

NEW HAMPSHIRE ANIMAL CRUELTY LAWS

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Introduction

This document contains New Hampshire's anti-cruelty laws along with relevant case law. Minimal case law interpreting, enforcing, or applying these laws exist, and those cases that do exist are exclusively about the §644:8 animal cruelty provisions.

New Hampshire's animal cruelty laws are found in the Revised Statutes Annotated of the State of New Hampshire Title LXII Chapter 644 Breaches of the Peace and Related Offenses. Included are general anti-cruelty laws for domestic animals, provisions on animal fighting, animals riding in motor vehicles, docking the tail of a horse, the use of animals in science classes or fairs, maiming or willfully interfering with police dogs or horses, dogs riding in pick up trucks, and bestiality. A person convicted of animal cruelty, maiming or causing the death of police dogs or horses, or exhibition of fighting animals is guilty of a class B felony and may have their animals confiscated. Violating the animals in motor vehicle provision, the animal use in science class and fairs provision, willfully interfering with a police dog or horse, or docking the tail of a horse may result in a misdemeanor. §437-B:1 establishes a fund to assist municipalities in covering the cost of care for animals incurred pending the resolution of any action brought under the RSA 644:8 animal cruelty provision and the RSA 644:8-a animal fighting provision. Bestiality is also referenced in New Hampshire's Criminal Code, which requires that offenders register in the sex offender registry for life (NH Rev Stat § 651-B:6 (2015)).

RSA Title XII Chapter 167-D Service Animals and Search and Rescue Dogs includes provisions on harming service animals. An offender may be guilty of a class A misdemeanor and/or restitution.

RSA Title XLV Chapter 466 Dogs and Cats includes provisions on ear cropping and stealing or poisoning dogs. An offender may be fined not more than \$250 dollars for cutting off any part of the ear of a dog unless such person is a registered veterinarian. Stealing or poisoning another's dog may result in a misdemeanor.

RSA Title XL Chapter 437 Sale of Pets and Disposition of Unclaimed Animals contains provisions on the inhumane treatment of animals under a licensee's control, artificially coloring chicks, ducklings, goslings, or rabbits, animal experimentation, and humane euthanasia. The animal experimentation provision only applies to animal shelter facilities as defined in RSA 437:2 or animal care centers as defined in RSA 437:18. The euthanasia provision only applies to animal control officers, humane retaining facilities, or agents acting on behalf of such a facility. The euthanasia method must be approved by the commissioner of New Hampshire's department

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of agriculture, markets, and food. Violations of these provisions may result in a misdemeanor, fine not exceeding \$1,000, and/or revocation of their license.

RSA Hampshire Title XL Chapter 427 Livestock and Meat Inspection contains the state's humane slaughter provisions. Violations may result in a misdemeanor.

RSA Title XL Chapter 435 Animal Care, Breeding and Feed contains provisions on the proper care of horses which includes prohibitions on torture, mutilation, beating and abandonment. Repeated violations may result in seizure of the offender's horse and/or the payment of restitution. A probable cause determination must be made prior to seizure and may only be made by state veterinarian or a licensed veterinarian pursuant to RSA 332-B.

RSA Title XVIII Chapter 209 Game Birds; Pigeons includes violations for hunting, capturing, killing, taking, or possessing golden and bald eagles and other protected birds or interfering with their nests.

RSA Title XVIII Chapter 207 General Provisions as to Fish and Game prohibits remote control or internet hunting. Violations may result in a class A misdemeanor if committed by a natural person or a felony if committed by any other person. A civil penalty of not less than \$10,000 for each violation may also be imposed.

RSA Title XVIII Chapter 207 General Provisions as to Fish and Game and Chapter 210 Fur Bearing Animals contain provisions on intentional or negligent shooting through firearm or bow of domestic animals while engaged in hunting or the pursuit of a wild animal and the death or injury of a domestic animal by trapping. Violations may result in the offender's license being revoked.

RSA Title XVIII Chapter 212-C Wildlife Trafficking Prevention makes knowingly purchasing, selling, offering for sale, or possessing with intent to sell covered animal species parts or products a violation resulting in forfeiture of the product and several fines. It lists several exceptions. The circuit court and superior court have concurrent jurisdiction to hear these matters.

A new cruelty to wild animals provision located in RSA Title XVIII Chapter 206 is effective starting 2022. Violations may result in a class B felony or misdemeanor.

RSA Title XII Chapter 173-B Protection of Persons From Domestic Violence includes provisions which classify animal cruelty as "abuse" under New Hampshire's Domestic Violence Statute. It allows a judge to grant the petitioner of a protective order exclusive care, custody, or control of any animal kept by the victim, abuser, or minor child in the household. The provisions also allow a judge to order the abuser to stay away from the pet in both temporary and final domestic violence protective orders.

Finally, N.H. Rev. Stat. §47:17 in Title III gives power to city councils to establish, modify, or appeal bylaws and ordinances in order to prevent cruelty to animals.

Overview of Statutory Provisions

1. Cruelty to Animals: N.H. Rev. Stat. §644:8, §437-B:1
2. Animal Fighting: N.H. Rev. Stat. §644:8-a, §437-B:1
3. Animals in Motor Vehicle: N.H. Rev. Stat. §644:8-aa
4. Docking of the Tail of Horse: N.H. Rev. Stat. §644:8-b
5. Animal Use in Science Classes and Science Fairs: N.H. Rev. Stat. §644:8-c
6. Interference with Police Dogs or Horses: §644:8-d
7. Transporting Dogs in Pickup Trucks: N.H. Rev. Stat. §644:8-f, §106-B:1
8. Bestiality: N.H. Rev. Stat. §644:8-g, §651-B:1
9. Enforcement of Laws Pertaining to the Abuse of Domestic Animals: N.H. Rev. Stat. §436:8
10. Service Animals: N.H. Rev. Stat. §167-D:10
11. Dog Ear Cropping: N.H. Rev. Stat. §466:40, 466:40-a
12. Stealing or Poisoning Dogs: N.H. Rev. Stat. §466:42-a
13. Sale of Domestic Animals: N.H. Rev. Stat. §437:5, §437:14, §437:17
14. Experimentation and Euthanasia: N.H. Rev. Stat. §437:22
15. Humane Slaughter: N.H. Rev. Stat. §427:33 - §427:37
16. Proper Care for Horses: N.H. Rev. Stat. §435:12, 13, 14, 15, 15-a, 16
17. Protected Birds: N.H. Rev. Stat. §209:8, 9, 10, 13
18. Remote/Internet Hunting: N.H. Rev. Stat. §207:8-a
19. Death/Injury to Domestic Animals Through Firearm or Bow: N.H. Rev. Stat. §207:39-a, b, c
20. Death/Injury to Domestic Animals Through Trapping: N.H. Rev. Stat. §210:18
21. Wildlife Trafficking: N.H. Rev. Stat. §212-C:1, C:2
22. Cruelty to Wild Animals: N.H. Rev. Stat. §209:19-b
23. Domestic Violence: N.H. Rev. Stat. §173-B:1, §173:B4, §173:B5
24. Bylaws and Ordinances: N.H. Rev. Stat. §47:17

1. Cruelty to Animals

§644:8 Cruelty to Animals.

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

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

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

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

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

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

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

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

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

(f) Has in his or her possession an equine colt that is less than 90 days old that is not being nursed by its dam, unless the colt was born in this state, and its dam has died within this state before the colt became 90 days old;

(g) Sells an equine colt that is less than 90 days old that is not being nursed by its dam; or

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

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

IV.(a) (1) Any person charged with animal cruelty under paragraphs III or III-a may have his or her animals confiscated by the arresting officer.

(2) A person charged under this section may petition the court to seek an examination of the animals by a veterinarian licensed under RSA 332-B of his or her choice at the expense of the person charged.

(3) Courts shall give cases in which animals have been confiscated by an arresting officer priority on the court calendar. In cases in which animals have been confiscated by an arresting officer or his or her agency, a status hearing shall be held by the court within 14 days of the confiscation of the animals.

(4) Any person with proof of sole ownership or co-ownership of an animal confiscated by an arresting officer in an animal cruelty case and who is not a defendant or party of interest in the criminal case may petition the court for temporary custody of the animal.

The court shall give such person priority for temporary custody of the animal if the court determines it is in the best interest of the animal's health, safety, and wellbeing.

(5) No custodian of an animal confiscated under this section shall spay or neuter or otherwise permanently alter the confiscated animal in his or her custody pending final disposition of the court case unless a treating veterinarian deems such procedure necessary to save the life of the animal.

(6) Upon a person's conviction of cruelty to animals, the court shall dispose of the confiscated animal in any manner it decides except in a case in which the confiscated animal is owned or co-owned by persons other than the defendant. If the defendant does not have an ownership interest in the confiscated animal, the court shall give priority to restoring full ownership rights to any person with proof of ownership if the court determines that such is in the best interest of the animal's health, safety, and wellbeing. If the confiscated animal is co-owned by the defendant, the court shall give priority to transferring the defendant's interest in the property to the remaining owner or co-owners equitably if the court determines that such is in the best interest of the animal's health, safety, and wellbeing.

(7) The costs to provide the confiscated animals with humane care and adequate and necessary veterinary services, if any, incurred in boarding and treating the animal, pending disposition of the case, and in disposing of the animal upon a conviction of said person for cruelty to animals, shall be borne by the person so convicted in accordance with rules adopted by the department of agriculture, markets, and food.

(b) In addition, the court may prohibit any person convicted of a misdemeanor offense of animal cruelty under RSA 644:8, RSA 644:8-aa, RSA 644:8-b, RSA 644:8-c, or RSA 644:8-d, or violation of RSA 644:8-f from having future ownership or custody of, or residing with other animals for any period of time the court deems reasonable or impose any other reasonable restrictions on the person's future ownership or custody of animals as necessary for the protection of the animals. The court shall prohibit or limit any person convicted of a felony offense of animal cruelty under RSA 644:8 or a misdemeanor or felony offense of bestiality under RSA 644:8-g from having future ownership or custody of other animals for a minimum of 5 years, and may impose any other reasonable restrictions on the person's future ownership or custody of, or residing or having contact with animals as necessary for the protection of the animals. For the purposes of this paragraph, a reasonable restriction on future contact may include limiting a person from engaging in any employment in the care of animals or other similar contact as the court sees fit. Any animal involved in a violation of a court order prohibiting or limiting ownership or custody of animals shall be subject to immediate forfeiture. Any person violating such order may, in addition to being held in criminal contempt of court or subject to a probation violation, be fined in the amount of \$1,000 in any court of competent jurisdiction for each animal held in unlawful ownership or custody.

(c) If a person convicted of any offense of cruelty to animals appeals the conviction in an initial de novo or subsequent appeal and any confiscated animal remains in the custody of the arresting officer, the arresting officer's agency, or the arresting officer's agency's designee pending

disposition of the appeal, in order for the defendant or appellant to maintain a future interest in the animal, the trial or appellate court, after consideration of the income of the defendant or appellant, may require the defendant or appellant to post a bond or other security in an amount not exceeding \$2,000 for each animal in custody for costs expected to be incurred for the board and care of the animal during the trial, trial de novo, or appeal. Such bond or security shall be posted to the court within 30 days. If such bond or security is not paid within 30 days after the court orders the bond or security to be posted, the animals shall be forfeited to the arresting officer, the arresting officer's agency, or the arresting officer's agency's designee. The court may, for good cause, extend the deadline by no more than 15 days. If the conviction is affirmed on appeal, the costs incurred for the board and care of the animal, from the date the animal or animals were originally confiscated, shall be paid to the custodial agency from the posted security and the balance, if any, shall be returned to the person who posted it. A court shall order the return of any bond or security upon a court approved agreement of the parties, a finding of not guilty, or the reversal of a conviction, unless it is a reversal with remand for further proceeding.

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

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

(c) (1) For purposes of subparagraph (a), for facilities licensed to conduct live running or harness horseracing or live dog racing pursuant to RSA 284, the appropriate law enforcement officer, animal control officer, or officer of a duly licensed humane society shall:

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

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

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

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

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

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

Applicable Case Law

State v. Fay, 173 N.H. 740, 248 A.3d 1191 (2020). (execution of search warrant and right to privacy)

Facts: Following a tip, a police officer visited defendant's property and observed a large number of dogs barking inside the residence and a strong odor emanating from the building. The officer applied for and obtained a search warrant for the defendant's residence; Since the police department did not have the resources to transport, or provide shelter, they asked the Humane Society of the United States to assist with the execution of the search warrant. The trial court denied the defendant's motion to suppress the evidence seized as a result of the search, arguing that the HSUS's involvement did not violate Fay's right to be free from unreasonable search and seizures, and a jury convicted the defendant on 17 counts of animal cruelty (644:8).

Holding: The Supreme Court held that (1) the defendant did not demonstrate that her right to privacy was violated when police department executed a search warrant at the defendant's residence, with the aid of humane society and (2) the fact that the officer did not obtain prior judicial authorization for humane society's participation in executing the search warrant at defendant's home did not mean that the manner of the warrant's execution was unconstitutional.

State v. Osgood, Supreme Court of NH (June 23, 2017). (proof of possession or custody of animal)

Facts: The defendant was convicted of three charges of animal cruelty including "negligently permitting or causing any animal in her possession or custody to be subjected to cruelty,

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inhumane treatment, or unnecessary suffering of any kind” (RSA 644:8, III(f)). She appealed arguing that the evidence was insufficient to support the convictions, because the state failed to prove that, at the relevant time, she owned the horses at issue.

Holding: The court found that there was sufficient proof of the defendant’s ownership of the horses which established the defendant’s “possession or custody” of the animals during the cruelty investigation. Ownership was proven due to the defendant repeatedly representing to others that she owned the horses, attempting to remove one of the stallions from the farm, attending veterinary examinations and giving the veterinarian permission to treat the horses, stating that she was attempting to “re-home” the horses, maintaining and providing the police with a book documenting her ownership of the horses, and expressing distress when the horses were taken from her.

State v. Anthony 151 N.H. 492, 861 A.2d 773 (2004). (accomplice liability for negligent cruelty to animals)

Facts: The defendant was appealing her conviction of accomplice to negligent cruelty to animals for allegedly assisting her husband in binding a colt’s four legs together with the purpose of leaving the colt on the ground, which caused the colt to suffer pain and injury. She argued that her conviction must be reversed, because New Hampshire law does not recognize the crime of accomplice to negligent cruelty to animals.

Holding: The court held that the crime of accomplice to negligent cruelty to animals exists in New Hampshire. Additionally, the court noted that the statutory definition of “negligently” contains a result component, and it is possible for a person to be perfectly aware of her conduct but fail to become aware of a serious risk that her conduct will cause an animal to be mistreated.

State v. Burr, 147 N.H. 102, 105, 782 A.2d 914 (2001). (restitution)

Facts: The defendant entered guilty pleas on twenty counts of animal cruelty stemming from her inhumane treatment of twenty Sharpei dogs. The court ordered the defendant to pay restitution to CVHS, the agency that rescued the dogs. The defendant moved to dismiss the restitution order on the ground that CVHS had “received donations directly related to [the defendant]’s case” that exceeded the amount of CVHS’ claimed losses. Therefore, the defendant argued, if restitution was ordered, CVHS would receive double recovery for its losses in violation of RSA 651:63, I.

Holding: The court held that the voluntary public donations to the humane society were not “compensation” within the meaning of restitution statute, and therefore defendant was required to pay the full restitution owed. The court also noted that the State should bear the burden to prove that expenses incurred by an animal shelter resulted from defendant’s abuse of animals in the shelter.

§437-B:1. Cost of Care Fund

I. There is established in the department of agriculture, markets, and food a nonlapsing fund to be known as the cost of care fund which shall be kept distinct and separate from all funds. The cost of care fund is established to assist municipalities in covering the costs of care incurred from

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caring for animals pending the resolution of any action brought for animal cruelty under RSA 644:8 or RSA 644:8-a.

II. The treasurer shall deposit in the cost of care fund court-ordered restitution for care in animal cruelty cases under RSA 644:8 or RSA 644:8-a as specified in paragraph VI and moneys received from RSA 435:20, IV provided the balance in the cost of care fund shall not exceed \$2,000,000.

III. The arresting officer or his or her designee may apply to the commissioner of the department of agriculture, markets, and food for a grant from the cost of care fund to reimburse costs incurred caring for animals in animal cruelty cases brought under RSA 644:8 or RSA 644:8-a during pretrial care, for the period between when the animals are seized and until the final disposition of the case. The commissioner of the department of agriculture, markets, and food and the state veterinarian shall review such applications, respond to such applications within 15 days, and distribute no more than \$500,000 per application.

IV. The commissioner shall establish rules under RSA 541-A relative to:

(a) The administration and disbursement of the cost of care fund, including guidelines to ensure that multiple applicants would have equitable access to grants.

(b) The application process by an arresting officer or his or her designee for financial assistance to cover the cost of emergency veterinary treatment.

V. The commissioner may accept private gifts and donations of any kind for the purpose of supporting the cost of animal care which shall be deposited into the cost of care fund.

VI. If a person is convicted of animal cruelty and is ordered by the court to make restitution, the municipality shall report such restitution to the department of agriculture, markets, and food. If the restitution exceeds the costs incurred by the municipality in caring for the seized animals, that excess shall be remitted to the department and shall be deposited into the cost of care fund.

2. Animal Fighting

§644:8-a Exhibitions of Fighting Animals

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

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

III. (a) Any person who possesses, owns, buys, sells, transfers, or manufactures animal fighting paraphernalia with the intent to engage in or otherwise promote or facilitate such fighting shall be guilty of a class B felony.

(b) For purposes of this section, “animal fighting paraphernalia” means equipment, products, implements, and materials of any kind that are used, intended for use, or designed for use in the training, preparation, conditioning, or furtherance of animal fighting, and includes, but is not limited to, the following: breaking sticks, cat mills, fighting pits, springpoles, unprescribed anabolic steroids, unprescribed anti-inflammatory steroids, unprescribed antibiotics, treatment supplies or gaffs, slashers, heels, or any other sharp implement designed to be attached in place of the natural spur of a cock or game fowl.

(c) In determining whether an object is animal fighting paraphernalia, the court shall consider any prior convictions under federal or state law relating to animal fighting, the proximity of the object in time and space to the direct violation of this section, direct or circumstantial evidence of the intent of the accused to deliver the object to persons whom he or she knows or should reasonably know intend to use the object to facilitate a violation of this section, oral or written instructions provided with or in the vicinity of the object concerning its use, descriptive materials accompanying the object which explain or depict its use, and all other logically relevant factors.

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

V. Upon conviction of a violation of this section, all animals used or to be used in training, fighting, or baiting, and all equipment, paraphernalia, and money involved in a violation of this section may be forfeited to the state at the discretion of the court, pursuant to RSA 595-A:6. Proceeds of any such forfeiture shall be used to reimburse local government and state agencies for the costs of prosecution of animal fighting cases. Proceeds which are not needed for such reimbursement shall be deposited in the companion animal neutering fund, established in RSA 437-A:4-a.

VI. In addition to other penalties prescribed by law, the court shall issue an order prohibiting or limiting a person who is convicted of a violation of this section from owning or possessing any animals for a period not less than 5 years, and may add other reasonable restrictions on future ownership or possession of animals as necessary for the protection of the animals. Any animal involved in a violation of a court order prohibiting or limiting ownership or possession of animals shall be subject to immediate forfeiture. Any person violating such order may, in addition to being held in criminal contempt of court or subject to a probation violation, be fined in the amount of \$1,000 in any court of competent jurisdiction for each animal held in unlawful ownership or possession. For purposes of this section, a reasonable restriction on future

ownership or possession may include limiting a person from engaging in any employment in the care of animals or other similar contact as the court sees fit.

§437-B:1. Cost of Care Fund

I. There is established in the department of agriculture, markets, and food a nonlapsing fund to be known as the cost of care fund which shall be kept distinct and separate from all funds. The cost of care fund is established to assist municipalities in covering the costs of care incurred from caring for animals pending the resolution of any action brought for animal cruelty under RSA 644:8 or RSA 644:8-a.

II. The treasurer shall deposit in the cost of care fund court-ordered restitution for care in animal cruelty cases under RSA 644:8 or RSA 644:8-a as specified in paragraph VI and moneys received from RSA 435:20, IV provided the balance in the cost of care fund shall not exceed \$2,000,000.

III. The arresting officer or his or her designee may apply to the commissioner of the department of agriculture, markets, and food for a grant from the cost of care fund to reimburse costs incurred caring for animals in animal cruelty cases brought under RSA 644:8 or RSA 644:8-a during pretrial care, for the period between when the animals are seized and until the final disposition of the case. The commissioner of the department of agriculture, markets, and food and the state veterinarian shall review such applications, respond to such applications within 15 days, and distribute no more than \$500,000 per application.

IV. The commissioner shall establish rules under RSA 541-A relative to:

(a) The administration and disbursement of the cost of care fund, including guidelines to ensure that multiple applicants would have equitable access to grants.

(b) The application process by an arresting officer or his or her designee for financial assistance to cover the cost of emergency veterinary treatment.

V. The commissioner may accept private gifts and donations of any kind for the purpose of supporting the cost of animal care which shall be deposited into the cost of care fund.

VI. If a person is convicted of animal cruelty and is ordered by the court to make restitution, the municipality shall report such restitution to the department of agriculture, markets, and food. If the restitution exceeds the costs incurred by the municipality in caring for the seized animals, that excess shall be remitted to the department and shall be deposited into the cost of care fund.

3. Animals in Motor Vehicle

§644:8-aa Animals in Motor Vehicle

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

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

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

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

4. Docking the Tail of a Horse

§644:8-b Docking Tail of Horse

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

5. Animal Use in Science Classes and Science Fairs

§644:8-c Animal Use in Science Classes and Science Fairs

I. In this section:

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

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

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

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

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

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

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

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

(a) Administration of drugs;

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

(c) Deprivation; or

(d) Electric shock or other distressing stimuli.

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

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

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

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

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

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

6. Interference with Police Dogs

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

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

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

7. Transporting Dogs in Pickup Trucks

§644:8-f Transporting Dogs in Pickup Trucks

I. No person driving a pickup truck shall transport any dog in the back of the vehicle on a public way, unless the space is enclosed or has side and tail racks to a height of at least 46 inches extending vertically from the floor, the dog is cross tethered to the vehicle, the dog is protected by a secured container or cage, or the dog is otherwise protected, in a manner which will prevent the dog from being thrown or from falling or jumping from the vehicle.

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

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

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

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

Also referenced in Title VII. Sheriffs, Constables, and Police Officers. Chapter 106-B The State Police:

§106-B:1 Definitions

As used in this chapter:

XI. "Public criminal history record information" means New Hampshire state criminal history record information that is not confidential criminal history record information. "Public criminal history record information" shall not include violations of [RSA 638:13](#), relating to the use and possession of slugs; **RSA 644:8-f, relating to transporting dogs in pickup trucks**; [RSA 644:16-a](#), relating to the sale or use of stink bombs; [RSA 644:16-b](#), relating to the sale or use of smoke bombs; or [RSA 635:3](#), relating to trespassing stock or domestic fowl.

8. Bestiality

§644:8-g Bestiality

I. A person commits bestiality by knowingly committing any of the following acts:

- (a) Engaging in sexual contact or sexual penetration with an animal for the purpose of sexual arousal or gratification.
- (b) Offering or accepting the offer of an animal for consideration with the intent that it be subject to sexual contact or sexual penetration by a human.
- (c) Photographing or filming or distributing such photographs or films, for the purpose of sexual arousal or gratification, of a person engaged in sexual contact or sexual penetration with an animal.

II. Any person convicted of a violation of this section shall be guilty of a class A misdemeanor for a first offense and a class B felony for a second or subsequent offense.

III. In addition to any other penalty imposed for a violation of this section, the court shall order that the convicted person:

- (a) Submit to a psychological assessment and participate in appropriate counseling at the convicted person's own expense.
- (b) Reimburse an animal shelter for any reasonable costs incurred for the care and maintenance of any animal that was taken to the animal shelter as a result of conduct proscribed by this section.
- (c) Shall not own, harbor, exercise control over, or reside in the same household with any animal for a period of time deemed reasonable by the court.

IV. This section shall not apply to:

- (a) Accepted veterinary medical practices.
- (b) Insemination of animals for the purpose of procreation.
- (c) Accepted animal husbandry practices that provide care for animals.

V. In this section:

- (a) "Animal" means a nonhuman mammal, bird, reptile, or amphibian, either dead or alive.
- (b) "Sexual contact" means any act between a person or an animal involving direct physical contact between the genitals or anus of one and the mouth, anus, or other part of the body of the other, or direct physical contact between the genitals of one and the

genitals of the other, where such contact can be reasonably construed for the purpose of the person's sexual arousal or gratification.

(c) "Sexual penetration" means any intrusion, however, slight, of any part of the person's or animal's body into the body of the other, or any object manipulated by the person into the body of the animal, where such penetration can be reasonably construed for the purpose of sexual arousal or gratification.

Also referenced in Title LXII Criminal Code. Chapter 651-B Registration of Criminal Offenders:
§651-B:1 Definitions

In this chapter:

IX. "Tier II offender" means a sexual offender or offender against children who is required to register pursuant to RSA 651-B:1, V(d) or RSA 651-B:1, VII(e), **or is required to register as a result of any of the following offenses:**

(a) RSA 169-B:41, II; RSA 632-A:3, I; RSA 632-A:3, II; RSA 632-A:3, IV if the victim was 13 years of age or older but less than 18 years of age; RSA 633:2; RSA 633:3; RSA 633:7; RSA 639:3, III; RSA 645:1, II; RSA 645:1, III; RSA 645:2; RSA 649-A:3; RSA 649-A:3-a; RSA 649-A:3-b; RSA 649-B:3; RSA 649-B:4; RSA 650:2, II; or **RSA 644:8-g.**

9. Enforcement of laws pertaining to the abuse of domestic animals

§436:8 Powers

The state veterinarian, under the direction of the commissioner, shall have all the powers of the commissioner and shall have general charge of the enforcement of this chapter. Complaints under RSA 644:8, 644:8-a, 644:8-aa and any other law pertaining to the abuse of domestic animals, as defined under RSA 436:1, shall initially be filed with the local law enforcement agency, animal control officer, state police, or sheriff which has jurisdiction over where the animal is located or kept. At the request of the local law enforcement agency, animal control officer, state police, or sheriff, the state veterinarian shall assist in a secondary capacity in enforcing the provisions of and investigating said complaints. In the event the commissioner becomes incapacitated or a vacancy occurs in the office, the state veterinarian shall perform all the duties of that office during any such incapacity or until any such vacancy is filled. The commissioner may direct the state veterinarian to act for him or her in an official capacity whenever he or she may be absent from his or her duties.

10. Service Animals

§167-D:10 Penalty

I. Any person violating any provision of this chapter shall be guilty of a misdemeanor and subject to enhanced penalties in paragraphs II and III.

II. It is a misdemeanor if a person willfully causes physical injury to a service animal or willfully allows his or her animal to cause physical injury to a service animal. If the physical injury to a service animal is severe enough that a veterinarian or service animal trainer determines that the service animal is incapable of returning to service, that person shall be guilty of a class A misdemeanor.

III. In any case where a person is convicted of harming a service animal as described in paragraph II, he or she may be ordered by the court to make restitution to the person or agency owning the animal for any bills for veterinary care, the replacement cost of the animal if it is incapable of returning to service, and the salary of the service animal handler or trainer for the period of time his or her services are lost to the agency or self employment.

11. Dog Ear Cropping

§466:40 Mutilation Prohibited

Any person who shall crop or cut or cause to be cropped or cut off the whole or any part of the ear of a dog, unless such person is a veterinarian duly registered under the provisions of RSA 332-B and unless such operation is performed while the dog is under an anesthetic, shall be fined not more than \$250.

§466:40-a Possession of a Cropped Dog

The possession of a dog with an ear cropped or cut off and with a resulting wound unhealed, confined upon the premises of or in charge or custody of any person, shall be prima facie evidence of a violation of the provisions of RSA 466:40 by the person in control of such premises or the person having charge or custody, unless such person shall have in the person's possession a certificate of cropping signed by a veterinarian duly registered under the provisions of RSA 332-B certifying that the veterinarian performed the operation in accordance with the provisions of RSA 466:40, giving the date of the operation, the name of the owner of the dog and a description of the dog.

12. Stealing or Poisoning Dogs

§466:42-a Stealing Dogs, etc.

Whoever wrongfully removes the collar from or steals a dog licensed and collared as aforesaid shall be guilty of a misdemeanor. Whoever distributes or exposes a poisonous substance with intent that the same shall be eaten by any dog shall be guilty of a misdemeanor and shall be liable to the dog's owner for its value.

13. Sale of Domestic Animals

§437:5 Prohibition

No licensee under this subdivision shall transfer, other than to a qualified veterinarian or licensed animal shelter facility, any maimed, sick, or diseased animal or bird other than as permitted under RSA 437:8, II nor shall any licensee treat inhumanely any animal or bird in his or her care or possession or under his or her control.

§437:14 Artificial Coloring

No chick, duckling, gosling, or rabbit that has been dyed or otherwise colored artificially shall be sold or offered for sale; raffled; offered or given as a prize, premium, or advertising device; or displayed in any store, shop, carnival, or other public place.

§437:17 Penalty

Any person, firm, or corporation violating any of the provisions of this subdivision shall be guilty of a violation; provided that after any violation has been called to the attention of the violator by any law enforcement officer, each day on which such violation continues or is repeated shall constitute a separate offense.

14. Experimentation and Euthanasia

§437:22 Experimentation Prohibited

I. It shall be unlawful for any agent acting on behalf of an animal shelter facility as defined in RSA 437:1, I, or an animal care center as defined in RSA 437:18, III, to give, release, sell, trade or transfer with or without a fee any live animal brought, caught, detained, obtained or procured by any means, to any association, corporation, individual, educational institution, laboratory, medical facility, or anyone else, for the purpose of experimentation or vivisection.

II. All animals which are put to death by an animal control officer, humane retaining facility, animal care facility, or agents acting on behalf of such a facility shall be put to death humanely using a method approved by the commissioner of the New Hampshire department of agriculture, markets, and food.

III. Any person who violates the provisions of paragraphs I or II shall be guilty of a misdemeanor.

15. Humane Slaughter

§427:33 Terms Defined

As used in this subdivision the following words and phrases shall be construed as follows:

I. The term “slaughterer” means any person, partnership, corporation or association regularly engaged in the slaughtering of livestock;

II. The term “livestock” shall include but not be limited to cattle, steer, oxen, horses, swine, sheep, goats, as well as domesticated strains of buffalo, bison, llamas, alpacas, emus, ostriches,

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yaks, elk (*Cervus canadensis*), fallow deer (*Dama dama*), red deer (*Cervus elephus*), reindeer (*Rangifer tarandus*), poultry, rabbits, and other species of animals susceptible of use in the production of meat and meat products;

III. The term “humane method” means:

(a) Any method of slaughtering livestock which normally causes animals to be rendered insensible to pain by a single blow or shot of a mechanical instrument or by electrical, chemical or other means that is rapid and effective, before being shackled, hoisted, thrown, cast, or cut; and

(b) The method of slaughtering in accordance with the ritual requirements of any religious faith that prescribes a method of slaughter whereby the animal suffers loss of consciousness by anemia of the brain caused by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument, provided that the method used in bringing the animal into position for slaughter causes no injury or pain which can be avoided without interfering with the requirements of ritualistic slaughter or without imposing unreasonable economic hardship.

IV. The term “holding pen” means enclosures or yards where animals are held or handled before slaughtering.

§427:34 Prohibition

On and after June 30, 1960, no slaughterer may slaughter livestock except by a humane method. No person may handle livestock in connection with slaughter, or drive or transport them to holding pens or to place of slaughter except with a minimum of excitement and discomfort. Holding pens and transportation vehicles must be free from hazards which could cause suffering or pain.

§427:35 Prohibition

No person who has taken possession of a horse, ostensibly for slaughter, shall use or deliver possession of said animal for any other purpose.

§427:36 Penalty

Any slaughterer who violates this subdivision shall be guilty of a misdemeanor.

§427:37 Administration and Enforcement

The commissioner of agriculture, markets, and food may administer the provisions of this subdivision, adopt such rules, pursuant to RSA 541-A, as may be necessary to carry this subdivision into effect, and approve all methods of slaughter used under the terms of this subdivision. He or she may, by administrative order, allow any person a single temporary exemption from compliance with any provision of this subdivision for such period of time as he or she shall determine reasonable, not to exceed one year. The commissioner of agriculture, markets, and food shall cause to be prosecuted any slaughterer who fails to comply with the provisions of this subdivision. Any agent authorized by the commissioner, upon being designated, in writing, for that purpose by the sheriff of any county in this state, may, within

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such county, at any time inspect the premises and operations of any slaughterer and, if he or she deems it advisable, request an investigation and appropriate action by the commissioner of agriculture, markets, and food.

16. Proper Care for Horses

§435:12 Proper Care

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

§435:13 Proper Feeding

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

§435:14 Shelter Available

Horses shall be provided either:

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

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

§435:15 Veterinarian Services and Probable Cause Determinations

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

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

§435:15-a Rulemaking

The commissioner shall adopt rules, under RSA 541-A, relative to the care, shelter, and feeding of horses, and the enforcement of this subdivision.

§435:16 Penalty

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

17. Protected Birds

§209:8 Protected Birds

No person shall hunt, capture, kill, take, possess, buy, or sell any protected bird or part thereof.

§209:9 Golden and Bald Eagles

No person shall hunt, capture, kill, take, or possess any golden or bald eagle and no person shall molest or disturb the nest or young of any of said birds.

§209:10 Nests

No person shall take, or have in possession or under control, or wantonly interfere with or destroy, any nest or eggs of any game birds or protected birds.

§209:13 Penalties

Any person who violates any provision of RSA 209 shall be guilty of a violation.

18. Remote/Internet Hunting

207:8-a Remote Control or Internet Hunting Prohibited

I. No person shall offer for sale, take, or assist in the taking of wildlife by use of remote control or Internet hunting. Any person who violates this section shall be guilty of a class A misdemeanor if a natural person and guilty of a felony if any other person. In addition, the executive director may impose a civil penalty of not less than \$10,000 for each violation of this section, with the moneys received from imposition of such civil penalty to be deposited in the fish and game fund.

II. For the purpose of this section “remote control or Internet hunting” shall mean the use of a computer or other electronic device, equipment, or software, to remotely control the aiming or discharge of a firearm or other weapon, that allows a person, not physically present, to take wildlife.

19. Death/Injury to Domestic Animals Through Firearm or Bow

§207:39-a Shooting Domestic Animals; Liability

Any person, while actually engaged in hunting or in the pursuit of wild animals or wild birds, who causes death, injury, or damage to domestic animals, ducks, or fowl shall be liable for damages to the owner of the animals.

§207:39-b Intentional or Negligent Shooting of Domestic Animals; Penalty

Any person, while actually engaged in hunting or in pursuit of wild animals or wild birds who knowingly or purposely causes death, injury, or damage to such domestic animals, ducks, or fowl through the discharge of a firearm or bow and arrow may have his or her license to hunt revoked and he or she may not be granted a license to hunt for a period not to exceed 5 years. The provisions of this section shall not apply to a hunter killing or injuring his or her own animal or a borrowed animal or one used by another member of the same hunting party, other than being liable to the owner of the animal. The executive director of the fish and game department may make such revocation and suspension of the privilege of obtaining a license and determine the term of such suspension when, in the executive director's opinion, reasonable evidence of a violation of the provisions of this section exist.

§207:39-c Reporting the Death or Injury of Domestic Animals

Any person who negligently or accidentally causes death, injury, or damage to domestic animals through the discharge of a firearm or bow and arrow shall immediately report the death, injury, or damage to the local police department, and in the case of injury to such domestic animals, shall render aid to the animal in an attempt to save the animal's life.

20. Death/Injury to Domestic Animals Through Trapping

§210:18 Damage to Domestic Animals

I. Any person causing injury or damage to domestic animals, except for dogs at large pursuant to RSA 466:33, by the aid or use of traps shall be liable to the owner therefor. An injury to a licensed dog at large shall be reported to the town or city listed on the dog's tag, and to the owner of the dog if identifiable.

II. Any person engaged in the act of trapping in violation of the laws or rules governing trapping under this title resulting in the death of a domestic animal shall be guilty of a violation. Upon conviction, and in addition to any other penalty, the person's trapping license shall be revoked for a period up to 3 years. Prior to the restoration of such person's ability to apply for a license or permit to trap, the person shall show successful completion of a trapping education program pursuant to RSA 210:25.

21. Wildlife Trafficking

§212-C:1 Definitions

In this chapter:

I. "Covered animal species" means any species of:

- (a) Elephant (superfamily Elephantidae).

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- (b) Rhinoceros (family Rhinocerotidae).
- (c) Tiger (species *Panthera tigris*).
- (d) Lion (species *Panthera leo*).
- (e) Leopard (species *Panthera pardus*).
- (f) Cheetah (species *Acinonyx jubatus*).
- (g) Jaguar (species *Panthera onca*).
- (h) Pangolin (family Manidae).
- (i) Endangered shark, as listed by the Convention on International Trade in Endangered Species of Wild Fauna and Flora.
- (j) Endangered ray, as listed by the Convention on International Trade in Endangered Species of Wild Fauna and Flora.
- (k) Endangered sea turtle, as listed by the Convention on International Trade in Endangered Species of Wild Fauna and Flora.
- (l) Endangered whale, as listed by the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

II. “Covered animal species part or product” means any item that contains, or is wholly or partially made from, any covered animal species.

III. “Person” means any individual, firm, partnership, joint venture, corporation, limited liability company, joint stock company, estate, trust, receiver, syndicate, association, or other legal entity.

IV. “Sale” or “sell” means any act of selling, trading, or bartering for monetary or nonmonetary consideration, and includes any transfer of ownership that occurs in the course of a commercial transaction, but does not include a transfer of ownership by way of gift, donation, or bequest.

V. “Total value” means the actual price paid for a covered animal species part or product.

§212-C:2 Prohibitions

I. Except as provided in paragraph II, no person shall knowingly purchase, sell, offer for sale, or possess with intent to sell, any item that the person knows or should know is a covered animal species part or product.

II. Paragraph I shall not apply:

- (a) To employees or agents of the federal or state government undertaking any law enforcement activities pursuant to federal or state law or any mandatory duties required by federal or state law.
- (b) When the activity, and any sport-hunted item that is legally obtained in accordance with federal or state law, are authorized by federal or state law.
- (c) When the activity involves a species that is subject to a federal management plan under 16 U.S.C. sections 1851-1869.
- (d) When the covered animal species part or product is a fixed component of an antique, or is an antique that is wholly or primarily of the covered animal species part or product, provided that the antique status is established by the owner or seller thereof with documentation evidencing reasonable provenance and showing the covered animal species part or product to be not less than 100 years old.
- (e) When the covered animal species part or product is a fixed component of a musical instrument, including, but not limited to, string instruments and bows, wind and percussion instruments, and pianos, provided that the covered animal species part or product was legally acquired.
- (f) To the noncommercial transfer of ownership of a covered animal species part or product to a legal beneficiary of an estate, trust, or other inheritance.
- (g) To the donation of a covered animal species part or product to a bona fide scientific or educational institution for scientific or educational purposes.
- (h) To the possession of a covered animal species part or product by any enrolled member of a federally-recognized Indian tribe.
- (i) To a knife or firearm, or a component thereof, that contains an animal part or byproduct derived from any species listed in RSA 212-C:1, I if:
 - (1) The animal part or byproduct is a fixed or integral part of the knife or firearm, or the component thereof; and
 - (2) All the requirements for the sale of the knife or firearm, or the component thereof, set forth in federal and state law are met.

III. There is a presumption of possession with intent to sell a covered animal species part or product when the part or product is possessed by a retail or wholesale establishment or other forum engaged in the business of buying or selling of similar items, and a finding of intent to sell is supported by other evidence which independently establishes such intent.

IV. A person who violates this section shall be guilty of a violation. The circuit court and the superior court shall have concurrent jurisdiction to hear matters brought under this chapter. If the appraised value of the covered animal species part or product exceeds \$25,000 or if the prosecuting entity seeks relief unavailable in the circuit court, the matter shall be transferred to the superior court for adjudication.

V. Any covered animal species part or product that has been seized by a law enforcement officer pursuant to this chapter shall be appraised to determine its value. During the pendency of any criminal matter, the court shall provide an opportunity for a hearing to determine who shall maintain custody of the items, how the items shall be preserved, liability for any costs incurred to preserve the items, and such other matters as may be required to protect the property until a final dispositional order has been entered.

VI. If the owner of the covered animal species part or product is found not guilty, the property shall be returned to the owner. If the owner is found guilty, the covered items shall be forfeited to the fish and game department. Any fines assessed by the court shall be used first to reimburse the entity ordered to preserve the property prior to adjudication, and thereafter, to the fish and game department to reimburse for any costs incurred in final disposition of the items, and finally to the entity which successfully prosecuted the matter.

VII. The executive director of the fish and game department may adopt rules pursuant to RSA 541-A relative to:

- (a) The purchase, sale, offer for sale, or possession with intent to sell, of parts or products of any covered animal species.
- (b) The method and manner to be used in appraising the value of any covered animal species part or product seized by law enforcement or abandoned into the care or custody of the department.
- (c) The method and manner used to determine ownership of any covered animal species part or product abandoned to its care or custody other than by order of a court of competent jurisdiction.
- (d) The noncommercial disposition of covered animal species parts or products to:
 - (1) A legal beneficiary of an estate, trust, or other inheritance;
 - (2) A bona fide scientific or educational institution for scientific or educational purposes;
 - (3) Any enrolled member of a federally-recognized Indian tribe; or
 - (4) Any other person that has claimed right of ownership.
- (e) The destruction of covered animal species parts or products not otherwise disposed of in accordance with this chapter.

22. Cruelty to Wild Animals

§206:19-b Cruelty to Wild Animals, Fish, or Wild Birds; Enhanced Penalty

[effective January 1, 2022.]

I. (a) Any person who purposely beats, cruelly whips, tortures or mutilates any wild animal, fish or wild bird as defined in RSA 207:1, or purposely causes any wild animal, fish, or wild bird to be beaten, cruelly whipped, tortured or mutilated shall be guilty of a class B felony.

(b) Any person who negligently beats, cruelly whips, tortures or mutilates any wild animal, fish or wild bird as defined in RSA 207:1, or negligently causes any wild animal, fish or wild bird to be beaten, cruelly whipped, tortured or mutilated shall be guilty of a misdemeanor.

II. It shall be an affirmative defense to prosecution and an actor shall be exempt from enhanced penalties under this section for any manner of taking, open season time limits, permitted scientific investigations or wildlife management practices lawful under title XVIII or administrative rules adopted pursuant to RSA 541-A, whether or not the actor holds a current and valid license issued by the department.

23. Domestic Violence

§173-B:1 Definitions

In this chapter:

I. "Abuse" means the commission or attempted commission of one or more of the acts described in subparagraphs (a) through (h) by a family or household member or by a current or former sexual or intimate partner, where such conduct is determined to constitute a credible present threat to the petitioner's safety. The court may consider evidence of such acts, regardless of their proximity in time to the filing of the petition, which, in combination with recent conduct, reflects an ongoing pattern of behavior which reasonably causes or has caused the petitioner to fear for his or her safety or well-being:

(a) Assault or reckless conduct as defined in RSA 631:1 through RSA 631:3.

(b) Criminal threatening as defined in RSA 631:4.

(c) Sexual assault as defined in RSA 632-A:2 through RSA 632-A:5.

(d) Interference with freedom as defined in RSA 633:1 through RSA 633:3-a.

(e) Destruction of property as defined in RSA 634:1 and RSA 634:2.

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(f) Unauthorized entry as defined in RSA 635:1 and RSA 635:2.

(g) Harassment as defined in RSA 644:4.

(h) Cruelty to animals as defined in RSA 644:8.

II. "Applicant" means any private, town, city, or regional agency or organization applying for funds under RSA 173-B:16.

III. "Commissioner" means the commissioner of the department of health and human services.

IV. "Contact" means any action to communicate with another either directly or indirectly, including, but not limited to, using any form of electronic communication, leaving items, or causing another to communicate in such fashion.

V. "Coordinator" means the agency or organization appointed by the commissioner to administer the domestic violence grant program.

VI. "Cross orders for relief" means separate orders granted to parties in a domestic violence situation where each of the parties has filed a petition pursuant to this chapter on allegations arising from the same incident or incidents of domestic violence.

VII. "Deadly weapon" means "deadly weapon" as defined in RSA 625:11, V.

VIII. "Department" means the department of health and human services.

IX. "Domestic violence" means abuse as defined in RSA 173-B:1, I.

X. "Family or household member" means:

(a) Spouses, ex-spouses, persons cohabiting with each other, and persons who cohabited with each other but who no longer share the same residence.

(b) Parents and other persons related by consanguinity or affinity, other than minor children who reside with the defendant.

XI. "Firearm" means any weapon, including a starter gun, which will, is designed to, or may readily be converted to expel a projectile by the action of an explosive.

XII. "Foreign protective order" means an order enforceable under RSA 173-B:13.

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XIII. "Fund" means the special fund for domestic violence programs established by RSA 173-B:15.

XIV. "Grantee" means any private, town, city, or regional agency or organization receiving funds under RSA 173-B:16.

XV. "Intimate partners" means persons currently or formerly involved in a romantic relationship, whether or not such relationship was ever sexually consummated.

XVI. "Mutual order for relief" means an order restraining both parties from abusing the other originating from a petition filed by one of the parties and arising from the same incident or incidents of domestic violence.

XVII. "Program" means services or facilities provided to domestic violence victims.

§173-B:4 Temporary Relief

I. Upon a showing of an immediate and present danger of abuse, the court may enter temporary orders to protect the plaintiff with or without actual notice to defendant. The court may issue such temporary orders by telephone or facsimile. Such telephonically issued orders shall be made by a circuit court judge to a law enforcement officer, shall be valid in any jurisdiction in the state, and shall be effective until the close of the next regular court business day. Such orders shall be returnable to the circuit court where the plaintiff resides or to which the plaintiff has fled, unless otherwise ordered by the issuing judge. If non-telephonic temporary orders are made ex parte, the party against whom such relief is issued may file a written request with the clerk of the court and request a hearing on such orders. Such hearing shall be held no less than 3 business days and no more than 5 business days after the request is received by the clerk. Such hearings may constitute the final hearing described in RSA 173-B:3, VII. Such temporary relief may direct the defendant to relinquish to a peace officer any and all firearms and ammunition in the control, ownership, or possession of the defendant, or any other person on behalf of the defendant for the duration of the protective order. Other temporary relief may include:

(a) Protective orders:

(1) Restraining the defendant from abusing the plaintiff.

(2) Restraining the defendant from entering the premises and curtilage where the plaintiff resides, except when the defendant is accompanied by a peace officer and, upon reasonable notice to the plaintiff, is allowed entry by the plaintiff for the sole purpose of retrieving toiletries, medication, clothing, business equipment, and any other items as determined by the court.

(3) Restraining the defendant from withholding items of the plaintiff's personal property which are specified in the order. A peace officer shall accompany the plaintiff in retrieving such property to protect the plaintiff.

(4) Awarding custody of minor children to either party or, upon actual notice, to the department when it is in the best interest of a child.

(5) Denying the defendant visitation, ordering that visitation shall take place only at a supervised visitation center that uses a metal detection device and has trained security personnel on-site, ordering that visitation shall be supervised, or ordering a specific visitation schedule. Visitation shall only be ordered on an ex parte basis where such order can be entered consistent with the following requirements. In determining whether visitation can be safely ordered, the court shall consider the following factors:

(A) The degree to which visitation exposes the plaintiff or the children to physical or psychological harm.

(B) Whether the risk of physical or psychological harm can be removed by ordering supervised visitation or by ordering supervised visitation at a center that uses a metal detection device and has trained security personnel on-site.

(C) Whether visitation can be ordered without requiring the plaintiff and defendant to have contact regarding the exchange of children.

(6) Restraining the defendant from contacting the plaintiff or entering the plaintiff's place of employment, school, or any specified place frequented regularly by the plaintiff or by any family or household member.

(7) Restraining the defendant from abusing the plaintiff, plaintiff's relatives, regardless of their place of residence, or plaintiff's household members in any way.

(8) Restraining the defendant from taking, converting, or damaging property in which the plaintiff may have a legal or equitable interest.

(9) Directing the defendant to relinquish to the peace officer, in addition to the relief specified in RSA 173-B:4, I, any and all deadly weapons specified in the protective order that are in the control, ownership, or possession of the defendant, or any other person on behalf of the defendant, for the duration of the protective order.

(10) Granting the petitioner exclusive care, custody, or control of any animal owned, possessed, leased, kept, or held by the petitioner, defendant, or a minor child in either household, and ordering the defendant to stay away from the animal and forbidding the defendant from taking, transferring, encumbering, concealing, committing an act of cruelty or neglect, or disposing of the animal.

(b) Other relief, including but not limited to:

(1) Awarding to the plaintiff the exclusive use and possession of an automobile, home, and household furniture, if the defendant has the legal duty to support the plaintiff or the plaintiff's minor children, or the plaintiff has contributed to the household expenses. The court shall consider the type and amount of contribution to be a factor.

(2) Restraining the defendant from taking any action which would lead to the disconnection of any and all utilities and services to the parties' household, or the discontinuance of existing business or service contracts, including, but not limited to, mortgage or rental agreements.

II. The defendant may be prohibited from purchasing, receiving, or possessing any deadly weapons and any and all firearms and ammunition for the duration of the order. The court may subsequently issue a search warrant authorizing the peace officer to seize any deadly weapons specified in the protective order and any and all firearms and ammunition, if there is probable cause to believe such firearms and ammunition and specified deadly weapons are kept on the premises or curtilage of the defendant and if the court has reason to believe that all such firearms and ammunition and specified deadly weapons have not been relinquished by the defendant.

§173-B:5 Relief

I. A finding of abuse shall mean the defendant represents a credible threat to the safety of the plaintiff. Upon a showing of abuse of the plaintiff by a preponderance of the evidence, the court shall grant such relief as is necessary to bring about a cessation of abuse. Such relief shall direct the defendant to relinquish to the peace officer any and all firearms and ammunition in the control, ownership, or possession of the defendant, or any other person on behalf of the defendant for the duration of the protective order. Other relief may include:

(a) Protective orders:

(1) Restraining the defendant from abusing the plaintiff.

(2) Restraining the defendant from entering the premises and curtilage where the plaintiff resides, except when the defendant is accompanied by a peace officer and is allowed entry by the plaintiff for the sole purpose of retrieving personal property specified by the court.

(3) Restraining the defendant from contacting the plaintiff or entering the plaintiff's place of employment, school, or any specified place frequented regularly by the plaintiff or by any family or household member.

(4) Restraining the defendant from abusing the plaintiff, plaintiff's relatives, regardless of their place of residence, or plaintiff's household members in any way.

(5) Restraining the defendant from taking, converting, or damaging property in which the plaintiff may have a legal or equitable interest.

(6) Directing the defendant to relinquish to the peace officer, in addition to the relief specified in RSA 173-B:5, I, any and all deadly weapons specified in the protective order that are in the control, ownership, or possession of the defendant, or any other person on behalf of the defendant.

(7) Granting the petitioner exclusive care, custody, or control of any animal owned, possessed, leased, kept, or held by the petitioner, defendant, or a minor child in either household, and ordering the defendant to stay away from the animal and forbidding the defendant from taking, transferring, encumbering, concealing, committing an act of cruelty or neglect, or disposing of the animal.

(b) Other relief including, but not limited to:

(1) Granting the plaintiff the exclusive use and possession of the premises and curtilage of the plaintiff's place of residence, unless the defendant exclusively owns or leases and pays for the premises and the defendant has no legal duty to support the plaintiff or minor children on the premises.

(2) Restraining the defendant from withholding items of the plaintiff's personal property specified by the court. A peace officer shall accompany the plaintiff in retrieving such property to protect the plaintiff.

(3) Granting to the plaintiff the exclusive right of use and possession of the household furniture, furnishings, or a specific automobile, unless the defendant exclusively owns such personal property and the defendant has no legal duty to support the plaintiff or minor children.

(4) Ordering the defendant to make automobile, insurance, health care, utilities, rent, or mortgage payments.

(5) Awarding temporary custody of the parties' minor children to either party or, where appropriate, to the department, provided that:

(A) Where custody of the parties' minor children with the department may be appropriate, the department shall receive actual notice of the hearing 10 days prior to such hearing provided that, if necessary, such hearing may be continued 10 days to provide the department adequate notice.

(B) The department may move at any time to rescind its custody of the parties' minor children.

(6) Establishing visitation rights with regard to the parties' minor children. The court shall consider, and may impose on a custody award, conditions necessary to assure the safety of the plaintiff and minor children. This may include orders denying visitation, requiring supervised visitation that shall take place only at a visitation center that uses a metal detection device and has trained security personnel on-site, or requiring supervised visitation, where such order can be entered consistent with the following requirements. In determining whether visitation shall be granted, the court shall consider whether visitation can be exercised by the non-custodial parent without risk to the plaintiff's or children's safety. In making such determination, the court shall consider, in addition to any other relevant factors, the following:

(A) The degree to which visitation exposes the plaintiff or the children to physical or psychological harm.

(B) Whether the risk of physical or psychological harm can be removed by ordering supervised visitation or by ordering supervised visitation at a center that uses a metal detection device and has trained security personnel on-site.

(C) Whether visitation can be ordered without requiring the plaintiff and defendant to have contact regarding the exchange of children.

(7) Directing the defendant to pay financial support to the plaintiff or minor children, unless the defendant has no legal duty to support the plaintiff or minor children.

(8) Directing the abuser to engage in a batterer's intervention program or personal counseling. If available, such intervention and counseling program shall focus on alternatives to aggression. The court shall not direct the plaintiff to engage in joint counseling services with the defendant. Court-ordered and court-referred mediation of cases involving domestic violence shall be prohibited.

(9) Ordering the defendant to pay the plaintiff monetary compensation for losses suffered as a direct result of the abuse which may include, but not be limited to, loss of earnings or support, medical and dental expenses, damage to property, out-of-pocket losses for injuries sustained, and moving and shelter expenses.

(10) Ordering the defendant to pay reasonable attorney's fees.

II. The defendant shall be prohibited from purchasing, receiving, or possessing any deadly weapons and any and all firearms and ammunition for the duration of the order. The court may subsequently issue a search warrant authorizing a peace officer to seize any deadly weapons specified in the protective order and any and all firearms and ammunition, if there is probable cause to believe such firearms and ammunition and specified deadly weapons are kept on the premises or curtilage of the defendant.

III. Reconciliation after a previous order, prior to filing the current action, shall not be grounds for denying or terminating a new or existing protective order. Furthermore, the court shall not deny the plaintiff protective orders based solely on a lapse of time between an act of domestic violence and the filing of a petition, provided that the underlying act presents a credible threat to the plaintiff's current safety.

IV. No order made under this section shall supersede or affect any court order pertaining to the possession of a residence; household furniture; custody of children pursuant to RSA 169-B, 169-C, or 169-D; support or custody made under RSA 458; or custody of children of unwed parents as determined by a circuit court, or title to real or personal property.

V. (a) Mutual orders for relief shall not be granted. A foreign mutual order for relief shall only be granted full faith and credit in New Hampshire if it meets the requirements set out in RSA 173-B:13, VII.

(b) Cross orders for relief may be granted only if:

(1) The court has made specific findings that each party has committed abuse against the other; and

(2) The court cannot determine who is the primary physical aggressor.

VI. Any order under this section shall be for a fixed period of time not to exceed one year, but may be extended by order of the court upon a motion by the plaintiff, showing good cause, with notice to the defendant, for one year after the expiration of the first order and thereafter each extension may be for up to 5 years, upon the request of the plaintiff and at the discretion of the court. The court shall review the order, and each renewal thereof and shall grant such relief as may be necessary to provide for the safety and well-being of the plaintiff. A defendant shall have the right to a hearing on the extension of any order under this paragraph to be held within 30 days of the extension. The court shall state in writing, at the respondent's request, its reason or reasons for granting the extension. The court shall retain jurisdiction to enforce and collect the financial support obligation which accrued prior to the expiration of the protective order.

VII. Both parties shall be issued written copies of any orders issued by the court, and all orders shall bear the following language: "A willful violation of this order is a crime, as well as contempt of court. Violations of the protective provisions shall result in arrest and may result in imprisonment." Orders shall clearly state how any party can request a further hearing and how the plaintiff may bring a criminal complaint or a petition for contempt if there is a violation of any court order.

VIII. (a) No order issued under this chapter shall be modified other than by the court. Temporary reconciliations shall not revoke an order.

(b) If either party wishes the defendant to be excused from any provisions of an order of protection, the remedy is to petition the court for modification of such order.

(c) A defendant who is restrained from contacting the plaintiff or entering the premises of the plaintiff is prohibited from doing so even if invited by the plaintiff unless the restraining order has been modified by the court.

(d) This paragraph shall give unequivocal direction to peace officers that orders for protection are to be enforced as written and that no action by a party relieves them of the duty to enforce the order.

VIII-a. Upon issuing an order against a defendant, in which a defendant is restrained from having any contact with the plaintiff, the court shall advise the plaintiff that it would be unwise and possibly unsafe for the plaintiff to contact the defendant. If the plaintiff wishes to contact the defendant for any reason, the court shall advise the plaintiff that such contact be made only after petitioning the court for a modification of the order. In an emergency situation, the plaintiff or plaintiff's family may request that the local police department notify the defendant and the local police may accompany the defendant to a designated location, such as a hospital, if appropriate.

IX. (a) A copy of each protective order issued under this chapter shall be transmitted to the administrative office of the courts by facsimile or computer. An emergency protective order issued telephonically shall be transmitted by telephone or facsimile to the department of safety.

(b) The administrative office of the courts shall enter information regarding the protective orders into the state database which shall be made available to police and sheriff departments statewide. The department of safety shall make available information regarding emergency protective orders issued telephonically to police and sheriff departments statewide.

(c) The administrative office of the courts shall update the database upon expiration or termination of a protective order.

(d) Notwithstanding any other provision of law, the administrative office of the courts or the department of safety, its employees and agents, and law enforcement officials shall not be held criminally or civilly liable for action taken under this chapter or RSA 458:16, provided they are acting in good faith and without gross negligence, and within the scope of their duties and authority.

IX-a. If a criminal records check conducted by the department of safety indicates that a potential buyer or transferee is prohibited from receipt or possession of a firearm pursuant to a protective order issued under this chapter, the department of safety shall notify the administrative office of the courts of the denial. The administrative office of the courts shall immediately notify the plaintiff that the defendant has attempted to purchase or obtain a firearm in violation of the protective order.

X. (a) Within 15 days prior to the expiration of the protective orders, the defendant may request, by motion to the court, the return of any and all firearms and ammunition and specified deadly weapons held by the law enforcement agency while the protective order was in effect. Upon receipt of such a motion, the court shall schedule a hearing no later than 15 days after the expiration of the order. The court shall provide written notice to the plaintiff who shall have the right to appear and be heard, and to the law enforcement agency which has control of the firearms, ammunition, and specified deadly weapons. The scope of the hearing shall be limited to:

(1) Establishing whether the defendant is subject to any state or federal law or court order that precludes the defendant from owning or possessing a firearm; and

(2) Under circumstances where the plaintiff has requested an extension of the protective order, whether the plaintiff has established by a preponderance of the evidence that the defendant continues to represent a credible threat to the safety of the plaintiff.

(b) If the court finds that the defendant is not subject to any state or federal law or court order precluding the ownership or possession of firearms, or if the court denies the plaintiff's request to extend the protective order, the court shall issue a written order directing the law enforcement agency to return the requested firearms, ammunition, or deadly weapon to the defendant.

(c) Law enforcement agencies shall not release firearms and ammunition and specified deadly weapons without a court order granting such release. The law enforcement agency may charge the defendant a reasonable fee for the storage of any firearms and ammunition and specified deadly weapons taken pursuant to a protective order. The fee shall not exceed the actual cost incurred by the law enforcement agency for the storage of the firearms and ammunition and specified deadly weapons. The defendant may make alternative arrangements with a federally licensed firearms dealer for the storage of firearms, at the defendant's own expense, upon approval of the court. Such firearms shall be turned over to the appropriate law enforcement agency for transfer to the storage facility. Retrieval of such firearms shall be through the law enforcement agency responsible for their transfer to the storage facility pursuant to a court order as prescribed in this paragraph.

(d) No law enforcement agency shall be held liable for alleged damage or deterioration due to storage or transportation to any firearms and ammunition and specified deadly weapons held by a law enforcement agency, so long as due care is used.

24. Bylaws and Ordinances

§47:17 Bylaws and Ordinances

The city councils shall have power to make all such salutary and needful bylaws as towns and the police officers of towns and engineers or firewards by law have power to make and to annex

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penalties, not exceeding \$1,000, for the breach thereof; and may make, establish, publish, alter, modify, amend and repeal ordinances, rules, regulations, and bylaws for the purposes stated in this section. Provisions in this section granting authority to establish and collect fines for certain violations shall not be interpreted to limit the authority hereunder to establish and collect fines for any other violations:

VI. PORTERS, VEHICLES, ETC. To license and regulate porters, cartmen and cartage, runners for boats, stages, cars, and public houses, hackney coaches, cabs, and carriages, and their drivers; the care and conduct of all animals, carriages, and teams, standing or moving in the streets; to prevent horse-racing and immoderate riding or driving in streets and on bridges; and to prevent cruelty to animals.