

Updates as of June 2017

ALASKA ANIMAL CRUELTY LAWS

Alaska Cruelty Laws Overview

Title	Section	Classification	Punishment Range
Cruelty to Animals (Failure to provide care)	11.61.140 (a) (2)	Class A Misdemeanor*	30d-1 year in county jail, fine not to exceed \$25,000
Cruelty to Animals (kills or injures with intent to threaten another person)	11.61.140 (a) (5)	Class A Misdemeanor*	30d-1 year in county jail, fine not to exceed \$25,000
Cruelty to Animals (sexual contact with animal, encourages or films same)	11.61.140 (a) (6) (A) 11.61.140 (a) (6) (B) (i) 11.61.140 (a) (6) (B) (ii)	Class A Misdemeanor*	30d-1 year in county jail, fine not to exceed \$25,000
Cruelty to Animals (permits sexual contact with animal on premises owned)	11.61.140 (a) (7)	Class A Misdemeanor*	30d-1 year in county jail, fine not to exceed \$25,000
Cruelty to Animals (knowingly inflicts severe or prolonged pain)	11.61.140 (a) (1)	Class C Felony	Up to 5 years determinate sentence**; fine not to exceed \$50,000
Cruelty to Animals (use of decompression chamber)	11.61.140 (a) (3)	Class C Felony	Up to 5 years determinate sentence**; fine not to exceed \$50,000
Cruelty to Animals (Intentionally kills or injures pet or livestock by poison)	11.61.140 (a) (4)	Class C Felony	Up to 5 years determinate sentence**; fine not to exceed \$50,000
Promoting an exhibition of fighting animals (owns, keeps, or trains dog for purposes of fighting)	11.61.145 (a) (1)	Class C Felony	Up to 5 years determinate sentence**; fine not to exceed \$50,000
Promoting an exhibition of fighting animals (instigates, promotes, pecuniary interest)	11.61.145 (a) (3)	Class C Felony	Up to 5 years determinate sentence**; fine not to exceed \$50,000
Promoting an exhibition of fighting animals (attending fighting exhibition)	11.61.145 (a) (3)	Violation Class A Misdemeanor (Third and subsequent offenses)	First Offense: fine up to \$500 Second Offense: fine up to \$1000 Third and subsequent offenses: 30d-1 year in county jail, fine not to exceed \$25,000
Harming a Police Dog in the Second Degree	11.65.710	Class A Misdemeanor	30d-1 year in county jail, fine not to exceed \$25,000

Harming a Police Dog in the First Degree	11.65.705	Class C Felony	Up to 5 years determinate sentence**; fine not to exceed \$50,000
Interference with the Training of a Service Animal	11.76.133	Violation	Fine not to exceed \$500

*First offense charged as Class A misdemeanor, subsequent conviction within 10 years a Class C felony

**Sentence length will vary by previous felony convictions, with a maximum of five years, see ALASKA STAT. 12.55.125 (e) for sentencing factors.

CRUELTY PROVISIONS

§ 03.55.100 Minimum Standards of Care for Animals

(a) The minimum standards of care for animals include

- (1) food and water sufficient to maintain each animal in good health;
- (2) an environment compatible with protecting and maintaining the good health and safety of the animal; and
- (3) reasonable medical care at times and to the extent available and necessary to maintain the animal in good health.

(b) Any determination as to whether or not the standards of this chapter are met shall be based on the professional opinion of a veterinarian licensed under AS 08.98.

(c) The department may adopt regulations to implement this section.

Commentary:

“Animal” is defined as “a vertebrate living creature not a human being, but does not include fish.” Alaska Stat. 11.81.900 (b) (3).

Statute establishes the minimum standard of care required by owners, or people in possession, of animals. *Sickel v. State*, 363 P.3d 115 (Alaska Ct. App 2015).

§ 11.61.140 Cruelty to Animals

(a) A person commits cruelty to animals if the person

- (1) knowingly inflicts severe or prolonged physical pain or suffering on an animal;
- (2) has a legal duty to care for the animal and, with criminal negligence, fails to care for an animal and, as a result, causes the death of the animal or causes severe physical pain or prolonged suffering to the animal;
- (3) kills or injures an animal by the use of a decompression chamber;

(4) intentionally kills or injures a pet or livestock by the use of poison;

(5) knowingly kills or injures an animal, other than as provided in (1) or (3) of this subsection, with the intent to intimidate, threaten, or terrorize another person;

(6) knowingly

(A) engages in sexual conduct with an animal; or

(B) under circumstances not proscribed under AS 11.41.455,

(i) photographs or films, for purposes of sexual gratification, a person engaged in sexual conduct with an animal; or

(ii) causes, induces, aids, or encourages another person to engage in sexual conduct with an animal; or

(7) intentionally permits sexual conduct with an animal to be conducted on any premises under the person's control.

(b) Each animal that is subject to cruelty to animals under (a) of this section shall constitute a separate offense.

(c) It is a defense to a prosecution under this section that the conduct of the defendant

(1) was part of scientific research governed by accepted standards;

(2) constituted the humane destruction of an animal;

(3) conformed to accepted veterinary or animal husbandry practices;

(4) was necessarily incidental to lawful fishing, hunting or trapping activities;

(5) conformed to professionally accepted training and discipline standards.

(d) In (a)(2) of this section, failure to provide the minimum standards of care for an animal under AS 03.55.100 is prima facie evidence of failure to care for an animal.

(e) This section does not apply to generally accepted dog mushing or pulling contests or practices or rodeos or stock contests.

(f) In this section, "sexual conduct" means any

(1) touching or fondling by a person, either directly or through clothing, of the genitals or anus of an animal or any transfer or transmission of semen by the person on any part of the animal for the purpose of sexual gratification or arousal of the person;

(2) contact, however slight, between the mouth, genitals, or anus of a person and the sex organ or anus of an animal, or any intrusion, however slight, of any part of the body of the person into the

sex organ or anus of an animal, or any intrusion of the genitals or anus of the person into the mouth of the animal for the purpose of sexual gratification of the person.

(g) Except as provided in (h) of this section, cruelty to animals under (a)(2), (5), (6), or (7) of this section is a class A misdemeanor. The court may also

(1) require forfeiture of any animal affected to the state or to a custodian that supplies shelter, care, or medical treatment for the animal;

(2) require the defendant to reimburse the state or a custodian for all reasonable costs incurred in providing necessary shelter, care, veterinary attention, or medical treatment for any animal affected;

(3) prohibit or limit the defendant's ownership, possession, or custody of animals for up to 10 years.

(h) Cruelty to animals under (a)(1), (3), or (4) of this section is a class C felony. Cruelty to animals is also a class C felony if the person is convicted under (a)(2), (5), (6), or (7) of this section and the person has been previously convicted on one or more separate occasions within 10 years of the date of the present offense of a crime under this section, AS 11.61.145(a)(1) or (2), or a law or ordinance of another jurisdiction having elements similar to those offenses. For a conviction under this subsection, the court may also

(1) require forfeiture of any animal affected to the state or to a custodian that supplies shelter, care, or medical treatment for the animal;

(2) require the defendant to reimburse the state or a custodian for all reasonable costs incurred in providing necessary shelter, care, veterinary attention, or medical treatment for any animal affected;

(3) prohibit or limit the defendant's ownership, possession, or custody of animals for up to 10 years.

Commentary:

“Animal” is defined as “a vertebrate living creature not a human being, but does not include fish.” Alaska Stat. 11.81.900 (b) (3).

Alaska has defined the culpable mental states in Alaska Stat. 11.81.900 (a)

(1) a person acts "intentionally" with respect to a result described by a provision of law defining an offense when the person's conscious objective is to cause that result; when intentionally causing a particular result is an element of an offense, that intent need not be the person's only objective;

(2) a person acts "knowingly" with respect to conduct or to a circumstance described by a provision of law defining an offense when the person is aware that the conduct is of that nature or that the circumstance exists; when knowledge of the existence of a particular fact is an element of an offense, that knowledge is established if a person is aware of a substantial probability of its existence, unless the person actually believes it does not exist; a person who is unaware of conduct or a circumstance of which the person would have been aware had that person not been intoxicated acts knowingly with respect to that conduct or circumstance;

(3) *Recklessly-omitted in commentary*

(4) a person acts with "criminal negligence" with respect to a result or to a circumstance described by a provision of law defining an offense when the person fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.

ALASKA STAT. § 03.55.100 establishes the standard of care for animals, and a failure to meet this standard can result in a conviction under § 11.61.140 (a) (2). *See Sickel v. State*, 363 P.3d 115 (Alaska Ct. App 2015).

§ 11.56.710. Harming a police dog in the second degree

(a) A person commits the crime of harming a police dog in the second degree if the person intentionally causes physical injury to or, without causing physical injury to, torments, kicks, strikes, stones, or tampers with a police dog, knowing the dog to be a police dog.

(b) Harming a police dog in the second degree is a class A misdemeanor.

§ 11.56.705. Harming a police dog in the first degree

(a) A person commits the crime of harming a police dog in the first degree if the person intentionally kills or causes serious physical injury to a police dog, knowing the dog to be a police dog.

(b) Harming a police dog in the first degree is a class C felony.

Commentary:

ALASKA STAT. 11.56.715 establishes a defense for Harming a police dog in the first or second degree.

§ 11.76.133. Interference with the training of a service animal

(a) A person commits the offense of interference with the training of a service animal if the person intentionally prevents or restricts a person who is authorized to train a service animal from being accompanied by an animal that is identified as being in training to be a service animal, or assesses an extra charge because of the animal, in a public facility, except as provided in (b) and (c) of this section.

(b) A trainer who is accompanied by an animal in training to be a service animal in a public facility is liable for property damage done by the animal.

(c) It is an affirmative defense to a prosecution under this section that

(1) the person accompanied by the animal in training to be a service animal did not, when requested by the defendant, give reasonable evidence of being a person authorized to train service animals; or

(2) the defendant prevented entry into the facility or caused the trainer and the animal to leave or be removed from the facility based on unruly or disruptive conduct of the animal that created

(A) a substantial risk of imminent physical injury to a person other than the trainer; or

(B) an atmosphere that made regular activities by other persons in the facility substantially more difficult than usual.

(d) In this section,

(1) "authorized" means employed by, or serving as a volunteer with, a school, agency, or other facility that trains service animals;

(2) "identified as being in training" means wearing a device or exhibiting an insignia approved by a school, agency, or other facility that trains service animals that identifies the animal as being in training to be a service animal;

(3) "in training to be a service animal" means being in the pre-training or training period as required under a program administered through a school, agency, or other training facility for service animals whose goal is to certify the animal as being able to assist physically or mentally challenged persons;

(4) "public facility" means a capital improvement owned, operated, or occupied by, or a mode of transportation owned or operated by, the state, a public corporation of the state, the University of Alaska, a political subdivision of the state, or a regional educational attendance area.

(e) Interference with the training of a service animal is a violation.

ANIMAL FIGHTING PROVISIONS

§ 11.61.145 Promoting an exhibition of fighting animals

(a) A person commits the crime or offense, as applicable, of promoting an exhibition of fighting animals if the person

(1) owns, possesses, keeps, or trains an animal with intent that it be engaged in an exhibition of fighting animals;

(2) instigates, promotes, or has a pecuniary interest in an exhibition of fighting animals; or

(3) attends an exhibition of fighting animals.

(b) The animals, equipment, vehicles, money, and other personal property used by a person in a violation of (a)(1) or (2) of this section shall be forfeited to the state if the person is convicted of an offense under this section.

(c) In this section, "animal" means a vertebrate living creature not a human being, but does not include fish.

(d) Promoting an exhibition of fighting animals

(1) under (a)(1) or (2) of this section is a class C felony;

(2) under (a)(3) of this section is

(A) a violation

(i) for the first offense;

(ii) punishable by a fine of not more than \$ 1,000 for the second offense; and

(B) a class A misdemeanor for the third and each subsequent offense.

PROCEDURE AND DESTRUCTION PROVISIONS

§ 03.55.110. Investigation of Cruelty to Animals Complaints

(a) A person who believes that cruelty to animals has taken place or is taking place may file a complaint with a public or private animal control agency or organization, the department, or a peace officer. An agency or organization or the department may refer the complaint to a peace officer.

(b) A peace officer who receives a complaint of animal cruelty may apply for a search warrant under AS 12.35 to the judicial officer in the judicial district in which the alleged violation has taken place or is taking place. If the court finds that probable cause exists, the court shall issue a search warrant directing a peace officer to proceed immediately to the location of the alleged violation, search the place designated in the warrant, and, if warranted, seize property, including animals, specified in the warrant. The warrant shall be executed by the peace officer and returned to the court.

(c) Before a peace officer may seize an animal and place it into protective custody, the peace officer shall request an immediate inspection and decision by a veterinarian licensed under AS 08.98 that placement into protective custody is in the immediate best interest of the animal. If a veterinarian is not available and willing to perform an inspection, before a peace officer may seize an animal, the peace officer shall communicate with a veterinarian who has, after hearing a description of the condition of the animal and its environment, decided it is in the immediate best interest of the animal that it be placed into protective custody. If the peace officer is not able to communicate with a veterinarian, before the officer may seize an animal, the officer shall decide it is in the immediate best interest of the animal that it be placed into protective custody.

§ 03.55.120. Seizure of animals

(a) A peace officer shall place an animal in protective custody before seizing the animal from the location where it was found. If the animal is seized, the peace officer shall place the animal with a veterinarian licensed under AS 08.98 or, if a veterinarian is not readily available and willing to accept the animal, then with a responsible public or private custodian to be sheltered, cared for, and provided necessary medical attention.

(b) A peace officer who has seized an animal shall immediately notify the animal's owner in writing of the seizure and of the owner's right to petition the court under AS 03.55.130 for return of the animal. Notification may be delivered in person, posted at the owner's residence, or mailed to the owner.

(c) If a seized animal's owner is unknown and cannot be ascertained with reasonable effort,

(1) the animal shall be considered a stray or abandoned; and

(2) the notice required in (b) of this section shall be conspicuously posted at the premises from which the animal was seized.

(d) The state, a municipality, or a person that supplies shelter, care, veterinary attention, or medical treatment for an animal seized under this section shall make a reasonable effort to locate the owner.

(e) The owner of an animal seized under (a) of this section may not recover damages for injury to or death of the animal occurring while the animal is in the custody of the state, a municipality, or a person under this section, unless the owner shows that the injury or death was caused by gross negligence or reckless or intentional misconduct.

§ 03.55.130. Destruction and adoption of animals

(a) If a determination is made by a veterinarian licensed under AS 08.98, by a peace officer in consultation with a veterinarian licensed under AS 08.98, or by a peace officer who is unable to locate or communicate with a veterinarian licensed under AS 08.98 that an animal seized under AS 03.55.100 -- 03.55.190 is injured or diseased to such an extent that, in the opinion of the veterinarian, it is probable the animal cannot recover, the veterinarian or the peace officer may humanely destroy the animal or arrange for the animal's humane destruction.

(b) Upon diagnosis and recommendation of a veterinarian licensed under AS 08.98, a public or private custodian may humanely destroy or arrange for the humane destruction of a severely injured, diseased, or suffering animal that has been seized under AS 03.55.100 -- 03.55.190.

(c) An owner of an animal destroyed under this section may not recover damages for the destruction of the animal unless the owner shows that the destruction was not reasonable under the facts as known to the veterinarian or the peace officer authorizing the destruction.

(d) Except as provided in (a) or (b) of this section, the custodian of an animal may not adopt, provide for the adoption of, or euthanize the animal within 10 business days after the animal is taken into custody. An owner or custodian may prevent the animal's adoption or destruction by petitioning the court of the judicial district in which the animal was seized for the animal's return, subject to court-imposed conditions.

(e) The court may, on its own accord or upon a filing by the custodian, the owner of the animal, or the entity that seized the animal, enter an order for the cost of care of the animal pending final disposition of the custody of the animal. An order under this section may include a requirement that the owner of the animal post a bond or other security to guarantee that the cost of care of the animal is received and maintained. If, without justifiable cause, the owner of the animal fails to comply with an order under this section, the court may order that the animal be forfeited.

(f) The state may not be required to reimburse a public or private agency, organization, or person that voluntarily assists with the seizure of an animal or receives custody of an animal seized under this section for the cost of care of the animal.

(g) Nothing in (d) or (e) of this section shall shift the burden of proof from the party who would otherwise have that burden.

§ 03.55.070. Power of village council to control dogs

(a) A village council duly elected by residents of an unincorporated village not within an organized borough may destroy loose dogs in the village and may otherwise control dogs to the extent authorized first class cities.

(b) The council may impose and enforce the provisions of a dog control ordinance in the total area within 20 miles of the village. The ordinance must generally describe the area in which it is imposed. If two villages having dog control ordinances lie within 40 miles of each other, the jurisdiction of each village terminates at a point midway between them.

Commentary: Private individuals may also destroy “mad or vicious” dogs at large. ALASKA STAT. § 03.55.010. A vicious dog is a dog that has “when unprovoked has ever bitten or attacked a human being.” ALASKA STAT. § 03.55.020

§ 03.55.030. Dogs that annoy or bite animals or birds

Whenever any dog habitually annoys any wild deer, reindeer, sheep, cattle, horse, or other animal or bird either domestic or wild, or evinces a disposition which makes it likely that it will without provocation bite an animal or fowl, any person may lawfully kill the dog, when at large. The owner or keeper of the dog, if known or reasonably identifiable, shall be notified and given reasonable opportunity to restrain the dog before it is lawful to kill it. Persons authorized to enforce AS 16.05 (Alaska Fish and Game Code) and peace officers may enforce this section.