is about to take place, is guilty of a class F felony.
- (c) A person who gambles on the outcome of an exhibition prohibited by subsection (a) of this section is guilty of a class F felony.
- (d) *All animals, equipment, devices, and money involved in a violation of this section must be forfeited to the State. Animals so forfeited must be evaluated by a duly incorporated society for the prevention of cruelty to animals, an authorized state agency, or a duly incorporated humane society in charge of animals for eligibility for adoption. After evaluation, animals may also be transferred to a rescue organization. Animals forfeited may be adopted to individuals other than the convicted person or person dwelling in the same household, who conspired, aided or abetted in the unlawful act which was the basis of the conviction, or who knew or should have known of the unlawful act, or humanely disposed of according to the provisions of subchapter I of Chapter 30F of Title 16.*
- (e) Prosecution for any offense under this section may not be commenced after five (5) years from the commission of the offense.
- (f) *A person convicted of a violation of this section is prohibited from owning or possessing any animal or fowl for 15 years after conviction.*
- (g) A fine issued as a result of a violation of this section may not be suspended.
- (h) *In addition to the penalties provided under this section, the court may require a person convicted of violating this section to attend and participate in an appropriate treatment program or to obtain appropriate psychiatric or psychological counseling, or both. The court may impose the costs of any treatment program or counseling upon the person convicted.*



**ANIMAL PROTECTION LAWS OF DELAWARE****16. HOT CARS****DEL. CODE ANN. tit. 11, § 1325. Cruelty to animals; class A misdemeanor; class F felony.**

- (a) For the purpose of this section, the following words and phrases shall include, but not be limited to, the meanings respectively ascribed to them as follows:
- (1) “Abandonment” includes completely forsaking or deserting an animal originally under one’s custody without making reasonable arrangements for custody of that animal to be assumed by another person.
  - (2) “Animal” shall not include fish, crustacea or molluska.
  - (3) “Cruel” includes every act or omission to act whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted.
  - (4) “Cruel mistreatment” includes any treatment whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted.
  - (5) “Cruel neglect” includes neglect of an animal, which is under the care and control of the neglecter, whereby pain or suffering is caused to the animal or abandonment of any domesticated animal by its owner or custodian. By way of example, cruel neglect shall also include allowing an animal to live in unsanitary conditions, such as keeping an animal where the animal’s own excrement is not removed from the animal’s living area and/or other living conditions which are injurious to the animal’s health.
  - (6) “Cruelty to animals” includes mistreatment of any animal or neglect of any animal under the care and control of the neglecter, whereby unnecessary or unjustifiable physical pain or suffering is caused. By way of example this includes: Unjustifiable beating of an animal; overworking an animal; tormenting an animal; abandonment of an animal; tethering of dog for 18 hours or more in any 24-hour period, except on land owned or leased by the dog’s owner that is not less than 10 acres; tethering any dog for any amount of time if the dog is under 4 months of age or is a nursing mother while the offspring are present, except on land owned or leased by the dog’s owner that is not less than 10 acres; and failure to feed properly or give proper shelter or veterinary care to an animal.
  - (7) “Custody” includes the responsibility for the welfare of an animal subject to one’s care and control whether one owns it or not. A person who provides sterilization or care to a free-roaming cat that lacks discernible owner identification is not deemed to have “custody,” “care,” or “control” of the cat for the purposes of this section.
  - (8) “Person” includes any individual, partnership, corporation or association living and/or doing business in the State.
  - (9) “Proper feed” includes providing each animal with daily food and water of sufficient quality and quantity to prevent unnecessary or unjustifiable physical pain or suffering by the animal.
  - (10) “Proper shelter” includes providing each animal with adequate shelter from the weather elements as required to prevent unnecessary or unjustifiable physical

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pain or suffering by the animal.

- (11) "Proper veterinary care" includes providing each animal with veterinary care sufficient to prevent unnecessary or unjustifiable physical pain or suffering by the animal.
  - (12) "Serious injury" shall include any injury to any animal which creates a substantial risk of death, or which causes prolonged impairment of health or prolonged loss or impairment of the function of any bodily organ.
  - (13) "Tethering" shall include fastening or restraining with a rope, chain, cord, or similar device creating a fixed radius; tethering does not include walking a dog on a leash, regardless of the dog's age.
- (b) A person is guilty of cruelty to animals when the person intentionally or recklessly:
- (1) Subjects any animal to cruel mistreatment; or
  - (2) Subjects any animal in the person's custody to cruel neglect; or
  - (3) Kills or injures any animal belonging to another person without legal privilege or consent of the owner; or
  - (4) Cruelly or unnecessarily kills or injures any animal. This section does not apply to the killing of any animal normally or commonly raised as food for human consumption, provided that such killing is not cruel. A person acts unnecessarily if the act is not required to terminate an animal's suffering, to protect the life or property of the actor or another person or if other means of disposing of an animal exist which would not impair the health or well-being of that animal; or
  - (5) Captures, detains, transports, removes or delivers any animal known to be a pet or owned or unowned companion animal, or any other animal of scientific, environmental, economic or cultural value, under false pretenses to any public or private animal shelter, veterinary clinic or other facility, or otherwise causes the same through acts of deception or misrepresentation of the circumstances and disposition of any such animal; or
  - (6) *Confines an animal unattended in a standing or parked motor vehicle in which the temperature is either so high or so low as to endanger the health or safety of the animal. A law-enforcement officer, animal control officer, animal cruelty investigator, or firefighter who has probable cause to believe that an animal is confined in a motor vehicle under conditions that are likely to cause suffering, injury, or death to the animal may use reasonable force to remove the animal left in the vehicle in violation of this provision. A person removing an animal under this section shall use reasonable means to contact the owner. If the person is unable to contact the owner, the person may take the animal to an animal shelter and must leave written notice bearing his or her name and office, and the address of the location where the animal can be claimed. This provision shall not apply to the legal transportation of horses, cattle, swine, sheep, poultry, or other agricultural animals in motor vehicles designed to transport such animals. The owner of the vehicle from which the animal is rescued and the owner of the animal rescued are not liable for injuries suffered by the person rescuing the animal.*

## ANIMAL PROTECTION LAWS OF DELAWARE

Paragraphs (b)(1), (2) and (4) of this section are inapplicable to accepted veterinary practices and activities carried on for scientific research.

Cruelty to animals is a class A misdemeanor, unless the person intentionally kills or causes serious injury to any animal in violation of paragraph (b)(4) of this section or unless the animal is killed or seriously injured as a result of any action prohibited by paragraph (b)(5) of this section, in which case it is a class F felony.

- (c) Any person convicted of a misdemeanor violation of this section shall be prohibited from owning or possessing any animal for 5 years after said conviction, except for animals grown, raised or produced within the State for resale, or for sale of a product thereof, where the person has all necessary licenses for such sale or resale, and receives at least 25 percent of the person's annual gross income from such sale or resale. Any person convicted of a second or subsequent misdemeanor violation of this section shall be prohibited from owning or possessing any animal for 5 years after said conviction without exception.

A violation of this subsection is subject to a fine in the amount of \$ 1,000 in any court of competent jurisdiction and to forfeiture of any animal illegally owned in accordance with the provisions of § 3035F of Title 16.

- (d) Any person convicted of a felony violation of this section shall be prohibited from owning or possessing any animal for 15 years after said conviction, except for animals grown, raised or produced within the State for resale, or for sale of a product thereof, where the person has all necessary licenses for such sale or resale, and receives at least 25 percent of the person's annual gross income from such sale or resale. Any person convicted of a second or subsequent felony violation of this section shall be prohibited from owning or possessing any animal for 15 years after said conviction without exception.

A violation of this subsection is subject to a fine in the amount of \$ 5,000 in any court of competent jurisdiction and to forfeiture of any animal illegally owned in accordance with the provisions of § 3035F of Title 16.

- (e) Any trained and certified animal welfare officer of the Department of Health and Social Service's Office of Animal Welfare or the Department of Agriculture may impound an animal owned or possessed in apparent violation of this section, consistent with § 3035F of Title 16.
- (f) This section shall not apply to the lawful hunting or trapping of animals as provided by law.
- (g) Notwithstanding any provision to the contrary, for a first offense misdemeanor violation of this section relating to animals left in motor vehicles or the tethering of dogs, a warning shall be issued.
- (h) Exclusive jurisdiction of offenses under this section relating to animals left in motor vehicles or the tethering of dogs shall be in the Superior Court.

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**ANIMAL PROTECTION LAWS OF DELAWARE**

**17. CIVIL NUISANCE ABATEMENT**

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**ANIMAL PROTECTION LAWS OF DELAWARE**

**18. AG-GAG LAWS**

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## ANIMAL PROTECTION LAWS OF DELAWARE

### 19. BREED SPECIFIC LEGISLATION

#### **DEL. CODE ANN. tit. 22, § 116. Dogs.**

*The municipal governments shall enact no law, ordinance, or regulation relating to dogs, or restrictions on dogs, based on a dog's breed or perceived breed.*