

# Maryland Animal Cruelty Laws

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### Introduction

Maryland's criminal animal protection laws consist of the consolidated statutes in § 10-601 through § 10-623 of the Criminal Code. These sections consist of the general cruelty statutes as well as animal fighting statutes and specific statutes meant to protect specific types of animals. Under these statutes, an animal is "any creature except a human being." General animal cruelty is set out in § 10-604, while aggravated animal cruelty is § 10-606. There is also another statute in a separate section of the Criminal Code barring bestiality and a statute in the Agriculture Code that provides criminal punishment for the improper slaughter of cattle. While Maryland has a number of statutes protecting animals, there is very little case law regarding prosecutions and many of the cases available were pursued under prior versions of the statute. Where prior versions of the code are relevant, they are noted below.

### Overview of Statutory Provisions and Case Law

- 1. Consolidated Animal Cruelty Laws:** MD. CODE ANN., CRIM. LAW §§ 10-601 – 10-623
- 2. Unnatural or perverted sexual practice:** MD. CODE ANN., CRIM. LAW § 3-322
- 3. Inhumane slaughter of livestock:** MD. CODE ANN., AGRIC. § 4-123.1

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# 1. CONSOLIDATED ANIMAL CRUELTY LAWS

## MD. CODE ANN., CRIM. LAW § 10-601. Definitions

### In general

(a) In this subtitle the following words have the meanings indicated.

### Animal

(b) “Animal” means a living creature except a human being.

### Cruelty

(c)(1) “Cruelty” means the unnecessary or unjustifiable physical pain or suffering caused or allowed by an act, omission, or neglect.

(2) “Cruelty” includes torture and torment.

### Humane society

(d) “Humane society” means a society or association incorporated in Maryland for the prevention of cruelty to animals.

### Applicable Case Law:

#### **Hurd v. State, 988 A.2d 1143 (Md. App., 2010).**

**Facts:** Hurd was convicted of two counts of aggravated cruelty to animals under section 606 for two different incidents.<sup>2</sup> The second incident, which occurred on May 8, 2008, is of relevance here. The defendant saw a dog chasing a wild turkey on his property.<sup>3</sup> Using a Browning 243 rifle he kept in his home, the defendant shot and crippled the dog. The defendant shot at the dog again but missed; he then went into his home to retrieve more shotgun shells, reloaded the weapon, and shot the dog a third time. The third shot killed the animal. Hurd claimed that he was improperly convicted because he did not “cruelly kill” the dog. Hurd also claimed that the prosecution did not show that he did not kill the dog out of necessity

**Holding:** The court rejected this argument, determining that cruelty was established in this case because the pain of the dog between the first crippling shot and the final killing shot can be inferred. Additionally, none of the evidence suggested that killing the dog was necessary or justified.. Although the court agreed that both necessity and justification could be defenses to animal cruelty charges, they are affirmative defenses under which the prosecution has no burden and that Hurd did not provide sufficient evidence of necessity.

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<sup>2</sup> See page 7 for a description of the first incident, which was eventually overturned by the Maryland Court of Appeals.

<sup>3</sup> The dog was privately owned and had run from a neighboring property. There was also evidence that the defendant knew of the dog’s existence and ownership prior to the incident.

**Attorney Grievance Comm'n of Md. V. Protokowicz, 607 A.2d 33 (Md. Ct. App., 1992).**<sup>4</sup>

**Facts:** Protokowicz plead guilty to a count of animal cruelty after he killed his client's wife's cat by placing the cat in a microwave oven. He then removed the cat and placed it on the kitchen floor either in a puddle of champagne or pouring champagne over the cat.

**Findings:** The Attorney Grievance Commission determined that this act and burglarizing the client's wife's home warranted an immediate suspension from the practice of law.

**In re William G., 447 A.2d 493 (Md. Ct. Spec. App., 1982).**<sup>5</sup>

**Facts:** A juvenile was convicted of animal cruelty when he kicked and threatened a female dog that refused to mate with the male dog owned by the juvenile. The defendant later poured turpentine on the female dog and lit the dog on fire. A police officer who reported to the scene characterized the dog as in pain and "going around in circles." Due to its injuries, the dog had to be destroyed. The defendant appealed the conviction arguing that the statutes were unconstitutionally vague and indefinite, specifically as to what the statute designated as "tortures," "torments" and "cruelly."<sup>6</sup>

**Holding:** The Court of Special Appeals rejected the defendant's argument because the defendant claimed that the statute had "facial vagueness." Thus, the defendant had to prove that the statute did not cover his specific instance and not argue that the statute would be vague in other hypothetical situations. The court concluded that the statute clearly applied to the defendant's situation and that no "persons of ordinary intelligence would differ in concluding that a dog is an animal under the statute and that the burning of a dog to the extent that he had to be destroyed constitutes torture, torment and cruelty as defined by the statute."

**MD. CODE ANN., CRIM. LAW § 10-602. Legislative intent**

It is the intent of the General Assembly that each animal in the State be protected from intentional cruelty, including animals that are:

- (1) privately owned;
- (2) strays;
- (3) domesticated;
- (4) feral;
- (5) farm animals;

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<sup>4</sup> This case in a suspension hearing, but it is also the only source for Protokowicz's original trial for animal cruelty under the old provision – Art. 27, § 59.

<sup>5</sup> This decision involved the 1957 version of the Maryland Criminal Code, Art. 27, §§ 59, 62.

<sup>6</sup> Art. 27, § 59 reads in relevant part: "Any person who (1) overdrives, overloads, deprives of necessary sustenance, tortures, torments, cruelly beats, mutilates or cruelly kills; or (2) causes, procures or authorizes these acts; or (3) having the charge or custody of an animal, either as owner or otherwise, inflicts unnecessary suffering or pain upon the animal, or unnecessarily fails to provide the animal with nutritious food in sufficient quantity, necessary veterinary care, proper drink, air, space, shelter or protection from the weather, is guilty of a misdemeanor and shall be punishable by a fine not exceeding \$1,000 or imprisonment not to exceed 90 days, or both."

Art. 27, § 62 defines "torture," "torment" and "cruelty" to mean "every act, omission, or neglect whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted, and the word 'animal' means every living creature except man."

- (6) corporately or institutionally owned; or
- (7) used in privately, locally, State, or federally funded scientific or medical activities.

No Applicable Case Law.

**MD. CODE ANN., CRIM. LAW § 10-603. Application of §§ 10-601 through 10-608.**

Sections 10-601 through 10-608 of this subtitle do not apply to:

- (1) customary and normal veterinary and agricultural husbandry practices including dehorning, castration, tail docking, and limit feeding;
- (2) research conducted in accordance with protocols approved by an animal care and use committee, as required under the federal Animal Welfare Act or the federal Health Research Extension Act;
- (3) an activity that may cause unavoidable physical pain to an animal, including food processing, pest elimination, animal training, and hunting, if the person performing the activity uses the most humane method reasonably available; or
- (4) normal human activities in which the infliction of pain to an animal is purely incidental and unavoidable.

**Applicable Case Law:**

**Taub v. State, 463 A.2d 819 (Md. Ct. App., 1983).**<sup>7</sup>

**Facts:** Dr. Taub, the chief scientific investigator in charge of animal research at the Institute for Behavioral Research (IBR), was charged with seventeen counts of violating the Maryland animal cruelty statute. Dr. Taub was creating stroke-like conditions in seventeen monkeys by eliminating all feeling surgically in a limb of each of the monkeys. The IBR received federal funding and was randomly inspected for compliance with the Federal Animal Welfare Act. Dr. Taub was convicted of six charges of failing to provide proper veterinary care, but only one of these charges survived the original appeal to the circuit court.

**Holding:** The court in this case determined that the statute was not applicable to Dr. Taub or any laboratories complying with federal law because the legislature apparently foresaw that some human ventures would require pain to animals and that the legislature was aware of the Animal Welfare Act upon drafting the cruelty statute. Thus, Dr. Taub's case under the old version of the cruelty statute aided in creating the new version, specifically subsection two.

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<sup>7</sup> This decision was made under the previous 1975 version of cruelty law when the exemptions for prosecution did not have an independent statute, but was combined with the general cruelty statute. The statute read in relevant part: "[N]o person shall be liable for criminal prosecution for normal human activities to which the infliction of pain to an animal is purely incidental and unavoidable."

**MD. CODE ANN., CRIM. LAW § 10-604. Abuse or neglect of animal.**

**Prohibited**

(a) A person may not:

- (1) overdrive or overload an animal;
- (2) deprive an animal of necessary sustenance;
- (3) inflict unnecessary suffering or pain on an animal;
- (4) cause, procure, or authorize an act prohibited under item (1), (2), or (3) of this subsection; or
- (5) if the person has charge or custody of an animal, as owner or otherwise, unnecessarily fail to provide the animal with nutritious food in sufficient quantity, necessary veterinary care, proper drink, air, space, shelter, or protection from the weather.

**Penalty**

- (b)(1) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 90 days or a fine not exceeding \$1,000 or both.
- (2) As a condition of sentencing, the court may order a defendant convicted of violating this section to participate in and pay for psychological counseling.
- (3) As a condition of probation, the court may prohibit a defendant from owning, possessing, or residing with an animal.

**Applicable Case Law:**

**Silver v. State, 23 A.3d 867 (Md. App., 2011).**

**Facts:** Donna and Hilton Silver were charged with three counts of animal cruelty under § 604(a)(5) for the treatment of their horses. Joyce Barnett, an Animal Control Officer for Baltimore County, was called to the Silvers' residence by a neighbor. She saw two horses in a pasture; both horses' ribs were visible. She also saw a large object in the pasture covered by a tarp. The object was Calypso, the defendants' third horse. Calypso was still alive, but her ribs were showing. There were trenches by her head and feet where she had tried to get up with no avail and a large pile of manure behind her. When approached, the defendants claimed that Calypso had fallen over a few days before and they had tried to no avail to get her up; instead, they covered Calypso with a tarp and "came out every day to see if it was still alive." A veterinarian came and diagnosed Calypso. The horse had burrs all over her body, was covered in sores from lying on the ground, was badly emacipated, and was in shock. At trial, the veterinarian testified that the horse's condition was the result of months of neglect and starvation. As a result the veterinarian put Calypso down, a service he provided for free because the defendants refused to pay and the procedure was difficult due to Calypso's condition. Afterward, the state removed the two other horses from the defendants' care and placed both horses on a farm.

**Trial Court:** The defendants entered Alford guilty pleas as to the animal cruelty count regarding Calypso and the state dropped the other two charges. The defendants then filed a timely appeal for a de novo trial. At trial, the court found the defendants guilty of animal cruelty regarding

Calypso and ordered the defendants to pay restitution to both the veterinarian that cared for Calypso and to the farm that was housing the two remaining horses.

**Appellate Holding:** The Court of Appeals determined that while restitution is appropriate in an animal cruelty case, the defendants could not be forced to pay restitution for the other two horses, as the animal cruelty charges for those horses were not pursued. Additionally, the court determined that the prosecution can introduce evidence of cruelty to other animals in a cruelty case if the neglect or cruelty “was intertwined and part of the same criminal episode” as the case at bar.

### **MD. CODE ANN., CRIM. LAW § 10-605. Attending a dog fight or cock fight**

#### **Prohibited--Attending dogfights**

(a) A person may not knowingly attend a deliberately conducted dogfight as a spectator.

#### **Prohibited--Attending cockfights**

(b) A person may not knowingly attend as a spectator a deliberately conducted event that uses a fowl, cock, or other bird to fight with another fowl, cock, or other bird.

#### **Penalty**

(c)(1) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding \$2,500 or both.

(2) As a condition of sentencing, the court may order a defendant convicted of violating this section to participate in and pay for psychological counseling.

No Applicable Case Law.

### **MD. CODE ANN., CRIM. LAW § 10-606. Aggravated cruelty to animals – In general**

#### **Prohibited**

(a) A person may not:

- (1) intentionally mutilate, torture, cruelly beat, or cruelly kill an animal;
- (2) cause, procure, or authorize an act prohibited under item (1) of this subsection; or
- (3) except in the case of self-defense, intentionally inflict bodily harm, permanent disability, or death on an animal owned or used by a law enforcement unit.

#### **Penalty**

(b)(1) A person who violates this section is guilty of the felony of aggravated cruelty to animals and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding \$5,000 or both.

(2) As a condition of sentencing, the court may order a defendant convicted of violating this section to participate in and pay for psychological counseling.

(3) As a condition of probation, the court may prohibit a defendant from owning, possessing, or residing with an animal.

## Applicable Case Law:

### Hurd v. State, 988 A.2d 1143 (Md. App., 2010).

**Facts (First Incident):** Hurd was convicted in Washington County of two counts of aggravated cruelty to animals under § 606 for two different incidents. The first incident occurred on July 22, 2007 when the defendant shot and killed a neighbor's dog that was chasing a deer on the defendant's property. The defendant witnessed the dog chasing the deer from his tree stand and killed the dog with one rifle shot. The defendant claimed that Md. Code Ann., Nat. Res. § 10-416(b) provided a complete defense for this shooting and therefore, his conviction was improper. Md. Code Ann., Nat. Res. § 10-416(b), entitled "Hunting with dogs[,]" provides in relevant part: "(2) The Department shall adopt regulations governing the use of dogs to aid in the prompt recovery of killed, wounded, or injured deer. (3)(i) In Baltimore, Harford, Howard, Montgomery, Prince George's, Somerset, and Worcester counties<sup>8</sup> a person may not kill a dog found pursuing a deer. (ii) In all other counties, any Natural Resources police officer, law enforcement officer, or any other person may kill any dog found pursuing any deer; except in accordance with regulations adopted under paragraph (2) of this subsection." The state argued that the Natural Resources statute should be read to mean that an individual could kill a dog when the dog was being used improperly for the purposes of hunting based on the title of the section. The defendant argued that this section applied to all dogs chasing deer regardless if the dog was being used for hunting purposes, as long as the dog was not used "to aid in the prompt recovery of killed, wounded, or injured deer."

**Holding (First Incident):** The court determined that both of these explanations were reasonable; thus; the lenity rule required the court to hold in favor of the defendant's interpretation. The court overturned the first conviction against the defendant.

**Facts (Second Incident):** The second incident occurred on May 8, 2008. The defendant saw a dog chasing a wild turkey on his property.<sup>9</sup> Using a Browning 243 rifle he kept in his home, the defendant shot and crippled the dog. The defendant shot at the dog again but missed; he then went into his home to retrieve more shotgun shells, reloaded the weapon, and shot the dog a third time. The third shot killed the animal. Hurd claimed that he was improperly convicted because he did not "cruelly kill" the dog. Hurd also claimed that the prosecution did not show that he did not kill the dog out of necessity.

**Holding (Second Incident):** The court rejected this argument, determining that the cruelty was established in this case because the pain of the dog between the first crippling shot and the final killing shot can be inferred. Additionally, none of the evidence suggested that killing the dog was necessary or justified. Although the court agreed that both necessity and justification could be defenses to animal cruelty charges, they are affirmative defenses under which the prosecution has no burden and that Hurd did not provide sufficient evidence of necessity.

See also *In re William G.*, 447 A.2d 493 (Md. Ct. Spec. App., 1982), on page 3.

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<sup>8</sup> Washington County was added to this subsection after this case took place.

<sup>9</sup> The dog was privately owned and had run from a neighboring property. There was also evidence that the defendant knew of the dog's existence and ownership prior to the incident.

**MD. CODE ANN., CRIM. LAW § 607. Aggravated cruelty to animals – Dogfights**

**Prohibited**

(a) A person may not:

- (1) use or allow a dog to be used in a dogfight;
- (2) arrange or conduct a dogfight;
- (3) possess, own, sell, transport, or train a dog with the intent to use the dog in a dogfight; or
- (4) knowingly allow premises under the person's ownership, charge, or control to be used to conduct a dogfight.

**Penalty**

- (b)(1) A person who violates this section is guilty of the felony of aggravated cruelty to animals and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding \$5,000 or both.
- (2) As a condition of sentencing, the court may order a defendant convicted of violating this section to participate in and pay for psychological counseling.

No Applicable Case Law.

**MD. CODE ANN., CRIM. LAW § 10-608. Aggravated cruelty to animals – Cockfights**

**Definitions**

- (a)(1) In this section, “implement of cockfighting” means any implement or device intended or designed:
  - (i) to enhance the fighting ability of a fowl, cock, or other bird; or
  - (ii) for use in a deliberately conducted event that uses a fowl, cock, or other bird to fight with another fowl, cock, or other bird.
- (2) “Implement of cockfighting” includes:
  - (i) a gaff;
  - (ii) a slasher;
  - (iii) a postiza;
  - (iv) a sparring muff; and
  - (v) any other sharp implement designed to be attached in place of the natural spur of a gamecock or other fighting bird.

**Prohibited**

(b) A person may not:

- (1) use or allow the use of a fowl, cock, or other bird to fight with another animal;
- (2) possess, with the intent to unlawfully use, an implement of cockfighting;
- (3) arrange or conduct a fight in which a fowl, cock, or other bird fights with another fowl, cock, or other bird;
- (4) possess, own, sell, transport, or train a fowl, cock, or other bird with the intent to use the fowl, cock, or other bird in a cockfight; or



- (5) knowingly allow premises under the person's ownership, charge, or control to be used to conduct a fight in which a fowl, cock, or other bird fights with another fowl, cock, or other bird.

**Penalty**

- (c)(1) A person who violates this section is guilty of the felony of aggravated cruelty to animals and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding \$5,000 or both.
- (2) As a condition of sentencing, the court may order a defendant convicted of violating this section to participate in and pay for psychological counseling.

No Applicable Case Law.

**MD. CODE ANN., CRIM. LAW § 10-609. Arrest by a humane society officer.**

**In general**

- (a) Except as provided in subsections (b) and (c) of this section, if an officer of a humane society sees a person committing a misdemeanor that involves cruelty to an animal, the officer shall arrest and bring before the District Court the person committing the misdemeanor.<sup>10</sup>

**Calvert County**

- (b) In Calvert County, if an officer of a humane society or an animal control officer appointed by the County Commissioners or the County Commissioners' designee sees a person committing a misdemeanor that involves cruelty to an animal, the officer shall arrest and bring before the District Court the person committing the misdemeanor.

**Baltimore County**

- (c) In Baltimore County, the Baltimore County Department of Health, Division of Animal Control shall enforce this section.

No Applicable Case Law.

**MD. CODE ANN., CRIM. LAW § 10-610. Animal as prize**

**Scope of section**

- (a) This section does not apply to a person giving away an animal:
- (1) as an agricultural project;
  - (2) for conservation purposes; or
  - (3) that is intended for slaughter.

**Prohibited**

- (b) Without the approval of the Secretary of Agriculture, a person may not give away a live animal as:
- (1) a prize for, or inducement to enter, a contest, game, or other competition;

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<sup>10</sup> "Person" means an individual, sole proprietorship, partnership, firm, association, corporation, or other entity. Md. Code Ann., Crim. Law § 1-101.

- (2) an inducement to enter a place of amusement; or
- (3) an incentive to make a business agreement if the offer is to attract trade.

**Penalty**

(c) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$500.

No Applicable Case Law.

**MD. CODE ANN., CRIM. LAW § 10-611. Killing of dog or cat – Prohibited Means**

**Prohibited**

(a) A person may not kill or allow a dog or cat to be killed by use of:

- (1) a decompression chamber;
- (2) carbon monoxide gas; or
- (3) curariform drugs.

**Penalty**

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$500.

No Applicable Case Law.

**MD. CODE ANN., CRIM. LAW § 10-612. Abandoning domestic animal**

**Prohibited**

(a) A person who owns, possesses, or has custody of a domestic animal may not drop or leave the animal on a road, in a public place, or on private property with the intent to abandon the animal.

**Penalty**

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$100.

No Applicable Case Law.

**MD. CODE ANN., CRIM. LAW § 10-613. Sale of puppy or kitten**

**Scope of section**

(a) This section does not apply to:

- (1) a biomedical facility that is licensed by the United States Department of Agriculture; or
- (2) an animal that is accompanied by a signed statement from a licensed veterinarian stating that the animal's dam is incapacitated for humane or medical reasons and cannot care for the animal.

**Prohibited**

(b)(1) Except as provided in paragraph (2) of this subsection, a person may not sell or distribute in the State or bring into the State for the purpose of sale or distribution a domestic dog or cat less than 8 weeks of age unless accompanied by its dam.

- (2) A person may give an unaccompanied dog or cat to:
- (i) an animal shelter or pound that is operated or supported by a government; or
  - (ii) a humane society.

**Penalty**

- (c)(1) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$500.
- (2) For purposes of humane disposal, a court may seize an animal brought into this State in violation of this section.

No Applicable Case Law.

**MD. CODE ANN., CRIM. LAW § 10-614. Transfer or coloring of chick**

**“Chick” defined**

(a) In this section, “chick” means a chicken, duckling, or other fowl under the age of 3 weeks.

**Exception**

(b) This section does not prohibit the sale or display of a chick in proper facilities by a breeder or store engaged in the business of selling chicks for commercial breeding and raising.

**Prohibited**

- (c) A person may not:
- (1) sell, offer for sale, barter, or give away a chick as a pet, toy, premium, or novelty; or
  - (2) color, dye, stain, or otherwise change the natural color of a chick.

**Penalty**

(d) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$25.

No Applicable Case Law.

**MD. CODE ANN., CRIM. LAW § 10-615. Care of mistreated animal.**

**Court-ordered removal**

(a) If an owner or custodian of an animal is convicted of an act of animal cruelty, the court may order the removal of the animal or any other animal at the time of conviction for the protection of the animal.

**Seizure**

(b)(1) An officer or authorized agent of a humane society, or a police officer or other public official required to protect animals may seize an animal if necessary to protect the animal from cruelty.

(2)(i) An animal that a medical and scientific research facility possesses may be removed under this subsection only after review by and a recommendation from the Department of Health and Mental Hygiene, Center for Veterinary Public Health.

(ii) The Department of Health and Mental Hygiene shall:

1. conduct an investigation within 24 hours after receiving a complaint; and
2. within 24 hours after completing the investigation, report to the State's Attorney for the county in which the facility is situated.

### **Impounded animal**

(c)(1) If an animal is impounded, yarded, or confined without necessary food, water, or proper attention, is subject to cruelty, or is neglected, an officer or authorized agent of a humane society, a police officer, another public official required to protect animals, or any invited and accompanying veterinarian licensed in the State, may:

(i) enter the place where the animal is located and supply the animal with necessary food, water, and attention; or

(ii) remove the animal if removal is necessary for the health of the animal.

(2) A person who enters a place under paragraph (1) of this subsection is not liable because of the entry.

### **Notification to owner**

(d)(1) A person who removes an animal under subsection (c) of this section shall notify the animal's owner or custodian of:

(i) the removal; and

(ii) any administrative remedies that may be available to the owner or custodian.

(2) If an administrative remedy is not available, the owner or custodian may file a petition for the return of the animal in the District Court of the county in which the removal occurred within 10 days after the removal.

### **Stray**

(e) An animal is considered a stray if:

(1) an owner or custodian of the animal was notified under subsection (d) of this section and failed to file a petition within 10 days after removal; or

(2) the owner or custodian of the animal is unknown and cannot be ascertained by reasonable effort for 20 days to determine the owner or custodian.

**Limitations**

(f) This section does not allow:

- (1) entry into a private dwelling; or
- (2) removal of a farm animal without the prior recommendation of a veterinarian licensed in the State.

**Local enforcement--Baltimore County**

(g) In Baltimore County, the Baltimore County Department of Health, Division of Animal Control or an organization that the Baltimore County government approves shall enforce this section.

No Applicable Case Law.

**MD. CODE ANN., CRIM. LAW § 10-616. Kennel inspection.****Scope of section**

(a) This section does not apply to premises:

- (1) where dogs are kept or bred solely for medical or related research or laboratory tests;
- (2) operated by a licensed and regularly practicing veterinarian; or
- (3) where hunting dogs are housed, if the buying, selling, trading, or breeding is incidental to the main purposes of housing, keeping, and using dogs.

**Authority to inspect**

(b)(1) To determine if dogs are being treated inhumanely in violation of this subtitle or other law, an authorized director of a humane society, accompanied by a sheriff or a deputy sheriff, may inspect a premises:

- (i) where a person is engaged in the business of buying, selling, trading, or breeding dogs;  
or
- (ii) of a kennel where 25 or more dogs are kept.

(2) A person who inspects premises under paragraph (1) of this subsection shall give prior written notice of the time and date of the inspection to the owner or occupant of the premises.

**Local enforcement**

(c)(1) In Baltimore City, the Baltimore City Health Department shall enforce this section.

- (2) In Baltimore County, the Baltimore County Department of Health, Division of Animal Control or an organization that the Baltimore County government approves shall enforce this section.

No Applicable Case Law.

**MD. CODE ANN., CRIM. LAW § 10-617. Disposal of domestic animal.**

**“Animal control unit” defined**

(a) In this section, “animal control unit” means the local organization or governmental unit that the appropriate local governmental body designates to house, care for, and control domestic animals of unknown ownership.

**In general**

(b) An animal control unit shall dispose of an unclaimed dog or cat only by:

- (1) placing the animal in a suitable home;
- (2) retaining the animal in the animal control unit; or
- (3) humanely destroying the animal.

**Waiting period**

(c) A domestic animal that is impounded by an animal control unit may not be sold, placed, or destroyed until the animal has been carefully inspected for a tag, tattoo, or other identification to ascertain the owner and:

- (1) 72 hours have elapsed after notice has been given to the owner;
- (2) if the owner cannot be notified, 72 hours have elapsed after the animal is impounded;
- (3) the animal is seriously diseased or severely injured; or
- (4) the animal is under 3 months of age.

**Liability of owner and new owner**

(d)(1) An owner who retrieves an animal from an animal control unit shall pay all fees, costs, and expenses incurred by the animal control unit.

(2) The necessary expenses for food and attention given to an animal under this section may be collected from the owner, and the animal is not exempt from levy and sale on execution of a judgment for the expenses.

(3) A new owner with whom an animal is placed under subsection (b)(1) of this section may be charged an adoption fee.

**Penalty**

(e) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$500.

No Applicable Case Law.

**MD. CODE ANN., CRIM. LAW § 10-618. Poisoning dog**

**Prohibited**

(a) A person may not willfully and maliciously give poison or ground glass to a dog, or expose poison or ground glass, with the intent that a dog ingest it.

**Penalty**

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$100 for each violation.

No Applicable Case Law.

**MD. CODE ANN., CRIM. LAW § 10-620. Interference with race horse.**

**Prohibited**

(a) A person may not:

- (1) willfully and maliciously interfere with, injure, destroy, or tamper with a horse used for racing or breeding or for a competitive exhibition of skill, breed, or stamina;
- (2) willfully start, instigate, engage in, or further an act that interferes with, injures, destroys, or tampers with a horse used for racing or breeding or for a competitive exhibition of skill, breed, or stamina; or
- (3) commit an act that tends to interfere with, injure, destroy, or tamper with a horse used for racing or breeding or for a competitive exhibition of skill, breed, or stamina.

**Penalty**

(b) A person who violates this section is guilty of a felony and on conviction is subject to imprisonment of not less than 1 year and not exceeding 3 years.

No Applicable Case Law.

**MD. CODE ANN., CRIM. LAW § 10-621. Import, offer, or transfer of dangerous animal.**

**Scope of section**

(a)(1) This section does not apply to:

- (i) a research facility or federal research facility licensed under the federal Animal Welfare Act;<sup>11</sup>
- (ii) an exhibitor licensed under the federal Animal Welfare Act that displays the animals specified in subsection (b) of this section in a public setting as the exhibitor's primary function;

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<sup>11</sup> Pub.L. 89-544, Aug. 24, 1966, 80 Stat. 350, codified at 7 U.S.C.A. § 2131 et seq.

- (iii) a person who possesses a valid license or permit issued by the Department of Natural Resources to import, sell, trade, barter, possess, breed, or exchange an animal specified in subsection (b) of this section;
  - (iv) an animal sanctuary that:
    - 1. is a nonprofit organization qualified under § 501(c)(3) of the Internal Revenue Code;
    - 2. operates a place of refuge for abused, neglected, impounded, abandoned, orphaned, or displaced wildlife;
    - 3. does not conduct commercial activity with respect to any animal of which the organization is an owner; and
    - 4. does not buy, sell, trade, lease, or breed any animal except as an integral part of the species survival plan of the American Zoo and Aquarium Association;
  - (v) an animal control officer under the jurisdiction of the State or a local governing authority, a law enforcement officer acting under the authority of this subtitle, or a private contractor of a county or municipal corporation that is responsible for animal control operations;
  - (vi) a person who holds a valid license to practice veterinary medicine in the State and treats the animal specified in subsection (b) of this section in accordance with customary and normal veterinary practices; and
  - (vii) a person who is not a resident of the State and is in the State for 10 days or less for the purpose of traveling between locations outside of the State.
- (2)(i) This section does not prohibit a person who had lawful possession of an animal specified in subsection (b) of this section on or before May 31, 2006, from continuing to possess that animal if the person provides written notification to the local animal control authority on or before August 1, 2006.
- (ii) The notification shall include:
    - 1. the person's name, address, and telephone number;
    - 2. the number and type of animals being kept; and
    - 3. a photograph of the animal or a description of a tattoo or microchip identification of the animal.
- (3) This section does not prohibit a person who has a disability that severely limits mobility from possessing an animal specified in subsection (b) of this section if that animal is:
- (i) trained to perform tasks for the owner by an organization described in Section 501(c) of the Internal Revenue Code; and
  - (ii) dedicated to improving the quality of life of a person who has a disability that severely



limits mobility.

### **Prohibited**

(b) A person may not import into the State, offer for sale, trade, barter, possess, breed, or exchange a live:

- (1) fox, skunk, raccoon, or bear;
- (2) caiman, alligator, or crocodile;
- (3) member of the cat family other than the domestic cat;
- (4) hybrid of a member of the cat family and a domestic cat if the hybrid weighs over 30 pounds;
- (5) member of the dog family other than the domestic dog;
- (6) hybrid of a member of the dog family and a domestic dog;
- (7) nonhuman primate, including a lemur, monkey, chimpanzee, gorilla, orangutan, marmoset, loris, or tamarin; or
- (8) poisonous snake in the family groups of Hydrophidae, Elapidae, Viperidae, or Crotolidae.

### **Penalty**

(c)(1) A person who violates this section is guilty of a misdemeanor and on conviction is subject to:

- (i) if an individual, a fine not exceeding \$1,000; or
- (ii) if not an individual, a fine not exceeding \$10,000.

(2) The provisions of this section may be enforced by:

- (i) any State or local law enforcement officer; or
- (ii) the local animal control authority for the jurisdiction where the violation occurs.

### **Seizure of animals**

(d)(1) An animal specified in subsection (b) of this section may be immediately seized if:

- (i) there is probable cause to believe that the possession of the animal is in violation of this section; or
- (ii) the animal poses a risk to public health or public safety.

(2) An animal specified in subsection (b) of this section that is seized may be returned to the person who had possession of the animal at the time the animal was seized only if it is established that:

- (i) possession of the animal by the person is not a violation of this section; and
- (ii) the return of the animal does not pose a risk to public health or public safety.

(3)(i) Notice that the animal was seized shall be served on the person who had possession of the animal at the time the animal was seized by:

1. posting a copy of the notice at the place where the animal was seized;
2. regular and certified mail, return receipt requested; or

3. delivering the notice to a person residing on the property from which the animal was seized.
- (ii) The notice shall include:
1. a description of the animal seized;
  2. the authority for and the purpose of the seizure;
  3. the time, place, and circumstances of the seizure;
  4. a contact person and telephone number;
  5. a statement that the person from whom the animal was seized may:
    - A. post security to prevent disposition of the animal; and
    - B. request a hearing concerning the seizure;
  6. a statement that failure to post security or request a hearing within 10 days of the date of the notice will result in the disposition of the animal; and
  7. a statement that, unless a court finds that the seizure of the animal was not justified, the actual costs of the care, keeping, and disposal of the animal are the responsibility of the person from whom the animal was seized.
- (4)(i) Before a seizure under paragraph (1) of this subsection occurs, the person in possession of the animal to be seized may request that the animal remain in the person's physical custody for 30 days after the date the animal was to be seized.
- (ii) During the 30 days provided in subparagraph (i) of this paragraph, the person shall take all necessary actions to comply with this section.
- (iii) At any reasonable time during the 30-day period, the local animal control authority may inspect the premises where the animal is being kept.
- (5)(i) If a person who retains possession of an animal under paragraph (4) of this subsection is not in compliance with this section after the 30-day period has expired, the local animal control authority shall seize the animal and place it in a holding facility that is appropriate for the species.
- (ii) The authority seizing an animal under this paragraph shall provide notice of the seizure in the same manner as provided in paragraph (3) of this subsection.
- (6)(i) A person from whom an animal was seized may request a hearing in the District Court within 10 days of the seizure.
- (ii) A hearing shall be held as soon as practicable to determine the validity of the seizure and the disposition of the animal.
- (7)(i) Unless the court finds that the seizure of the animal was not justified by law, a person from whom the animal specified in subsection (b) of this section is seized is liable for all actual costs of care, keeping, and disposal of the animal.

(ii) The costs required under this paragraph shall be paid in full unless a mutually satisfactory agreement is made between the local animal control authority and the person claiming an interest in the animal.

(8)(i) If there is no request for a hearing within 10 days of the notice or if the court orders a permanent and final disposition of the animal, the local animal control authority may take steps to find long-term placement of the animal with another appropriate facility that is equipped for the continued care of the particular species of the animal.

(ii) If there is no entity that is suitable for the care of the animal, the animal may be euthanized.

### **Local laws**

(e) This section does not limit a county or municipality from enacting laws or adopting regulations that are more restrictive pertaining to any potentially dangerous animals, including those specified in subsection (b) of this section.

### **Death of owner**

(f) If the owner of an animal specified in subsection (b) of this section dies without making arrangements for the transfer of custody of the animal to another person, the animal may be turned over to one of the organizations specified in subsection (a)(1) of this section or euthanized if no suitable location can be found in a reasonable amount of time.

No Applicable Case Law.

### **MD. CODE ANN., CRIM. LAW § 10-622. Injuring or trapping carrier pigeon.**

#### **Prohibited--Killing or maiming**

(a) A person may not shoot, kill, or maim a carrier pigeon.

#### **Prohibited--Trapping or detaining**

(b) A person may not entrap, catch, or detain a carrier pigeon that has:

(1) the owner's name stamped on the carrier pigeon's wing or tail; or

(2) a leg band that includes the owner's initials, name, or number.

#### **Penalty**

(c) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$10 for each violation.

No Applicable Case Law.

**MD. CODE ANN., CRIM. LAW § 10-623. Dog outside, unattended and restrained.**

**Definitions**

(a)(1) In this section the following words have the meanings indicated.

(2) “Collar” means a device constructed of nylon, leather, or similar material specifically designed to be used around the neck of a dog.

(3) “Restraint” means a chain, rope, tether, leash, cable, or other device that attaches a dog to a stationary object or trolley system.

**Dogs outside, unattended prohibited**

(b) A person may not leave a dog outside and unattended by use of a restraint:

(1) that unreasonably limits the movement of the dog;

(2) that uses a collar that:

(i) is made primarily of metal; or

(ii) is not at least as large as the circumference of the dog's neck plus 1 inch;

(3) that restricts the access of the dog to suitable and sufficient clean water or appropriate shelter;

(4) in unsafe or unsanitary conditions; or

(5) that causes injury to the dog.

**Fines and penalties**

(c) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 90 days or a fine not exceeding \$1,000 or both.

No Applicable Case Law.

**2. UNNATURAL OR PERVERTED SEXUAL PRACTICE**

**MD. CODE ANN., CRIM. LAW § 3-322. Unnatural or perverted sexual practice.**

**Prohibited**

(a) A person may not:

(1) take the sexual organ of another or of an animal in the person's mouth;

(2) place the person's sexual organ in the mouth of another or of an animal; or

(3) commit another unnatural or perverted sexual practice with another or with an animal.

**Penalty**

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$1,000 or both.

**Statute of limitations and in banc review**

(c) A person who violates this section is subject to § 5-106(b) of the Courts Article.

## **Charging document**

(d) An indictment for a violation of this section:

- (1) is sufficient if it states that the defendant committed an unnatural and perverted sexual practice with a person or animal as applicable; but
- (2) need not state the particular:
  - (i) unnatural or perverted sexual practice with which the defendant is charged; or
  - (ii) manner in which the defendant committed the unnatural or perverted sexual practice.

No Applicable Case Law. - This section of the Criminal Code does have a great deal of case law, but none of the cases found relate specifically to prosecutions for bestiality under the statute.

## **3. INHUMANE SLAUGHTER OF LIVESTOCK**

### **MD. CODE ANN., AGRIC. § 4-123.1. Inhumane slaughter of livestock.**

#### **Definitions**

(a)(1) In this section the following words have the meanings indicated.

- (2)(i) “Humane method” means:
  1. A method by which livestock are rendered insensible to pain, by a single blow or gunshot, or by an electrical, chemical, or other rapid and effective means, before being shackled, hoisted, thrown, cast, or cut; or
  2. Ritual slaughter.
- (ii) “Humane method” does not include the use of a manually operated hammer, sledge, or poleax during a slaughtering operation.
- (3)(i) “Livestock” means cattle, calves, sheep, swine, horses, mules, goats, or other animals that may be used in the preparation of a meat product.
- (ii) “Livestock” does not include poultry or other fowl.
- (4) “Packer” means a person who is engaged in the business of:
  - (i) Slaughtering; or
  - (ii) Manufacturing or preparing a meat or livestock product for sale.
- (5) “Ritual slaughter” means a method of slaughter by which livestock suffer loss of consciousness by anemia of the brain caused by simultaneous and instantaneous severance of the carotid arteries with a sharp instrument in accordance with ritual requirements of a religious faith.
- (6) “Slaughterer” means a person who is regularly engaged in the commercial slaughtering of livestock.

- (7) “Stockyard” means a facility, consisting of pens, other enclosures, and appurtenances, operated for compensation or profit as a public market to handle, keep, and hold livestock for sale or shipment.

**Declaration of policy**

- (b) It is the policy of the State to prevent inhumane methods of livestock slaughter at an official establishment.

**Rules of construction**

- (c) This section may not be construed to:
- (1) Prohibit or limit the religious freedom of a person;
  - (2) Apply to a farmer while slaughtering livestock of the farmer; or
  - (3) Apply to ritual slaughter.

**Prohibited**

- (d) A slaughterer, packer, or stockyard operator may not, unless by a humane method:
- (1) Shackle, hoist, or otherwise bring livestock into position for slaughter; or
  - (2) Bleed or slaughter livestock.

**Inspection**

- (e) The Secretary shall inspect the handling of livestock in connection with slaughtering in an official establishment.

**Penalty**

- (f)(1) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$100 for each violation.
- (2) In addition to the penalty under paragraph (1) of this subsection, the Secretary may refuse to provide or may suspend temporarily inspection services for an establishment that violates this section with respect to the slaughter of livestock.

No Applicable Case Law.