

TENNESSEE ANIMAL CRUELTY LAWS

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INTRODUCTION

This summary begins with § 39-14-202, which addresses cruelty to animals. It divides cruelty to animals in categories that include torture, neglect (failure to provide adequate food, water, care, or shelter), abandonment, improper transportation, harm related to competition, and harmful restraint. About half of the cases address torture, resulting from, e.g., beating a dog, shooting a dog, untreated illness, and unsanitary conditions. The other half of the cases address neglect, resulting from, e.g., putting too many horses on a small pasture, keeping dogs in an unsanitary kennel with inadequate food and water, and untreated illnesses. § 39-14-201 defines terms used in § 39-14-202, such as torture. Neglect of a dog's injuries is an example of torture.

§ 39-14-203 prohibits involvement in any aspect of animal fighting, including being a spectator, keeping or training an animal for fighting, or permitting an animal fight to take place on one's premises. In most cases, the guilty parties are caught in the dog fighting episodes.

According to § 39-14-205, intentional killing of animals is prohibited, unless the animal poses imminent serious harm. Convictions usually result from shooting a dog.

The remaining provisions address specific animals or issues, including dyed baby fowl or rabbits (§ 39-14-204), impounded animals (§ 39-14-207), guide dogs (§ 39-14-208), horse shows (§ 39-14-209), livestock (§ 39-14-211), removal of electronic or radio dog collar or microchip implant (§ 39-14-213), sexual activity with animals (§ 39-14-214), emergency care (§ 39-14-215), aggravated cruelty to livestock (§ 39-14-217), and the Farm Animal and Research Facilities Protection Act (§§ 39-14-802-06).

Overview of Statutory Provisions

- 1. Cruelty to Animals: TENN. CODE ANN. §§ 39-14-202; 39-14-209; 39-14-212; 39-14-214**
- 2. Animal Fighting: TENN. CODE ANN. § 39-14-203**
- 3. Service Animals: TENN. CODE ANN. §§ 39-14-205; 39-14-208**
- 4. Miscellaneous: TENN. CODE ANN. § 39-14-204**
- 5. Livestock: TENN. CODE ANN. §39-14-217**

1. CRUELTY TO ANIMALS

TENN. CODE ANN. § 39-14-202. CRUELTY TO ANIMALS

- (a) A person commits an offense who intentionally or knowingly:
- (1) Tortures, maims or grossly overworks an animal;
 - (2) Fails unreasonably to provide necessary food, water, care or shelter for an animal in the person's custody;
 - (3) Abandons unreasonably an animal in the person's custody;
 - (4) Transports or confines an animal in a cruel manner; or

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(5) Inflicts burns, cuts, lacerations, or other injuries or pain, by any method, including blistering compounds, to the legs or hooves of horses in order to make them sore for any purpose including, but not limited to, competition in horse shows and similar events.

(b) A person commits an offense who knowingly ties, tethers, or restrains a dog in a manner that results in the dog suffering bodily injury as defined in § 39-11-106.

(c) It is a defense to prosecution under this section that the person was engaged in accepted veterinary practices, medical treatment by the owner or with the owner's consent, or bona fide experimentation for scientific research.

(d) Whenever any person is taken into custody by any officer for violation of subdivision (a)(4), the officer may take charge of the vehicle or conveyance, and its contents, used by the person to transport the animal. The officer shall deposit these items in a safe place for custody. Any necessary expense incurred for taking charge of and sustaining the same shall be a lien thereon, to be paid before the same can lawfully be recovered; or the expenses, or any part thereof, remaining unpaid may be recovered by the person incurring the same of the owners of the animal in an action therefor.

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

(f)(1) Nothing in this section shall be construed as prohibiting the owner of a farm animal or someone acting with the consent of the owner of that animal from engaging in usual and customary practices which are accepted by colleges of agriculture or veterinary medicine with respect to that animal.

(2) It is an offense for a person other than a law enforcement officer acting with probable cause to knowingly interfere with the performance of any agricultural practices permitted by subdivision (f)(1).

(3) An offense under subdivision (f)(2) is a Class B misdemeanor.

(g)(1) Cruelty to animals is a Class A misdemeanor.

(2) A second or subsequent conviction for cruelty to animals is a Class E felony.

(3) Violation of any prohibition or restriction imposed by the sentencing court pursuant to subsection (e) is a Class A misdemeanor.

Applicable Case law

State v. Siliski, 238 S.W.3d 338 (Tenn. Crim. App. 2007).

The defendant was charged with 28 counts of animal torture, and 2 counts of providing inadequate food, water, care, or shelter, as a result of poor living conditions for the animals in a “puppy (and kitten) mill.” The defendant received concurrent sentences of 11 months and 29 days, served at 75%, followed up 8 years of unsupervised probation, 50 hours of community service within the first year, a permanent prohibition on commercial involvement with animals, and regular inspection of the defendant’s home to monitor compliance. Ten days were served in jail, and the defendant remained on probation throughout the rest of the sentences. The cages

were unsanitary, with excessive amounts of fecal matter, and lacked food and water. The animals had untreated illnesses. The conditions constituted “unreasonable pain and suffering.”

It was acceptable to create separate charges for each animal, despite the fact that they were held in the same conditions, because the state presented evidence showing distinct and separate injuries suffered by each animal (e.g., some had ear infections, some had eye infections). The fact that subsection (d) of the statute refers to “animal or animals” does not create ambiguity in regard to whether a defendant may be charged separately for each animal treated badly.

The statute is not vague as a result of infrequent enforcement.

A report submitted by a veterinarian who was not employed by the state falls under the business records exceptions to the hearsay rule, because a veterinarian is in the business of veterinary medicine.

***State v. Webb*, 130 S.W.3d 799 (Tenn. Crim. App. 2003).**

The defendant was convicted of 47 counts of cruelty to animals. For each charge, the defendant received a sentence of 11 months and 29 days, to be served concurrently, 60 days of which were served while incarcerated. The defendant was also required to pay about \$40,000 in restitution to the county humane society, and a fine of \$5,000. He was also required to complete 50 hours of community service.

The defendant held over 100 dogs in a makeshift kennel facility attached to a mobile home. The cages were unsanitary, with large amounts of fecal matter inside. The dogs suffered from illnesses, such as heartworms, and had inadequate food and water.

TENN. CODE ANN. § 39-14-209. HORSE SHOWS; REPORTS.

(a) It is the duty of any person designated and acting as a ringmaster of any horse show or similar event to disqualify any horse determined by the ringmaster to be suffering from the causes set out in § 39-14-202(a)(5) from further participation in the show, and to make a report of the same, including the name of the horse, the owner of the horse, and the exhibitor of the horse, to the manager or chair of the show, who in turn shall report the same in writing to the district attorney general of the judicial district wherein the incident occurred for appropriate action.

(b) A violation of this duty is a Class C misdemeanor.

No applicable case law

TENN. CODE ANN. § 39-14-212. AGGRAVATED CRUELTY TO ANIMALS

(a) A person commits aggravated cruelty to animals when, with aggravated cruelty and with no justifiable purpose, the person intentionally kills or intentionally causes serious physical injury to a companion animal.

(b) For purposes of this section:

(1) “Aggravated cruelty” means conduct which is done or carried out in a depraved and sadistic manner and which tortures or maims an animal, including the failure to provide food and water to a companion animal resulting in a substantial risk of death or death;

(2) “Companion animal” means any non-livestock animal as defined in § 39-14-201(3);

(3) “Elderly” means any person sixty-five (65) years of age or older; and

(4) “Minor” means any person under eighteen (18) years of age.

(c) The provisions of subsection (a) are not to be construed to prohibit or interfere with the following endeavors:

- (1) The provisions of this section are not to be construed to change, modify, or amend any provision of title 70, involving fish and wildlife;
 - (2) The provisions of this section do not apply to activities or conduct that are prohibited by § 39-14-203;
 - (3) The provisions of this section do not apply to equine animals or to animals defined as livestock by the provisions of § 39-14-201;
 - (4) Dispatching an animal in any manner absent of aggravated cruelty;
 - (5) Engaging in lawful hunting, trapping, or fishing activities, including activities commonly associated with the hunting of small game as defined in § 70-1-101(a)(34);
 - (6) Dispatching rabid or diseased animals;
 - (7) Dispatching animals posing a clear and immediate threat to human safety;
 - (8) Performing or conducting bona fide scientific tests, experiments or investigations within or for a bona fide research laboratory, facility or institution;
 - (9) Performing accepted veterinary medical practices or treatments;
 - (10) Dispatching animals in accordance with § 44-17-403(e);
 - (11) Engaging, with the consent of the owner of a farm animal, in usual and customary practices which are accepted by colleges of agriculture or veterinary medicine with respect to that animal;
 - (12) Dispatching wild or abandoned animals on a farm or residential real property; or
 - (13) Applying methods and equipment used to train animals.
- (d) Aggravated cruelty to animals is a Class E felony.
- (e) In addition to the penalty imposed by subsection (d), the sentencing court may order the defendant to surrender custody and forfeit all companion animals as defined in subdivision (b)(2), and may award custody of the animals to the agency presenting the case. The court may prohibit the defendant from having custody of other animals for any period of time the court determines to be reasonable, or impose any other reasonable restrictions on the person's custody of animals as is necessary for the protection of the animals.
- (f) In addition to the penalty imposed by subsection (d), the court may require the defendant to undergo psychological evaluation and counseling, the cost to be borne by the defendant. If the defendant is indigent, the court may, where practicable, direct the defendant to locate and enroll in a counseling or treatment program with an appropriate agency.
- (g) If a defendant convicted of a violation of this section resides in a household with minor children or elderly individuals, the court may, within fifteen (15) days, send notification of the conviction to the appropriate protective agencies.
- (h) In addition to the penalty imposed by subsection (d), the defendant may be held liable to the impounding officer or agency for all costs of impoundment from the time of seizure to the time of proper disposition of the case.
- (i)(1) In addition to the penalty imposed by subsection (d), the defendant may be held liable to the owner of the animal for damages.
- (2) If an unlawful act resulted in the death or permanent disability of a person's guide dog, then the value of the guide dog shall include, but shall not necessarily be limited to, both the cost of the guide dog as well as the cost of any specialized training the guide dog received.
- (j) If a juvenile is found to be within the court's jurisdiction, for conduct that, if committed by an adult, would be a criminal violation involving cruelty to animals or would be a criminal violation involving arson, then the court may order that the juvenile be evaluated to determine the need for

psychiatric or psychological treatment. If the court determines that psychiatric or psychological treatment is appropriate for that juvenile, then the court may order that treatment.

(k) This section does not preclude the court from entering any other order of disposition allowed under this chapter.

Applicable Case Law

Op. Atty. Gen. No. 08-124, July 16, 2008, 2008 WL 2790953.

The terms depraved and sadistic are not defined in Tenn. Code Ann. § 39-14-212(b)(1) or elsewhere in the statutory scheme and therefore, one must look to the plain language of the statute and apply the ordinary meaning of the words.

TENN. CODE ANN. § 39-14-214. SEXUAL ACTIVITY WITH ANIMALS.

(a) A person commits an offense who knowingly:

- (1) Engages in any sexual activity with an animal;
- (2) Causes, aids, or abets another person to engage in any sexual activity with an animal;
- (3) Permits any sexual activity with an animal to be conducted on any premises under the person's charge or control;
- (4) Engages in, organizes, promotes, conducts, advertises, aids, abets, participates in as an observer, or performs any service in the furtherance of an act involving any sexual activity with an animal for a commercial or recreational purpose; or
- (5) Photographs or films, for purposes of sexual gratification, a person engaged in a sexual activity with an animal.

(b) A violation of this section is a Class E felony.

(c) In addition to the penalty imposed in subsection (b), the court may order that the convicted person do any of the following:

- (1) Not harbor or own animals or reside in any household where animals are present;
- (2) Participate in appropriate counseling at the defendant's expense; or
- (3) Reimburse the animal shelter or humane society for any reasonable costs incurred for the care and maintenance of any animals taken to the animal shelter or humane society as a result of conduct proscribed in subsection (a).

(d) Nothing in this section may be considered to prohibit accepted animal husbandry practices or accepted veterinary medical practices.

(e) If the court has reasonable grounds to believe that a violation of this section has occurred, the court may order the seizure of all animals involved in the alleged violation as a condition of bond of a person charged with a violation.

(f) For purposes of this section:

- (1) "Animal" has the same meaning as the term is defined in § 63-12-103;
- (2) "Photographs" or "films" means the making of a photograph, motion picture film, videotape, digital image, or any other recording, sale, or transmission of the image; and
- (3) "Sexual activity" means physical sexual contact between the person and the animal.

No applicable case law.

2. ANIMAL FIGHTING

TENN. CODE ANN. § 39-14-203. FIGHTING OR BAITING EXHIBITIONS.

(a) It is unlawful for any person to:

- (1) Own, possess, keep, use or train any bull, bear, dog, cock, swine or other animal, for the purpose of fighting, baiting or injuring another such animal, for amusement, sport or gain;
 - (2) Cause, for amusement, sport or gain, any animal referenced in subdivision (a)(1) to fight, bait or injure another animal, or each other;
 - (3) Permit any acts stated in subdivisions (a)(1) and (2) to be done on any premises under the person's charge or control, or aid or abet those acts; or
 - (4) Be knowingly present, as a spectator, at any place or building where preparations are being made for an exhibition for the fighting, baiting or injuring of any animal, with the intent to be present at the exhibition, fighting, baiting or injuring.
- (b) It is the legislative intent that the provisions of this section shall not apply to the training or use of hunting dogs for sport or to the training or use of dogs for law enforcement purposes.
- (c)(1) Except for any offense involving a cock, an offense under subdivisions (a)(1)-(3) is a Class E felony.
- (2) An offense involving a cock under subdivisions (a)(1)-(3) is a Class A misdemeanor.
- (d)(1) An offense under subdivision (a)(4) is a Class B misdemeanor if the person is a spectator at a dog fight.
- (2) Any other violation of subdivision (a)(4) is a Class C misdemeanor.
- (e) It is not an offense to own, possess or keep cocks, or aid or abet the ownership, possession or keeping of cocks, for the sole purpose of selling or transporting cocks to a location in which possession or keeping of cocks is legal.

Applicable Case law

State v. Tabor, 678 S.W.2d 45 (Tenn. 1984).

Defendants were indicted for knowingly being present as spectators at a cockfight. They appealed on the grounds that the statute was unconstitutionally vague and overbroad.

The Supreme Court of Tennessee held that the statute is not unconstitutionally vague or overbroad.

3. SERVICE ANIMALS

TENN. CODE ANN. § 39-14-205. INTENTIONAL KILLING; POLICE DOGS; JUSTIFIABLE KILLING.

- (a)(1)(A) It is an offense to knowingly and unlawfully kill the animal of another without the owner's effective consent.
- (B) A violation of subdivision (a)(1)(A) is theft of property, graded according to the value of the animal, and punished in accordance with [§ 39-14-105](#).
- (2) In determining the value of a police dog, fire dog, search and rescue dog, service animal or police horse under [§ 39-14-105](#), the court shall consider the value of the police dog, fire dog,

search and rescue dog, service animal or police horse as both the cost of the animal and any specialized training the animal received.

(b) A person is justified in killing the animal of another if the person acted under a reasonable belief that the animal was creating an imminent danger of death or serious bodily injury to that person or another or an imminent danger of death to an animal owned by that person. A person is not justified in killing the animal of another if at the time of the killing the person is trespassing upon the property of the owner of the animal. The justification for killing the animal of another authorized by this subsection (b) shall not apply to a person who, while engaging in or attempting to escape from criminal conduct, kills a police dog that is acting in its official capacity. In that case the provisions of subsection (a) shall apply to the person.

Applicable Case Law

***State v. Hayes*, No. W2010-00309-CCA-R3-CD, 2011 WL 3655130 (Tenn. Crim. App. Nov. 16, 2011).**

The defendant stabbed a police dog worth more than \$1,000 during a robbery. Officers did not see the stabbing, but heard the dog yelp and then found the defendant near the dog and a knife covered in blood and fur.

The defendant received an enhanced incarceration sentence of four years. The court enhanced the sentence, because of the defendant's "exceptional cruelty," as his violence went beyond what was necessary to simply kill the dog. The court finds the stabbing of the dog's face and mouth to be infliction of pain and suffering for its own sake. Tenn. Code Ann. § 40-35-114(5).

TENN. CODE ANN. § 39-14-208. INJURY TO AND VALUE OF GUIDE DOGS.

A person who intentionally or knowingly unlawfully injures the guide dog of another and, thereby, permanently deprives the owner of the use of the guide dog's services commits theft of that animal and shall be punished under § 39-14-105. In determining the value of the guide dog for purposes of § 39-14-105, the court shall consider the value of the guide dog as both the cost of the dog as well as the cost of any specialized training the guide dog received.

No applicable case law

4. MISCELLANEOUS

TENN. CODE ANN. § 39-14-204. DYED BABY FOWL OR RABBITS.

(a)(1) It is unlawful for any person to:

- (A) Sell, offer for sale, barter or give away baby chickens, ducklings or goslings of any age, or rabbits under two (2) months of age, as pets, toys, premiums or novelties, if those fowl or rabbits have been colored, dyed, stained or otherwise had their natural color changed; or
- (B) Bring or transport such fowl or rabbits into the state for the purposes mentioned in subdivision (a)(1)(A).

(2) This section shall not be construed to prohibit the sale or display of baby chickens, ducklings, or other fowl or rabbits in proper facilities by breeders or stores engaged in the business of selling for purposes of commercial breeding and raising or laboratory testing.

(3) Each baby chicken, duckling, other fowl or rabbit sold, offered for sale, bartered or given away in violation of this section constitutes a separate offense.

(b) A violation of this section is a Class C misdemeanor.

No applicable case law

5. LIVESTOCK

AGGRAVATED CRUELTY TO LIVESTOCK. TENN. CODE ANN. § 39-14-217.

(a) As used in this section only, "livestock" means all equine as well as animals which are being raised primarily for use as food or fiber for human utilization or consumption, including, but not limited to, cattle, sheep, swine, and goats.

(b) Except as provided in subsections (d) and (e), a person commits aggravated cruelty to a livestock animal who, in a depraved and sadistic manner, intentionally engages in any of the conduct described in subdivisions (c)(1)--(12), the conduct results in serious bodily injury to the animal or the death of the animal, and is without justifiable or lawful purpose.

(c) The following conduct constitutes aggravated cruelty to livestock animals if accomplished in the manner described in subsection (b):

(1) Setting an animal on fire;

(2) Burning an animal with any hot object;

(3) Cutting or stabbing an animal with any object;

(4) Causing blunt force trauma to an animal;

(5) Securing an animal to a vehicle and dragging it;

(6) Blinding an animal;

(7) Applying acid or other caustic substance or chemical to any exposed area of an animal or forcing the animal to ingest the substance;

(8) Hanging a living animal;

(9) Skinning an animal while it is still alive;

(10) Administering electric shock to an animal;

(11) Drowning an animal; or

(12) Shooting an animal with a weapon.

(d) Subsections (b) and (c) shall not be construed to apply to, prohibit or interfere with the following:

(1) Any provision of title 70, involving fish and wildlife, or any hunting, trapping, or fishing activities lawful under such title;

(2) Activities or conduct that are prohibited by § 39-14-203; or

(3) Dispatching an animal in any manner not prohibited by this section.

(e) The following shall not be construed as aggravated cruelty to a livestock animal as defined in this section:

(1) Dispatching rabid, diseased, sick or injured livestock animals;

(2) Dispatching livestock animals posing a clear and immediate threat to human safety;

(3) Performing or conducting bona fide scientific tests, experiments or investigations within or for a bona fide research laboratory, facility or institution;

- (4) Performing accepted veterinary medical practices or treatments;
- (5) Engaging, with the consent of the owner of a livestock animal, in usual and customary practices which are accepted by colleges of agriculture or veterinary medicine with respect to that animal;
- (6) Dispatching wild or abandoned livestock animals on a farm or residential real property; or
- (7) Applying methods and equipment used to train livestock animals.
- (f) In addition to the penalty imposed by subsection (j), the defendant may be held liable to:
 - (1) The owner of the livestock animal for damages; and
 - (2) The impounding officer or agency for all costs of impoundment from the time of seizure to the time of proper disposition of the case.
- (g) In addition to the penalty imposed by subsection (j), the sentencing court may order the defendant to surrender custody and forfeit all livestock animals, and may award custody of the animals to the agency presenting the case. The court may prohibit the defendant from having custody of other livestock animals for any period of time the court determines to be reasonable, or impose any other reasonable restrictions on the person's custody of livestock animals as is necessary for the protection of the animals.
- (h) In addition to the penalty imposed by subsection (j), the court may require the defendant to undergo psychological evaluation and counseling, the cost to be borne by the defendant. If the defendant is indigent, the court may, where practicable, direct the defendant to locate and enroll in a counseling or treatment program with an appropriate agency.
- (i) This section does not preclude the court from entering any other order of disposition allowed under this chapter.
- (j) Aggravated cruelty to a livestock animal is a Class E felony.

No applicable case law.