

# MINNESOTA ANIMAL CRUELTY LAWS

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### **Introduction**

In Minnesota, criminal animal protection laws are contained primarily within the Prevention of Cruelty to Animals Chapter of Police Regulations. There are also other laws related to animal cruelty and defined elsewhere within the Minnesota Statutes. This document lists each animal protection law and the procedural sections of each law with which officers must comply when enforcing a provision of that law. When available, relevant case law from Minnesota will follow. Please note that the case law cited are primarily unpublished opinions.

This document begins with the general animal cruelty statutes and then addresses related statutes involving animal fighting and use of animals as prizes or in advertising. The miscellaneous section includes a bestiality provision and cruelty provisions related to public safety and police animals.

### **Overview of Statutory Provisions and Case Law**

1. **Consolidated Animal Cruelty Laws:** MINN. STAT. §§ 343.21-30
2. **Animal Fighting:** MINN. STAT. § 343.31
3. **Use of Animals as Prizes or Advertising Devices:** MINN. STAT. §§ 343.32-36
4. **Miscellaneous:** MINN. STAT. §§ 343.37, .40; §§ 609.294, .596-97

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## 1. CONSOLIDATED ANIMAL CRUELTY LAWS

### MINN. STAT. § 343.21. Overworking or mistreating animals; penalty

Subdivision 1. Torture. No person shall overdrive, overload, torture,<sup>2</sup> cruelly beat, neglect, or unjustifiably injure, maim, mutilate, or kill any animal<sup>3</sup>, or cruelly work any animal when it is unfit for labor, whether it belongs to that person or to another person.

Subd. 2. Nourishment; shelter. No person shall deprive any animal over which the person has charge or control of necessary food, water, or shelter.

Subd. 3. Enclosure. No person shall keep any cow or other animal in any enclosure without providing wholesome exercise and change of air.

Subd. 4. Low feed. No person shall feed any cow on food which produces impure or unwholesome milk.<sup>4</sup>

Subd. 5. Abandonment. No person shall abandon any animal.

Subd. 6. Temporary abandonment. No person shall allow any maimed, sick, infirm, or disabled animal to lie in any street, road, or other public place for more than three hours after receiving notice of the animal's condition.

Subd. 7. Cruelty. No person shall willfully instigate or in any way further any act of cruelty to any animal or animals, or any act tending to produce cruelty to animals.

Subd. 8. Caging. No person shall cage any animal for public display purposes unless the display cage is constructed of solid material on three sides to protect the caged animal from the elements and unless the horizontal dimension of each side of the cage is at least four times the length of the caged animal. The provisions of this subdivision do not apply to the Minnesota State Agricultural Society, the Minnesota State Fair, or to the county agricultural societies, county fairs, to any agricultural display of caged animals by any political subdivision of the state of Minnesota, or to district, regional or national educational livestock or poultry exhibitions. The provisions of this subdivision do not apply to captive wildlife, the exhibition of which is regulated by section 97A.041.

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<sup>2</sup> “‘Torture’ or ‘cruelty’ means every act, omission, or neglect which causes or permits unnecessary or unjustifiable pain, suffering, or death.” MINN. STAT. § 343.20.

<sup>3</sup> “‘Animal’ means every living creature except members of the human race.” MINN. STAT. § 343.20.

<sup>4</sup> “‘Impure and unwholesome milk’ means all milk obtained from diseased or unhealthy animals, or from animals fed on any substance which is putrefied or fermented.” MINN. STAT. § 343.20.

Subd. 8a. Harming a service animal. No person shall intentionally and without justification do either of the following to a service animal<sup>5</sup> while it is providing service or while it is in the custody of the person it serves: (1) cause bodily harm to the animal; or (2) otherwise render the animal unable to perform its duties.

Subd. 9. Penalty. (a) Except as otherwise provided in this subdivision, a person who fails to comply with any provision of this section is guilty of a misdemeanor. A person convicted of a second or subsequent violation of subdivision 1 or 7 within five years of a previous violation of subdivision 1 or 7 is guilty of a gross misdemeanor.

(b) A person who intentionally violates subdivision 1 or 7 where the violation results in substantial bodily harm<sup>6</sup> to a pet or companion animal<sup>7</sup> may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

(c) A person convicted of violating paragraph (b) within five years of a previous gross misdemeanor or felony conviction for violating this section may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$5,000, or both.

(d) A person who intentionally violates subdivision 1 or 7 where the violation results in death or great bodily harm<sup>8</sup> to a pet or companion animal may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$5,000, or both.

(e) A person who violates subdivision 8a where the violation renders the service animal unable to perform its duties is guilty of a gross misdemeanor.

(f) A person who violates subdivision 8a where the violation results in substantial bodily harm to a service animal may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$5,000, or both.

(g) A person who intentionally violates subdivision 1 or 7 where the violation results in substantial bodily harm to a pet or companion animal, and the act is done to threaten, intimidate, or terrorize another person, may be sentenced to imprisonment for not more than two years or to

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<sup>5</sup> “‘Service animal’ means an animal trained to assist a person with a disability.” MINN. STAT. § 343.20.

<sup>6</sup> “‘Substantial bodily harm’ means bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily member or organ, or which causes a fracture of any bodily member to a service animal or a pet or companion animal.” MINN. STAT. § 343.20.

<sup>7</sup> “‘Pet or companion animal’ includes any animal owned, possessed by, cared for, or controlled by a person for the present or future enjoyment of that person or another as a pet or companion, or any stray pet or stray companion animal.” MINN. STAT. § 343.20.

<sup>8</sup> “‘Great bodily harm’ means bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ, or other serious bodily harm to a service animal or a pet or companion animal.” MINN. STAT. § 343.20.

payment of a fine of not more than \$5,000, or both.

(h) A person who violates subdivision 8a where the violation results in death or great bodily harm to a service animal may be sentenced to imprisonment for not more than four years or to payment of a fine of not more than \$10,000, or both.

(i) A person who intentionally violates subdivision 1 or 7 where the violation results in death or great bodily harm to a pet or companion animal, and the act is done to threaten, intimidate, or terrorize another person, may be sentenced to imprisonment for not more than four years or to payment of a fine of not more than \$10,000, or both.

Subd. 9a. Harm to service animals; mandatory restitution and civil remedies. (a) The court shall order a person convicted of violating subdivision 8a to pay restitution for the costs and expenses resulting from the crime. Costs and expenses include, but are not limited to, the service animal user's loss of income, veterinary expenses, transportation costs, and other expenses of temporary replacement assistance services, and service animal replacement or retraining costs incurred by a school, agency, or individual. If the court finds that the convicted person is indigent, the court may reduce the amount of restitution to a reasonable level or order it paid in installments.

(b) This section does not preclude a person from seeking any available civil remedies for an act that violates subdivision 8a.

Subd. 10. Restrictions. If a person is convicted of violating this section, the court shall require that pet or companion animals that have not been seized by a peace officer or agent and are in the custody or control of the person must be turned over to a peace officer or other appropriate officer or agent unless the court determines that the person is able and fit to provide adequately for an animal. If the evidence indicates lack of proper and reasonable care of an animal, the burden is on the person to affirmatively demonstrate by clear and convincing evidence that the person is able and fit to have custody of and provide adequately for an animal. The court may limit the person's further possession or custody of pet or companion animals, and may impose other conditions the court considers appropriate, including, but not limited to:

(1) imposing a probation period during which the person may not have ownership, custody, or control of a pet or companion animal;

(2) requiring periodic visits of the person by an animal control officer<sup>9</sup> or agent appointed pursuant to section 343.01, subdivision 1;

(3) requiring performance by the person of community service; and

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<sup>9</sup> “‘Animal control officer’ means an officer employed by or under contract with an agency of the state, county, municipality, or other governmental subdivision of the state which is responsible for animal control operations in its jurisdiction.” MINN. STAT. § 343.20.

(4) requiring the person to receive psychological, behavioral, or other counseling.

**Applicable Case Law:**

***State v. Dokken*, No. A12-1797, 2013 WL 4711131 (Minn. Ct. App. Sept. 3, 2013)**

**Facts:** Defendant owned horses which they kept on Mr. Tosel's property while looking for another stable. Mr. Tosel grew tired of waiting and told defendant to remove the horses from his property. The next day, he found a dead horse decomposing in a pile of manure and three extremely thin horses. Mr. Tosel called a sheriff to inspect the property. Upon further investigation, it was found that the horses had no feed, very little water in their trough, protruding ribs, sunken eyes and missing hair. Because of their poor condition, the sheriff contacted the local veterinarian and a licensed police officer who was also the senior investigator of the Animal Humane Society. Defendant was convicted of one count of animal mistreatment under Minn. Stat. § 343.21., subd. 7 and appealed.

**Holding:** The Court of Appeals affirmed. The state needed to prove that defendant (1) acted willfully, failed to act, or neglected to act on behalf of an animal (2) in a manner that caused unnecessary or unjustifiable pain or suffering. The lack of food at the site and the blatant emaciated condition of the horses was sufficient to suggest that defendant disregarded the risk to the horses or was indifferent to the consequences. Moreover, the horses had resorted to eating rotten hay, had neglected hooves which caused limping in one mare, and were infested with lice which can be irritating and cause discomfort.

***State v. Gerard*, 832 N.W.2d 314 (Minn. Ct. App. 2013)**

**Facts:** A deputy responded to a residence on an animal-cruelty complaint after a cat was shot. Upon arriving at the scene, the cat's owners asked the deputy to put the cat down because it was suffering and would not survive. The owners told the deputy that their neighbor (Defendant) shot the cat. The owners further stated that they had problems with defendant in the past. Defendant told the deputy that he saw the cat killing wild baby turkeys on his property the day before, and that the cat killed one of his chickens, though he admitted that he did not actually see the latter event occur. Defendant indicated that he did not know whose cat he shot and that he did not see a collar. Defendant was charged with one count of mistreatment under Minn. Stat. § 343.21., subd. 1. Because defendant's actions resulted in the death of a pet, the charge was a felony pursuant to Minn. Stat. § 343.21, subd. 9(d). Defendant filed a motion to dismiss for lack of probable cause, claiming that there was no evidence presented that his actions were unjustified. The motion was accompanied by a notarized affidavit from the deputy with information backing defendant's motion. The trial court dismissed the felony charge for lack of probable cause and an appeal followed.

**Holding:** The Court of Appeals reversed and remanded. The deputy did not witness the shooting of the cat, nor observed the cat killing any animals on defendant's property. Thus, the deputy's conclusion appears to be based off of finding the defendant's statement credible and observing a chicken coop on defendant's property. The trial court's reliance on the deputy's opinion as

evidence of justification was improper. Defendant could have used non-lethal means to protect his chickens. A jury will hear the evidence, weigh credibility and make a determination.

***State v. Corcoran*, No. A09-2029, 2010 WL 3544539 (Minn. Ct. App. Sept. 14, 2010)**

**Facts:** Police officer responded to complaint of animal cruelty. A family reported that they saw their pet cat cross the street from a neighbor's yard with an arrow shaft protruding from its abdomen. The neighbor (Defendant) stated that he shot the cat because he thought it was a stray and had seen the cat in his yard on previous occasions. The cat could not be saved due to the extent of its injuries. Defendant was charged with mistreatment under Minn. Stat. §343.21, subd. 1 and a felony pursuant to Minn. Stat. §343.21, subd. 9(d). Defendant moved to dismiss the felony charge for lack of probable cause. The trial court denied the motion, finding that the statute does not require proof of intent to kill a pet. Defendant was found guilty and appealed.

**Holding:** The Court of Appeals affirmed. The plain language of the statute limits the mens rea requirement by using the word "intentionally" to only modify the violation of subdivision 1. Subdivision 9(d) goes further to make the offense a felony when, because of an intentional violation of subdivision 1, a pet is killed or suffers great bodily harm. Thus, it is clear that the legislature does not intend for the accused to know that the animal is a pet.

***State v. Niemi*, No. A08-1254, 2009 WL 2497395 (Minn. Ct. App. Aug. 18, 2009)**

**Facts:** Defendant was watching a movie in his home when he saw a black dog and a yellow Lab chasing his dog. Defendant scared the dogs away and went back inside. The dogs returned soon after and the black dog tackled and nipped at the defendant's dog. Defendant's dog broke free and hid. Defendant claimed he was not afraid for his own safety, but was worried that the dogs would harm his dog. He got his shotgun, fired one warning shot to which the dogs did not react, then killed the black dog. The yellow Lab ran away and defendant shot twice, wounding it with the second shot. Defendant was charged with two counts of violating Minn. Stat. §343.21, subd. 1. Defendant claims that his actions were justified because he shot the dogs after: they returned to his property, the black dog approached him, firing a warning shot, and the black dog still continued to growl.

**Holding:** The Court of Appeals affirmed. Defendant testified that neither dog acted aggressively towards him and that his dog had not been injured, was not bleeding, and did not have any scrapes or bruising. He also admitted that when he shot the dogs, one was at least 35 feet away from his dog and the other at least 65 feet away. Defendant also conceded on cross-examination that he did not take other steps to avoid conflict between the dogs (e.g. contact their owners or the police or bring his dog inside). Defendant's claim that he did not know who the dogs belonged to was contradicted by testimony of three witnesses.

***State v. Johnson*, No. A07-0537, 2008 WL 2415371 (Minn. Ct. App. June 17, 2008)**

**Facts:** A family's dog had an encounter with a porcupine that resulted in the dog with numerous quills stuck in its legs, chin, nose and mouth. The wife suggested taking the dog to a veterinarian

to have the quills pulled out, but the husband refused claiming that he could not afford to. They argued and eventually the wife, although disagreeing with her husband that the dog needed to be put down, decided that they should not let the dog suffer and suggested that her husband borrow a gun from a neighbor to shoot the dog. The husband did not want to talk to the neighbor and instead beat the dog with a baseball bat and stabbed it numerous times. The husband (Defendant) was charged with felony torture and cruelty to an animal under Minn. Stat. § 343.21, subd. 7 and subd. 9(d). The trial court sentenced Defendant to a prison term of one year and one day and placed him on probation for three years with the condition that he serve 30 days in jail.

Defendant appealed arguing that insufficient evidence to support his conviction.

**Holding:** The Court of Appeals affirmed. The state offered evidence at trial suggesting that killing the dog was unnecessary and unjustifiable. The sons had testified that there was very little blood from the dog's injuries due to the porcupine quills. There was also evidence that Defendant had the option of taking the dog to a veterinarian about 10-15 minutes away. Even if killing the dog was necessary or justified, the state presented evidence that Defendant caused the dog unnecessary and unjustifiable pain or suffering. Defendant, at the very least, had the option of borrowing a neighbor's gun to shoot the dog.

#### **MINN. STAT. § 343.22. Investigation of cruelty complaints**

Subdivision 1. Reporting. Any person who has reason to believe that a violation of this chapter has taken place or is taking place may apply to any court having jurisdiction over actions alleging violation of that section for a warrant and for investigation. The court shall examine under oath the person so applying and any witnesses the applicant produces and the court shall take their affidavits in writing. The affidavits must set forth facts tending to establish the grounds for believing a violation of this chapter has occurred or is occurring, or probable cause to believe that a violation exists. If the court is satisfied of the existence of the grounds of the application, or that there is probable cause to believe a violation exists, it shall issue a signed search warrant and order for investigation to a peace officer in the county. The order shall command the officer to proceed promptly to the location of the alleged violation. The order may command that a doctor of veterinary medicine accompany the officer.

Subd. 2. Police investigation. The peace officer shall search the place designated in the warrant and, together with the veterinary doctor, shall conduct an investigation of the facts surrounding the alleged violation. The peace officer may retain in custody, subject to the order of the court, any property or things which are specified in the warrant, including any animal if the warrant so specifies. The warrant shall contain the names of the persons presenting affidavits in support of the application and the grounds for its issuance. Service shall be made in accordance with the provisions of sections 626.13, 626.14, and 626.16. The warrant must be executed and returned to the court which issued the warrant within ten days after its date; after the expiration of that time the warrant, unless executed, is void. The officer executing the warrant shall promptly return the warrant to the court, and deliver to it a written inventory of the property or things taken, verified

by the certificate of the officer. The warrant and order for investigation issued pursuant to this section and section 343.23 shall have the same force as a warrant issued pursuant to chapter 626.

Subd. 3. Disposal of animals. Upon a proper determination by a licensed doctor of veterinary medicine, any animal taken into custody pursuant to this section may be immediately disposed of when the animal is suffering and is beyond cure through reasonable care and treatment. All other animals shall be disposed of as provided in section 343.235. The authority taking custody of the animals may recover all costs incurred under this section.

No Applicable Case Law.

### **MINN. STAT. § 343.23. Expenses of investigation**

The expenses of the investigation authorized by section 343.22, including the fee of the doctor of veterinary medicine, the expenses of keeping or disposing of any animal taken into custody pursuant to an investigation, and all other expenses reasonably incident to the investigation shall be paid by the county treasurer from the general fund of the county. If the person alleged to have violated section 343.21 is found guilty of the violation, the county shall have judgment against the guilty person for the amount of the expenses.

No Applicable Case Law.

### **MINN. STAT. § 343.235. Disposition of seized animals**

Subdivision 1. General rule. An animal taken into custody under section 343.12, 343.22, 343.29, or 343.31 may be humanely disposed of at the discretion of the jurisdiction having custody of the animal ten days after the animal is taken into custody, provided that the procedures in subdivision 3 are followed. An animal raised for food or fiber products may not be seized or disposed of without prior examination by a licensed veterinarian pursuant to a warrant issued by a judge.

Subd. 2. Security. A person claiming an interest in an animal in custody under subdivision 1 may prevent disposition of the animal by posting security in an amount sufficient to provide for the animal's actual costs of care and keeping. The security must be posted within ten days of the seizure inclusive of the date of the seizure.

Subd. 3. Notice; right to hearing. (a) The authority taking custody of an animal under section 343.12, 343.22, 343.29, or 343.31 shall give notice of this section by delivering or mailing it to a person claiming an interest in the animal or by posting a copy of it at the place where the animal is taken into custody or by delivering it to a person residing on the property, and telephoning, if possible. The notice must include:

(1) a description of the animal seized; the authority and purpose for the seizure; the time, place,



and circumstances under which the animal was seized; and the location, address, telephone number, and contact person where the animal is kept;

(2) a statement that a person claiming an interest in the animal may post security to prevent disposition of the animal and may request a hearing concerning the seizure or impoundment and that failure to do so within ten days of the date of the notice will result in disposition of the animal; and

(3) a statement that all actual costs of the care, keeping, and disposal of the animal are the responsibility of the person claiming an interest in the animal, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law.

The notice must also include a form that can be used by a person claiming an interest in the animal for requesting a hearing under this subdivision.

(b) Upon request of a person claiming an interest in the animal, which request must be made within ten days of the date of seizure, a hearing must be held within five business days of the request, to determine the validity of the seizure and impoundment. If the seizure was done pursuant to a warrant under section 343.22, the hearing must be conducted by the judge who issued the warrant. If the seizure was done under section 343.12, 343.29, or 343.31, the municipality taking custody of the animal or, in the case of a humane society, the municipality from which the animal was seized, may either (1) authorize a licensed veterinarian with no financial interest in the matter or professional association with either party or (2) use the services of a hearing officer to conduct the hearing. A person claiming an interest in the animal who is aggrieved by a decision of a hearing officer under this subdivision may seek a court order governing the seizure or impoundment within five days of notice of the order.

(c) The judge or hearing officer may authorize the return of the animal, if the judge or hearing officer finds that:

(1) the animal is physically fit; and

(2) the person claiming an interest in the animal can and will provide the care required by law for the animal.

(d) The person claiming an interest in the animal is liable for all actual costs of care, keeping, and disposal of the animal, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law. The costs must be paid in full or a mutually satisfactory arrangement for payment must be made between the municipality and the person claiming an interest in the animal before return of the animal to the person.

**Applicable Case Law:**

***State v. Woodbeck, No. A04-1943, 2005 WL 1514450 (Minn. Ct. App. June 28, 2005)***

**Facts:** Eighteen pit bull terriers were seized from defendant's property, with many exhibiting signs of malnourishment and neglect. Deputies found evidence of the dogs being bred and used for dog fighting, including syringes, catgut suture, iodine and a bite or break stick for training. The seized animals were examined by an Animal Humane Society veterinarian. The veterinarian stated that the dogs were 10-30% underweight and had scars and lesions consistent with dog fighting. Defendant claimed that he owned the dogs, that they came from fighting bloodlines, that he knew some were in poor shape, and that his dogs were confiscated the previous year but that he got them all back. The dogs were transferred to the local Animal Humane Society and Animal Control. Pursuant to Minn. Stat. § 343.235, the dogs were held for ten days and were then euthanized and disposed of by the local units. About a year and a half later, a complaint was filed charging defendant with five counts of animal fighting in violation of Minn. Stat. § 343.31. Defendant made a discovery motion seeking production of the dogs seized, or in the event they had been euthanized, access to the dogs' carcasses for physical examination. However, the dogs had been euthanized and cremated. Defendant argued on appeal that the physical appearance of the dogs would provide exculpatory evidence.

**Holding:** The Court of Appeals affirmed. Defendant has not shown how evidence of the dogs' appearance would support his innocence. He also failed to show that the officers acted in bad faith by allowing the dogs to be killed and cremated. Lastly, the dogs were euthanized and cremated after the defendant chose not to request a rehearing to re gain possession of the dogs.

**MINN. STAT. § 343.24. Cruelty in transportation**

Subdivision 1. Penalty. Any person who does any of the following is guilty of a misdemeanor:

(a) carries or causes to be carried, any live animals upon any vehicle or otherwise, without providing suitable racks, cars, crates, or cages in which the animals can both stand and lie down during transportation and while awaiting slaughter;

(b) except as provided in subdivision 2, paragraph (a), carries or causes to be carried, upon a vehicle or otherwise, any live animal having feet or legs tied together, or in any other cruel or inhumane manner;

(c) transports or detains livestock in cars or compartments for more than 28 consecutive hours without unloading the livestock in a humane manner into properly equipped pens for rest, water, and feeding for a period of at least five consecutive hours, unless requested to do so as provided in subdivision 2, paragraph (b), or unless prevented by storm or unavoidable causes which cannot be anticipated or avoided by the exercise of due diligence and foresight; or

(d) permits livestock to be crowded together without sufficient space to stand, or so as to overlie, crush, wound, or kill each other.

Subd. 2. Exceptions. (a) A person may carry or cause to be carried, upon a vehicle or otherwise, a cloven-hoofed animal having legs tied together, if:

(1) the person transporting the animal is the animal's owner or an employee or agent of the owner;

(2) the animal weighs 250 pounds or less;

(3) the tying is done in a humane manner and is necessary for the animal's safe transport; and

(4) the animal's legs are tied for no longer than one-half hour.

(b) A person or corporation engaged in transporting livestock may confine livestock for 36 consecutive hours if the owner or person with custody of that particular shipment of livestock requests in writing that an extension be allowed. That written request shall be separate from any printed bill of lading or other railroad form.

No Applicable Case Law.

**MINN. STAT. § 343.25. Docking horses; penalty**

A person who cuts the bony part of a horse's tail for the purpose of docking it, or who causes or knowingly permits the same to be done upon premises of which the person is owner, lessee, or user, or who assists in the cutting is guilty of a misdemeanor. When a horse is found so cut, upon the premises or in the custody of any person, and the wound resulting is unhealed, that fact shall constitute prima facie evidence that the offense was committed by the person. All fines resulting from complaint made by an officer or agent of any society of this state for the prevention of cruelty to animals for any offense specified in this section shall be paid to the society whose officer or agent made the complaint.

No Applicable Case Law.

**MINN. STAT. § 343.26. Repealed by Laws 2010, c. 333, art. 1, § 40, eff. July 1, 2010**

**MINN. STAT. § 343.27. Poisoning animals**

Any person who unjustifiably administers any poisonous, or noxious drug or substance to any animal, or procures or permits it to be done, or unjustifiably exposes that drug or substance with intent that the drug be taken by any animal, whether the animal is the property of the person or another, is guilty of a gross misdemeanor.

No Applicable Case Law.

**MINN. STAT. § 343.30. Injury to birds**

A person who in any manner maliciously maims, kills, or destroys any **bird** designated as unprotected by section 97A.015, subdivision 52, or who maliciously destroys the nests or eggs of any such bird shall be guilty of a petty misdemeanor.

No Applicable Case Law.

**2. ANIMAL FIGHTING**

**MINN. STAT. § 343.31. Animal fights and possession of fighting animals**

Subdivision 1. Penalty for animal fighting; attending animal fight. (a) Whoever does any of the following is guilty of a felony:

(1) promotes, engages in, or is employed in the activity of cockfighting, dogfighting, or violent pitting of one pet or companion animal as defined in section 346.36, subdivision 6, against another of the same or a different kind;

(2) receives money for the admission of a person to a place used, or about to be used, for that activity;

(3) willfully permits a person to enter or use for that activity premises of which the permitter is the owner, agent, or occupant; or

(4) uses, trains, or possesses a dog or other animal for the purpose of participating in, engaging in, or promoting that activity.

(b) Whoever purchases a ticket of admission or otherwise gains admission to the activity of cockfighting, dogfighting, or violent pitting of one pet or companion animal as defined in section 346.36, subdivision 6, against another of the same or a different kind is guilty of a gross misdemeanor.

(c) Whoever possesses any device or substance with intent to use or permit the use of the device or substance to enhance an animal's ability to fight is guilty of a gross misdemeanor.

(d) This subdivision shall not apply to the taking of a wild animal by hunting.

Subd. 2. Presumption of training a fighting dog. There is a rebuttable presumption that a dog has been trained or is being trained to fight if:

(1) the dog exhibits fresh wounds, scarring, or other indications that the dog has been or will be used for fighting; and

(2) the person possesses training apparatus, paraphernalia, or drugs known to be used to prepare dogs to be fought.

This presumption may be rebutted by a preponderance of the evidence.

Subd. 3. Presumption of training fighting birds. There is a rebuttable presumption that a bird has been trained or is being trained to fight if:

(1) the bird exhibits fresh wounds, scarring, or other indications that the bird has been or will be used for fighting; or

(2) the person possesses training apparatus, paraphernalia, or drugs known to be used to prepare birds to be fought.

This presumption may be rebutted by a preponderance of the evidence.

Subd. 4. Peace officer duties. Animals described in subdivisions 2 and 3 are dangerous weapons and constitute an immediate danger to the safety of humans. A peace officer or animal control authority may remove, shelter, and care for an animal found in the circumstances described in subdivision 2 or 3. If necessary, a peace officer or animal control authority may deliver the animal to another person to be sheltered and cared for. In all cases, the peace officer or animal control authority must immediately notify the owner, if known, as provided in subdivision 5. The peace officer, animal control authority, or other person assuming care of the animal shall have a lien on it for the actual cost of care and keeping of the animal. If the owner or custodian is unknown and cannot by reasonable effort be ascertained, or does not, within ten days after notice, redeem the animal by paying the expenses authorized by this subdivision, the animal may be disposed of as provided in subdivision 5.

Subd. 5. Disposition. (a) An animal taken into custody under subdivision 4 may be humanely disposed of at the discretion of the jurisdiction having custody of the animal ten days after the animal is taken into custody, if the procedures in paragraph (c) are followed.

(b) The owner of an animal taken into custody under subdivision 4 may prevent disposition of the animal by posting security in an amount sufficient to provide for the actual costs of care and keeping of the animal. The security must be posted within ten days of the seizure inclusive of the date of the seizure. If, however, a hearing is scheduled within ten days of the seizure, the security amount must be posted prior to the hearing.

(c) (1) The authority taking custody of an animal under subdivision 4 must give notice of this section by delivering or mailing it to the owner of the animal, posting a copy of it at the place where the animal is taken into custody, or delivering it to a person residing on the property and telephoning, if possible. The notice must include:

(i) a description of the animal seized; the authority and purpose for the seizure; the time, place, and circumstances under which the animal was seized; and the location, address, and telephone number of a contact person who knows where the animal is kept;

(ii) a statement that the owner of the animal may post security to prevent disposition of the animal and may request a hearing concerning the seizure and impoundment and that failure to do so within ten days of the date of the notice will result in disposition of the animal; and

(iii) a statement that all actual costs of the care, keeping, and disposal of the animal are the responsibility of the owner of the animal, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law. The notice must also include a form that can be used by a person claiming an interest in the animal for requesting a hearing.

(2) The owner may request a hearing within ten days of the date of the seizure. If requested, a hearing must be held within five business days of the request to determine the validity of the impoundment. The municipality taking custody of the animal or the municipality from which the animal was seized may either (i) authorize a licensed veterinarian with no financial interest in the matter or professional association with either party, or (ii) use the services of a hearing officer to conduct the hearing. An owner may appeal the hearing officer's decision to the district court within five days of the notice of the decision.

(3) The judge or hearing officer may authorize the return of the animal if the judge or hearing officer finds that (i) the animal is physically fit, (ii) the person claiming an interest in the animal can and will provide the care required by law for the animal, and (iii) the animal has not been used for violent pitting or fighting.

(4) The person claiming an interest in the animal is liable for all actual costs of care, keeping, and disposal of the animal, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law. The costs must be paid in full or a mutually satisfactory arrangement for payment must be made between the municipality and the person claiming an interest in the animal before the return of the animal to the person.

Subd. 6. Photographs. (a) Photographs of animals seized during an investigation are competent evidence if the photographs are admissible into evidence under all the rules of law governing the admissibility of photographs into evidence. A satisfactorily identified photographic record is as admissible in evidence as the animal itself.

(b) A photograph must be accompanied by a written description of the animals seized, the name of the owner of the animals seized, the date of the photograph, and the name, address, organization, and signature of the photographer.

Subd. 7. Veterinary investigative report. (a) A report completed by a Minnesota licensed

veterinarian following an examination of an animal seized during an investigation is competent evidence. A satisfactorily identified veterinary investigative report is as admissible in evidence as the animal itself.

(b) The veterinary investigative report may contain a written description of the animal seized, the medical evaluation of the physical findings, the prognosis for recovery, and the date of the examination and must contain the name, address, veterinary clinic, and signature of the veterinarian performing the examination.

See *State v. Woodbeck*, No. A04-1943, 2005 WL 1514450 (Minn. Ct. App. June 28, 2005) *supra*, MINN. STAT. § 343.235.

### **3. USE OF ANIMALS AS PRIZES OR ADVERTISING DEVICES**

#### **MINN. STAT. § 343.32. Artificially colored animals; sale**

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

No Applicable Case Law.

#### **MINN. STAT. § 343.33. Use as advertising devices**

Chicks, ducklings, and goslings younger than four weeks of age shall not be sold or offered for sale; raffled; or offered or given as a prize, premium, or advertising device, in quantity of fewer than 12 birds to an individual person unless sold by a person, firm, partnership or corporation engaged in the business of selling chicks, ducklings, and goslings for agricultural or wildlife purposes.

No Applicable Case Law.

#### **MINN. STAT. § 343.34. Care of animals used as advertising devices**

Stores, shops, vendors, and others offering chicks, ducklings, or goslings for sale; raffle; or as a prize, premium, or advertising device; or displaying chicks, ducklings, or goslings to the public; shall provide and operate brooders or other heating devices that may be necessary to maintain the chicks, ducklings, or goslings in good health, and shall keep adequate food and water available to the birds at all times.

No Applicable Case Law.

**MINN. STAT. § 343.35. Violations**

A violation of sections 343.32 to 343.34 is a petty misdemeanor; provided that, after any violation has been called to the attention of the violator by any law enforcement officer, each day on which the violation continues or is repeated constitutes a separate offense.

No Applicable Case Law.

**MINN. STAT. § 343.36. Greased pig contests and turkey scrambles**

No person shall operate, run or participate in a contest, game, or other like activity, in which a pig, greased, oiled or otherwise, is released and wherein the object is the capture of the pig, or in which a chicken or turkey is released or thrown into the air and wherein the object is the capture of the chicken or turkey. Any violation of this section is a misdemeanor.

No Applicable Case Law.

**4. MISCELLANEOUS**

**MINN. STAT. § 343.37. Decompression chambers prohibited**

A person may not use a decompression chamber to destroy an animal. A violation of this section is a misdemeanor.

No Applicable Case Law.

**MINN. STAT. § 343.40. Dog houses**

Subdivision 1. In general. A person in charge or control of any dog which is kept outdoors or in an unheated enclosure shall provide the dog with shelter and bedding as prescribed in this section as a minimum.

Subd. 2. Building specifications. The shelter shall include a moistureproof and windproof structure of suitable size to accommodate the dog and allow retention of body heat. It shall be made of durable material with a solid, moistureproof floor or a floor raised at least two inches from the ground. Between November 1 and March 31 the structure must have a windbreak at the entrance. The structure shall be provided with a sufficient quantity of suitable bedding material consisting of hay, straw, cedar shavings, blankets, or the equivalent, to provide insulation and protection against cold and dampness and promote retention of body heat.

Subd. 3. Shade. Shade from the direct rays of the sun, during the months of May to October shall be provided.



Subd. 4. Farm dogs. In lieu of the requirements of subdivisions 2 and 3, a dog kept on a farm may be provided with access to a barn with a sufficient quantity of loose hay or bedding to protect against cold and dampness.

Subd. 5. Zoning. All shelters required by this section shall be subject to all building or zoning regulations of any city, township, county, or state.

Subd. 6. Penalty. Whoever violates the provisions of this section is guilty of a petty misdemeanor.

No Applicable Case Law.

#### **MINN. STAT. § 609.294. Bestiality**

Whoever carnally knows a dead body or an animal or bird is guilty of bestiality, which is a misdemeanor. If knowingly done in the presence of another the person may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000 or both.

No Applicable Case Law.

#### **MINN. STAT. § 609.596. Killing or harming public safety dog**

Subdivision 1. Felony. It is a felony for any person to intentionally and without justification cause the death of or great or substantial bodily harm to a police dog, a search and rescue dog, or an arson dog when the dog is involved in law enforcement, fire, or correctional investigation or apprehension, search and rescue duties, or the dog is in the custody of or under the control of a peace officer, a trained handler, or an employee of a correctional facility. A person convicted under this subdivision may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$5,000, or both.

Subd. 2. Gross misdemeanor. It is a gross misdemeanor for any person to intentionally and without justification cause demonstrable bodily harm to a police dog, search and rescue dog, or an arson dog when the dog is involved in law enforcement, fire, or correctional investigation or apprehension, search and rescue duties, or the dog is in the custody of or under the control of a peace officer, a trained handler, or an employee of a correctional facility.

Subd. 2a. Misdemeanor. It is a misdemeanor for any person to intentionally and without justification assault a police dog, search and rescue dog, or an arson dog when the dog is involved in law enforcement, fire, or correctional investigation or apprehension, search and rescue duties, or the dog is in the custody of or under the control of a peace officer, a trained handler, or an employee of a correctional facility.

Subd. 2b. Mandatory restitution. The court shall order a person convicted of violating this section to pay restitution for the costs and expenses resulting from the crime. Costs and expenses include, but are not limited to, the purchase and training of a replacement dog and veterinary services for the injured dog. If the court finds that the convicted person is indigent, the court may reduce the amount of restitution to a reasonable level or order it paid in installments.

Subd. 3. Definitions. As used in this section:

- (1) “arson dog” means a dog that has been certified as an arson dog by a state fire or police agency or by an independent testing laboratory;
- (2) “correctional facility” has the meaning given in section 241.021, subdivision 1, paragraph (f);
- (3) “peace officer” has the meaning given in section 626.84, subdivision 1, paragraph (c); and
- (4) “search and rescue dog” means a dog that is trained to locate lost or missing persons, victims of natural or other disasters, and human bodies.

No Applicable Case Law.

**MINN. STAT. § 609.597. Assaulting or harming police horse; penalties**

Subdivision 1. Definition. As used in this section, “police horse” means a horse that has been trained for crowd control and other law enforcement purposes and is used to assist peace officers or reserve officers in the performance of their official duties.

Subd. 2. Crime. Whoever assaults or intentionally harms a police horse while the horse is being used or maintained for use by a law enforcement agency, or while under the control of a reserve officer who is operating at the direction of, under the control of, or on behalf of a peace officer or a law enforcement agency, is guilty of a crime and may be sentenced as provided in subdivision 3.

Subd. 3. Penalties. A person convicted of violating subdivision 2 may be sentenced as follows:

- (1) if a peace officer, a reserve officer, or any other person suffers great bodily harm or death as a result of the violation, the person may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both;
- (2) if the police horse suffers death or great bodily harm as a result of the violation, or if a peace officer or a reserve officer suffers demonstrable bodily harm as a result of the violation, the person may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$4,000, or both;
- (3) if the police horse suffers demonstrable bodily harm as a result of the violation, the person

may be sentenced to imprisonment for not more than one year and one day or to payment of a fine of not more than \$3,000, or both;

(4) if a peace officer or a reserve officer is involuntarily unseated from the police horse or any person, other than the peace officer or reserve officer, suffers demonstrable bodily harm as a result of the violation, the person may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both;

(5) if a violation other than one described in clauses (1) to (4) occurs, the person may be sentenced to imprisonment for not more than 90 days or to payment of a fine of not more than \$1,000, or both.

No Applicable Case Law.