

## States' Farm Animal Welfare Statutes: Delaware

*Current through ch. 292 of the 150th General Assembly (2019-2020). Revisions to 2020 Acts by the Delaware Code Revisors were unavailable at the time of publication.*

### **§ 704. Prohibited hunting and trapping devices and methods; confiscation of devices; primitive weapon season**

(a) No person shall make use of any pitfall, deadfall, scaffold, cage, snare, trap, net, pen, baited hook, lure, urine or baited field or any other similar device for the purpose of injuring, capturing or killing birds or animals protected by the laws of this State, except muskrats, raccoon, opossum, minks, otters, beavers and rabbits may be trapped and snapping turtles may be trapped or taken with a net in accordance with the regulations of the Department of Natural Resources and Environmental Control, and except as otherwise expressly provided. Landlords and tenants and their respective children may take rabbits in traps and snares during the open season for same on their freeholds and leaseholds respectively. For purposes of this section, the term "lure" means any mixture of ingredients intended to be placed at the trap location for the purpose of masking human odor or attracting wildlife. The term "lure" does not include any tangible objects such as duck or goose decoys or similar tangible devices used while hunting nor does the term include any mixture of ingredients intended for the purpose of masking human odor or attracting deer while deer hunting.

(b) No person shall make use of any drug, poison, chemical or explosive for the purpose of injuring, capturing or killing birds or animals protected by the laws of this State.

(c) The unlawful setting or placing of any of the devices or contrivances named in subsection (a) or (b) of this section is an offense against this section, and such devices and contrivances, when found unlawfully set or placed, shall be confiscated by the Department and disposed of as the Department sees fit.

(d) No person shall shoot at, or kill any bird or animal protected by the laws of this State with any device, swivel or punt gun, or with any gun other than such as is habitually raised at arm's length and fired from the shoulder. Possession of such illegal device or gun while hunting shall be prima facie evidence of an offense under this subsection.

(e) No person shall use for hunting or have in their possession while hunting any shotgun shells loaded with lead or lead alloy missiles larger than No. 2 shot, except ammunition permitted for hunting deer during the lawful open season for deer.

(f) A muzzle-loading rifle, meaning a single-barrel gun which is loaded with black powder and projectile through the muzzle, having distinct rifling the full length of the bore, shooting a spherical or conical projectile, ignited by a flint striking a frizzen or by a percussion cap, having a minimum bore of 0.42 inches (10.67 mm), minimum powder charge of 62 grains (4 grams), may be used in the pursuit, taking or attempted taking ("hunting") of protected wildlife, provided (1) such hunting takes place during the primitive weapon season established by the Department of Natural Resources and

Environmental Control and is done pursuant to the requirements of law applicable to other means of hunting protected wildlife, (2) no person engaged in such hunting shall possess or use any multi-projected loads (buck and ball), explosive bullets or any balls smaller than .42 caliber. No weapon may be used for hunting deer during the primitive weapon season other than a muzzle-loading rifle or bow. The Department may permit the use of a single shot muzzle-loading pistol being a minimum .42 caliber with a minimum powder charge of 40 grains during the primitive weapons season for deer, when using a muzzle-loading rifle to provide the coup-de-grace, if required.

(g) Except as set forth herein, no person may use a handgun in the pursuit, taking or attempted taking (hunting) of protected wildlife. A handgun as described herein may be used for the pursuit, taking and attempted taking (hunting) of deer on privately owned lands situated south of the Chesapeake and Delaware Canal and those lands within the State owned by the State of Delaware so designated for this purpose by the Department of Natural Resources and Environmental Control, at its discretion, under the following conditions:

(1) The handgun shall be limited to revolvers and single shot pistols with a minimum barrel length of 5.75 inches and not exceeding 12.5 inches and chambered for and using straight-wall handgun ammunition in .357 magnum, .41 caliber, .41 magnum, .44 caliber, 44 magnum, .45 caliber, .454 caliber, .480 caliber or .50 caliber and using open sights, metallic/mechanical, optical or telescopic sights;

(2) The handgun must be carried openly on a sling or in a holster and not concealed;

(3) To be used:

a. During a separate 7-day season to begin on the 1st Saturday in January through the 2nd Saturday in January; and

b. In place of a shotgun during the shotgun deer season.

(h) No person shall operate, provide, sell, use, or offer to operate, provide, sell, or use any computer software or service that allows a person not physically present at a hunt site to remotely control a weapon that could be used to take a live animal or bird by remote operation, including, but not limited to, weapons or devices set up to fire through the use of the Internet or through a remote control device.

#### **§ 705. Visiting traps within 24-hour periods; killing of trapped animals**

(a) No person who sets or makes use of any trap, except for muskrats, shall permit more than 24 hours to elapse between visits to such trap.

(b) Notwithstanding § 704(d) of this title, a .22 caliber rimfire pistol may be used to kill animals lawfully confined or restrained by a trap or snare.

#### **§ 1325. Cruelty to animals; class A misdemeanor; class F felony**

(a) For the purpose of this section, the following words and phrases shall include, but not be limited to, the meanings respectively ascribed to them as follows:

(1) "Abandonment" includes completely forsaking or deserting an animal originally under one's custody without making reasonable arrangements for custody of that animal to be assumed by another person.

(2) "Animal" shall not include fish, crustacea or molluska.

(3) "Cruel" includes every act or omission to act whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted.

(4) "Cruel mistreatment" includes any treatment whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted.

(5) "Cruel neglect" includes neglect of an animal, which is under the care and control of the neglecter, whereby pain or suffering is caused to the animal or abandonment of any domesticated animal by its owner or custodian. By way of example, cruel neglect shall also include allowing an animal to live in unsanitary conditions, such as keeping an animal where the animal's own excrement is not removed from the animal's living area and/or other living conditions which are injurious to the animal's health.

(6) "Cruelty to animals" includes mistreatment of any animal or neglect of any animal under the care and control of the neglecter, whereby unnecessary or unjustifiable physical pain or suffering is caused. By way of example this includes: Unjustifiable beating of an animal; overworking an animal; tormenting an animal; abandonment of an animal; tethering of any dog for 9 consecutive hours or more in any 24-hour period except on any farm; tethering of any dog for any amount of time if the dog is under 4 months of age or is a nursing mother while the offspring are present, except on any farm; and failure to feed properly or give proper shelter or veterinary care to an animal.

(7) "Custody" includes the responsibility for the welfare of an animal subject to one's care and control whether one owns it or not. A person who provides sterilization or care to a free-roaming cat that lacks discernible owner identification is not deemed to have "custody," "care," or "control" of the cat for purposes of this section.

(8) "Farm" means any place that meets the 2017 USDA Federal Census of Agriculture definition of farm: "any place from which \$1,000 or more of agricultural products were produced and sold, or normally would have been sold, during the census year".

(9) "Person" includes any individual, partnership, corporation or association living and/or doing business in the State.

(10) "Proper feed" includes providing each animal with daily food and water of sufficient quality and quantity to prevent unnecessary or unjustifiable physical pain or suffering by the animal.

(11) "Proper shelter" includes providing each animal with adequate shelter from the weather elements as required to prevent unnecessary or unjustifiable physical pain or suffering by the animal.

(12) "Proper veterinary care" includes providing each animal with veterinary care sufficient to prevent unnecessary or unjustifiable physical pain or suffering by the animal.

(13) "Serious injury" shall include any injury to any animal which creates a substantial risk of death, or which causes prolonged impairment of health or prolonged loss or impairment of the function of any bodily organ.

(14) "Tethering" shall include fastening or restraining with a rope, chain, cord, or similar device creating a fixed radius; tethering does not include walking a dog on a leash, regardless of the dog's age.

(b) A person is guilty of cruelty to animals when the person intentionally or recklessly:

(1) Subjects any animal to cruel mistreatment; or

(2) Subjects any animal in the person's custody to cruel neglect; or

(3) Kills or injures any animal belonging to another person without legal privilege or consent of the owner; or

(4) Cruelly or unnecessarily kills or injures any animal. This section does not apply to the killing of any animal normally or commonly raised as food for human consumption, provided that such killing is not cruel. A person acts unnecessarily if the act is not required to terminate an animal's suffering, to protect the life or property of the actor or another person or if other means of disposing of an animal exist which would not impair the health or well-being of that animal; or

(5) Captures, detains, transports, removes or delivers any animal known to be a pet or owned or unowned companion animal, or any other animal of scientific, environmental, economic or cultural value, under false pretenses to any public or private animal shelter, veterinary clinic or other facility, or otherwise causes the same through acts of deception or misrepresentation of the circumstances and disposition of any such animal.

(6) Confines an animal unattended in a standing or parked motor vehicle in which the temperature is either so high or so low as to endanger the health or safety of the animal. A law-enforcement officer, animal welfare officer, or firefighter who has probable cause to believe that an animal is confined in a motor vehicle under conditions that are likely to cause suffering, injury, or death to the animal may use reasonable force to remove the animal left in the vehicle in violation of this provision. A person removing an animal under this section shall use reasonable means to contact the owner. If the person is unable to contact the owner, the person may take the animal to an animal shelter and must leave written notice bearing his or her name and office, and the address of the location where the animal can be claimed. This provision shall not apply to the legal transportation of horses, cattle, swine, sheep, poultry, or other agricultural animals in motor

vehicles designed to transport such animals. The owner of the vehicle from which the animal is rescued and the owner of the animal rescued are not liable for injuries suffered by the person rescuing the animal.

Paragraphs (b)(1), (2) and (4) of this section are inapplicable to accepted veterinary practices and activities carried on for scientific research.

Cruelty to animals is a class A misdemeanor, unless the person intentionally kills or causes serious injury to any animal in violation of paragraph (b)(4) of this section or unless the animal is killed or seriously injured as a result of any action prohibited by paragraph (b)(5) of this section, in which case it is a class F felony.

(c) Any person convicted of a misdemeanor violation of this section shall be prohibited from owning or possessing any animal for 5 years after said conviction, except for animals grown, raised or produced within the State for resale, or for sale of a product thereof, where the person has all necessary licenses for such sale or resale, and receives at least 25 percent of the person's annual gross income from such sale or resale. Any person convicted of a second or subsequent misdemeanor violation of this section shall be prohibited from owning or possessing any animal for 5 years after said conviction without exception.

A violation of this subsection is subject to a fine in the amount of \$1,000 in any court of competent jurisdiction and to forfeiture of any animal illegally owned in accordance with the provisions of § 3035F of Title 16.

(d) Any person convicted of a felony violation of this section shall be prohibited from owning or possessing any animal for 15 years after said conviction, except for animals grown, raised or produced within the State for resale, or for sale of a product thereof, where the person has all necessary licenses for such sale or resale, and receives at least 25 percent of the person's annual gross income from such sale or resale. Any person convicted of a second or subsequent felony violation of this section shall be prohibited from owning or possessing any animal for 15 years after said conviction without exception.

A violation of this subsection is subject to a fine in the amount of \$5,000 in any court of competent jurisdiction and to forfeiture of any animal illegally owned in accordance with the provisions of § 3035F of Title 16.

(e) Any trained and certified animal welfare officer of the Department of Health and Social Service's Office of Animal Welfare or the Department of Agriculture may impound an animal owned or possessed in apparent violation of this section, consistent with § 3035F of Title 16.

(f) This section shall not apply to the lawful hunting or trapping of animals as provided by law.

(g) Notwithstanding any provision to the contrary, for a first offense misdemeanor violation of this section relating to animals left in motor vehicles or the tethering of dogs, a warning shall be issued.

(h) Exclusive jurisdiction of offenses under this section relating to animals left in motor vehicles or the tethering of dogs shall be in the Superior Court.

**§ 1325A. The unlawful trade in dog or cat by-products; class B misdemeanor; class A misdemeanor, penalties**

(a)(1) A person is guilty of the unlawful trade in dog or cat by-products in the second degree if the person knowingly or recklessly sells, barter or offers for sale or barter, the fur or hair of a domestic dog or cat or any product made in whole or in part from the fur or hair of a domestic dog or cat.

(2) This subsection shall not apply to the sale or barter, or offering for sale or barter, of the fur or hair of a domestic dog or cat which has been cut at a commercial grooming establishment, or at a veterinary office or clinic, or for scientific research purposes.

(3) The unlawful trade in dog or cat by-products in the second degree is a class B misdemeanor.

(b)(1) A person is guilty of the unlawful trade in dog or cat by-products in the first degree if the person knowingly or recklessly sells, barter or offers for sale or barter, the flesh of a domestic dog or cat or any product made in whole or in part from the flesh of a domestic dog or cat.

(2) The unlawful trade in dog or cat by-products in the first degree is a class A misdemeanor.

(c) In addition to any other penalty provided by law, any person convicted of a violation of this section shall be:

(1) Prohibited from owning or possessing any domestic dog or cat for 15 years after said conviction, except for those grown, raised or produced within the State for resale, where the person has all necessary licenses for such sale or resale, and receives at least 25 percent of the person's annual gross income from such sale or resale;

(2) Subject to a fine in the amount of \$2,500 in any court of competent jurisdiction; and

(3) Required to forfeit any domestic dog or cat illegally owned in accordance with the provisions of Chapter 79 of Title 3.

(d) For the purposes of this section, the term "domestic dog or cat" means a dog (*Canis familiaris*) or cat (*Felis catus* or *Felis domesticus*) that is generally recognized in the United States as being a household pet and shall not include coyote, fox, lynx, bobcat or any other wild or commercially raised canine or feline species the fur or hair of which is recognized for use in warm clothing and outer wear by the United States Department of Agriculture and which species is not recognized as an endangered or threatened species by the United States Fish and Wild Life Service or the Delaware Department of Natural Resources and Environmental Control.

**§ 1326. Animals; fighting and baiting prohibited; class E felony**

(a) A person who owns, possesses, keeps, trains, or uses a bull, bear, dog, cock, or other animal or fowl for the purpose of fighting or baiting; or a person who is a party to or who causes the fighting or baiting of a bull, bear, dog, cock, or other animal or fowl; or a person who rents or otherwise obtains the use of a building, shed, room, yard, ground, or premises for the purpose of fighting or baiting an animal or fowl; or a person who knowingly suffers or permits the use of a building, shed, room, yard, ground, or premises belonging to the person, or that is under the person's control, for any of the purposes described in this section, is guilty of a class E felony.

(b) A person who is present at a building, shed, room, yard, ground, or premises where preparations are being made for an exhibition prohibited by subsection (a) of this section, and who knows that the exhibition is taking place or is about to take place, is guilty of a class F felony.

(c) A person who gambles on the outcome of an exhibition prohibited by subsection (a) of this section is guilty of a class F felony.

(d) All animals, equipment, devices, and money involved in a violation of this section must be forfeited to the State. Animals so forfeited must be evaluated by a duly incorporated society for the prevention of cruelty to animals, an authorized state agency, or a duly incorporated humane society in charge of animals for eligibility for adoption. After evaluation, animals may also be transferred to a rescue organization. Animals forfeited may be adopted to individuals other than the convicted person or person dwelling in the same household, who conspired, aided or abetted in the unlawful act which was the basis of the conviction, or who knew or should have known of the unlawful act, or humanely disposed of according to the provisions of subchapter I of Chapter 30F of Title 16.

(e) Prosecution for any offense under this section may not be commenced after 5 years from the commission of the offense.

(f) A person convicted of a violation of this section is prohibited from owning or possessing any animal or fowl for 15 years after conviction.

(g) A fine issued as a result of a violation of this section may not be suspended.

(h) In addition to the penalties provided under this section, the court may require a person convicted of violating this section to attend and participate in an appropriate treatment program or to obtain appropriate psychiatric or psychological counseling, or both. The court may impose the costs of any treatment program or counseling upon the person convicted.

**§ 3031F. Powers, duties, and functions of animal welfare officers of the Department of Health and Social Services and the Department of Agriculture**

(a) The Office of Animal Welfare within the Department of Health and Social Services shall enforce all animal cruelty laws in the State, except in cases of domestic agricultural animals specified in § 101(8) of Title 3, where the Department of Agriculture shall have primary enforcement authority. In cases of imminent danger, the Office of Animal

Welfare and the Department of Agriculture shall have concurrent jurisdiction to seize and impound an animal and take any other necessary step to alleviate the imminent danger or preserve evidence.

(b) The Office of Animal Welfare within the Department of Health and Social Services shall enforce all dog control, dangerous dog and animal fighting laws, and laws concerning the maintenance of a dangerous animal in the State.

(c) The Office of Animal Welfare is a “law-enforcement agency” for purposes of § 8901B of Title 11 and any other purpose relating to communication and access to criminal justice information.

(d) Animal welfare officers of the Office of Animal Welfare or Department of Agriculture shall be trained and certified pursuant to § 122(3)bb. of this title.

(e) Animal welfare officers of the Office of Animal Welfare shall have the power to investigate, search, seize, detain and arrest when investigating and enforcing animal cruelty and fighting, dog control, or dangerous animal laws.

(f) The Department of Agriculture shall have the power to investigate, search, seize and issue criminal summons when investigating and enforcing animal cruelty laws.

(g) Animal welfare officers of the Office of Animal Welfare and the Department of Agriculture shall have no police powers to investigate or enforce laws other than those related to animal cruelty or fighting, dog control, or dangerous animal laws.

(h) Animal welfare officers of the Office of Animal Welfare or the Department of Agriculture shall not be permitted to carry firearms while on duty as such.

#### **§ 3032F. Enforcement of laws for protection of animals**

The constables of the several counties of this State, and the police force of the City of Wilmington, as well as all other places in the State where police organizations exist, shall, as occasion requires, assist the Office of Animal Welfare and the Department of Agriculture in the enforcement of all laws which are enacted for the protection of animals.

#### **§ 3033F. Fines and penalties in certain cases; disposition**

All fines, penalties and forfeitures, imposed and collected in any county of the State under every act relating to or affecting cruelty to animals, animal fighting, dog control, or dangerous animals, shall be remitted to the enforcing agency.

#### **§ 3034F. Service of process**

Any warrant, subpoena, summons, or other process issued in relation to animal cruelty and fighting, dog control, or dangerous animal laws may be directed to and executed by any trained and certified animal welfare officer of the Office of Animal Welfare.

#### **§ 3035F. Impoundment**

(a) Any trained and certified animal welfare officer working for the Office of Animal Welfare or the Department of Agriculture, or any law-enforcement officer as defined in §



222 of Title 11, may, in instances of alleged acts of animal cruelty or animal fighting and as provided for by the laws of Delaware relating to seizure of property, impound in an appropriate shelter, animal rescue or, if required, in an appropriate veterinarian facility, any animal subjected to cruel mistreatment or cruel neglect. Should the owner or custodian of an animal not be available at or near the premises where the animal is located, upon taking an animal under this section the agent shall leave in an appropriate place written notice to the animal's owner or custodian of such action. The officer shall take all reasonable action to ensure that owners or custodians of an animal, impounded under this section, shall have received notice of such action as soon as possible and no later than 24 hours after the impoundment.

(b) An animal impounded under this section shall not remain in the custody of the State longer than 48 hours and shall be returned to its owner or custodian unless a complaint is filed within the 48-hour period in the appropriate court under the animal cruelty laws against the owner or custodian, except that upon good cause shown a court may permit a reasonable extension of the 48-hour period not to exceed 30 days. When a complaint is filed in the appropriate court, the impounded animal shall remain in the custody of the State pending the outcome of the action. If the owner or custodian is found to be in violation of the animal cruelty laws the court shall make a final determination as to the disposition of the animal. Should the complaint be withdrawn, prior to a court hearing, the animal shall be immediately made available to its owner or custodian.

(c) Upon a determination that probable cause exists to believe that the animal cruelty or animal fighting laws have been violated by the owner or custodian of any impounded animal, the State or its agent shall have the right to recover the costs of holding and caring for any animal impounded under this section from the owner or custodian of the animal. Upon impoundment, the State shall submit a detailed billing to the owner or custodian of the animal, listing the monthly costs of boarding, evaluation, veterinary and other costs associated with care. Notwithstanding any provision of this section or any other law to the contrary, failure of the animal's owner or custodian to pay these costs within 30 days of delivery of a detailed monthly billing will result in ownership of the animal reverting to the State and the State may determine the final disposition of said animal. The provisions of this subsection shall be applicable notwithstanding the final disposition of the criminal charges.

(d) An owner or custodian of an animal impounded under this section who is found guilty of cruelty to the animal, and the court orders the animal returned to such owner or custodian, shall, prior to taking the animal, reimburse the State or its agent its regular standard fees charged for the care of animals while in the State's custody plus any veterinary fees incurred for the animal during the period of impoundment. Failure of the animal's owner or custodian to pay such fees within 5 days after a finding of guilty will result in ownership of the animal reverting to the State. The State may then dispose of the animal in accord with its procedures for such disposition.

(e) Should an animal which has been impounded under this section expire while in the custody of the State, the animal shall, as soon as possible, be turned over to the State Veterinarian at the Department of Agriculture. The State Veterinarian shall take whatever action necessary, including necropsy if required, to determine cause of the animal's death and shall record such cause. The cause of death shall, if requested, be furnished

to the animal's owner and to the court handling the complaint relative to the animal. Disposition of the animal's remains shall be coordinated with the animal's owner and, provided a complaint has been filed, with the court handling the complaint.

### **§ 3041F. Definitions**

As used in this subchapter:

(1) "Animal shelter" means a public or private facility which includes a physical structure that provides temporary or permanent shelter to stray, abandoned, abused, or owner-surrendered animals and is operated, owned, or maintained by an incorporated humane society, animal welfare society, or other nonprofit organization for the purpose of providing for and promoting the welfare, protection, and humane treatment of animals. "Animal shelter" does not mean individuals providing temporary foster care to animals in their home or animal rescue groups sheltering animals on an individual's private property.

(2) Repealed by 80 Laws 2016, ch. 248, § 5, eff. May 25, 2016.

(3) "Animal welfare officer" means an individual employed by the Department or employed by an independent contractor of the Department or by a municipality for the purpose of enforcing dog control laws, rules, regulations, and ordinances.

(4) "Department" means the Department of Health and Social Services.

(5) "Dog" means any dog or dog hybrid.

(6) "Owner" means any person who owns, keeps, harbors, or is the custodian of a dog.

(7) "Primary enclosure" means any structure used or designed for use to restrict a dog to a limited amount of space, including a room, pen, cage, compartment, or hutch.

(8) "Retail dog outlet" means any premises where dogs are sold, or offered or maintained for sale, on a retail basis. "Retail dog outlet" does not mean any of the following:

a. Dogs which are produced and raised on such premises and are sold, or offered or maintained for sale, by a person who resides on such premises.

b. The selling of a single litter of puppies or any part thereof during a calendar year.

c. Any publicly operated or private, charitable, or nonprofit animal shelter, pound, humane society, or animal rescue organization.

### **§ 3042F. Fees for dog licenses; terms**

(a) Dog licenses. -- The Department shall issue dog licenses and may, under § 3045F of this title, authorize agents to issue dog licenses. The Department shall provide

applications for the following dog licenses, and may charge reasonable fees not to exceed the cost of administering this subchapter:

(1) Individual dog owner licenses. -- The owner of any dog 6 months of age or older shall apply to the Department or its duly authorized agents on a form prescribed by the Department for an individual dog owner license for such dog. All individual dog owner licenses shall be valid from the date of purchase for a period of time which the Department shall determine.

(2) Retail dog outlet licenses. --Each owner of a retail dog outlet in the State must apply to the Department for a retail dog outlet license on an annual basis. A retail dog outlet license shall be valid for 1 year from the date of purchase.

(3) Kennel licenses. --Any person who maintains a kennel wherein more than 4 dogs are kept for show, trial, sale, breeding, or other purposes may apply to the Department, or its agents authorized under § 3045F of this title, on a form prescribed by the Department for a kennel license in lieu of an individual dog owner license for each dog. Kennel licenses shall be valid for 1 year from the date of purchase.

(4) Replacement dog licenses or tags. -- The Department shall adopt a policy to issue a replacement individual dog owner license, retail dog outlet license, or kennel license, or the tags accompanying such license, and shall set the fees for such replacement licenses or tags.

(b) Upon application and payment of the fee for an individual dog owner license, retail dog outlet license, or kennel license, the applicant shall be entitled to receive a license, provided proof of a currently valid rabies vaccination, exemption certificate authorized under § 8204 of Title 3 of this Code, or other documentation required by the Department can be presented for each dog for which the license is sought. Each individual dog owner license, retail dog outlet license, and kennel license shall show the date on which the license fee is paid. The Department, or its agent authorized under § 3045F of this title, shall issue each license showing the year for which the license is paid and the serial number of the license. Each issued license must be accompanied by either a metal tag or an alternative method of identification, such as a microchip or tattoo. In the event a dog tag is issued, the tag shall be of a design to be adopted by the Department, and shall be affixed to the collar by the owner of such dog. Dog collars with associated state tags may be removed and need not be worn at all times when the dog is licensed under a kennel or retail dog outlet and is housed in an enclosure or a pen. If the collar has been removed, a valid dog tag and license must be readily available for review by an animal welfare officer as proof that the individual dog is licensed. Dogs engaged in the act of hunting are exempted from wearing tags while they are in the act of hunting, but individuals hunting with dogs must have some means of valid identification on the dog, and a valid dog tag and license must be available for review by an animal welfare officer while the dog is in the act of hunting.

(c) Whoever fails to secure a valid dog license, retail dog outlet's license, or kennel license when required by this section shall be fined not less than \$50 and not more than \$500. For each subsequent offense occurring within 12 months of a prior offense, the person shall be fined not less than \$100 and not more than \$500. The minimum fine for

a subsequent offense shall not be subject to suspension. Conviction for the failure to pay the license fee is a violation.

(d) The Department may revoke any individual dog owner license, retail dog outlet license, or kennel license previously issued, and may deny any person the right to secure any such license for a period of time within the Department's discretion, if the licensee or person has been convicted of animal cruelty under the laws of Delaware or any state or federal law.

(e) The license fee set by the Department pursuant to subsection (a) of this section shall not be required to be paid when the dog is one which qualifies as a seeing-eye, lead, or guide dog or as a dog which has previously served in a branch of the United States armed forces. The Department shall issue either a metal license tag or an alternative method for identification in accordance with subsection (b) of this section for such dogs without the necessity of the payment of the dog license fee.

(f) Individual, retail, or kennel licenses previously issued by a county or the City of Wilmington remain valid until their predetermined expiration dates.

#### **§ 3044F. Specifications for the humane handling, care, and treatment of dogs**

(a) General facilities. –

(1) Structural strength. --Housing facilities for dogs shall be designed and constructed so that they are structurally sound. They shall have no sharp points or edges that could injure the dogs, and they shall contain the dogs securely and restrict other animals from entering.

(2) Storage. --Supplies of food and bedding shall be stored in a manner that protects the supplies from spoilage, contamination, and vermin infestation. Foods requiring refrigeration shall be stored accordingly.

(3) Drainage and waste disposal. --Provision shall be made for the regular collection, removal, and disposal of animal and food wastes, bedding, debris, and dead animals in a manner that minimizes contamination and disease risks. If housing facilities are equipped with disposal facilities and drainage systems, they shall be constructed and operated so that animal wastes and water are rapidly eliminated and the dogs stay dry. All drains shall be properly constructed, installed, and maintained. If closed drainage systems are used, they shall be equipped with traps and prevent the backflow of gases and the backup of sewage onto the floor.

(b) Indoor housing facilities. –

(1) Heating, cooling, and temperature. --Indoor housing facilities for dogs shall be sufficiently heated and cooled when necessary to protect the dogs from temperature extremes and to provide for their health and well-being. When dogs are present, the ambient temperature in the facility shall not be allowed to fall below 50°F (10°C) for dogs not acclimated to lower temperatures and for those breeds that cannot tolerate lower temperatures without stress or discomfort, such as short-haired breeds. Dry bedding or other methods of conserving body

heat shall be provided when temperatures are below 50°F (10°C). The ambient temperature shall not fall below 45°F (7.2°C) for more than 4 consecutive hours when dogs are present, and shall not rise above 85°F (29.5°C) for more than 4 consecutive hours when dogs are present.

(2) Ventilation. --Indoor housing facilities for dogs shall be sufficiently ventilated when dogs are present to provide for their health and well-being, and to minimize odors, drafts, ammonia levels, and moisture condensation. Ventilation shall be provided by windows, vents, fans, or air conditioning.

(3) Lighting. --Indoor housing facilities for dogs shall have ample lighting by natural or artificial means. Lighting in indoor housing facilities shall be sufficient to allow observation of the physical condition of the dogs so housed, and to permit routine inspection and cleaning of the facility. Dogs housed in these facilities shall be provided a regular diurnal lighting cycle of either natural or artificial light. Primary enclosures shall be placed so as to protect the dogs from excessive light.

(4) Interior surfaces. --The floors and walls of indoor housing facilities shall be constructed and maintained so that they are substantially impervious to moisture and may be readily sanitized.

(c) Outdoor housing facilities. --(1) Restrictions. No dog shall be confined outside and unattended during any period in which a hazardous weather advisory or warning has been issued by the National Weather Service for the local area or where conditions pose a serious adverse risk to the health and safety of a dog. For purposes of this section, the definition of "outside and unattended" shall mean any dog that is exposed to the elements for a duration of longer than 15 minutes and not in visual range and physical presence of the owner. This expressly includes, but is not limited to, a dog in a yard or a dog that is tethered. A dog shall be considered outside regardless of access to an outdoor dog house or similar structure. However, a dog actively engaged in the protection of livestock, farm property, or poultry shall not be considered to be "outside and unattended" provided that such dog has uninterrupted access to enter a dry agricultural building such as a barn.

(2) Shelter from the elements. --Dogs shall be provided with proper shelter to protect them against inclement weather, preserve their body heat, and allow them to remain dry during rain or snow. The shelter shall be substantially moisture proof 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, moisture-proof floor raised off the ground, and contain sufficient clean and moisture-resistant bedding material or other means of protection from the weather. Additional bedding material and a windbreak, such as a flap or tarp at the entrance, shall be provided between November 1 and March 31 or when the temp is 35°F (1.7°C) or lower.

(3) Shelter from sunlight. --In addition to the shelter structure, 1 or more separate outside areas of shade shall be provided to allow the dogs to protect themselves when sunlight is likely to cause overheating or discomfort.

(4) Construction. --Housing facilities for dogs shall be constructed to provide for the health and comfort of the animals. The floors and walls of outside housing facilities shall be constructed and maintained so that they are structurally sound, substantially impervious to moisture, wind, and may be readily sanitized. A dog house shall not be constructed primarily of metal. Mobile or traveling housing facilities, barrels, cars, refrigerators or freezers, and the like shall not constitute proper shelter.

(5) Dogs shall be provided access to food and water under paragraphs (e)(2) through (e)(4) of this section in a manner in which the contents will not freeze.

(d) Primary enclosures. –

(1) Space requirements. --Primary enclosures shall be constructed and maintained to provide sufficient space to allow each dog to turn about freely and to stand erect, sit, and lie down in a comfortable, normal position. Each dog housed in a primary enclosure shall be provided with a minimum amount of floor space, which shall be calculated according to the procedure prescribed in 9 C.F.R. § 3.6(c)(1).

(2) Space requirements when nursing puppies. --Each bitch with nursing puppies shall be provided with an additional amount of floor space, based on her breed and behavioral characteristics, and in accordance with generally accepted husbandry practices. If the additional amount of floor space for each nursing puppy is less than 5% of the minimum requirement for the bitch, the housing shall be approved by a licensed veterinarian.

(3) Height. --The interior height of a primary enclosure shall be at least 6 inches higher than the head of the tallest dog in the enclosure when it is in a normal standing position.

(4) Use of tethers. -- Tethers shall be attached so that the dog cannot become entangled with other objects or come into physical contact with other dogs, and so the dog can roam to the full range of the tether. The tether shall be of a type commonly used for the size dog involved, made of material not normally susceptible to being severed by the dog through chewing or otherwise. Tethers shall be attached to the dog by means of a well-fitted collar that will not cause trauma or injury to the dog. Tethers shall not be attached to a choke, pinch, prong, or martingale collar. The tether shall be a minimum of 10 feet in length and allow the dog convenient access to the dog house and to food and water containers. The dog may not be tethered for more than 2 hours when the dog owner or a responsible person is not present on the property.

(5) Wire flooring. --A dog may not be sheltered in a primary enclosure having only wire flooring.

(6) Deleted by 82 Laws 2020, ch. 238, § 1.

(e) Animal health and husbandry standards. –

(1) Compatible grouping.--Dogs that are housed in the same primary enclosure shall be compatible with the following restrictions:

- a. Females in heat may not be housed in the same primary enclosure with males, except for breeding purposes.
- b. Any dog exhibiting a vicious or overly aggressive disposition shall be housed separately.
- c. Puppies 4 months of age or less may not be housed in the same primary enclosure with adult dogs other than their dams or foster dams.
- d. Dogs may not be housed in the same primary enclosure with any other animal species, unless they are compatible.
- e. Dogs under quarantine or treatment for a communicable disease shall be separated from other dogs and other susceptible animal species in such a manner as to minimize the dissemination of such disease.

(2) Feeding. --Dogs shall be fed at least once each day, except as otherwise might be required to provide adequate veterinary care. The food shall be free from contamination, wholesome, palatable, and of sufficient quantity and nutritive value to maintain the normal condition and weight of the dog. The diet shall be appropriate for the individual dog's age and condition.

(3) Food receptacles. --Food receptacles shall be readily accessible to all dogs and shall be located so as to minimize contamination by excreta. The receptacles shall be durable and shall be kept clean. The food receptacles shall be sanitized at least once per week. Disposable food receptacles may be used but shall be discarded after each feeding. Self-feeders may be used for the feeding of dry food but shall be sanitized regularly to prevent molding, deterioration, or caking of feed.

(4) Watering. --If potable water is not continually available to the dogs, it shall be offered to the dogs as often as necessary to ensure their health and well-being. Watering receptacles shall be kept clean and shall be sanitized at least once per week.

(5) Cleaning of primary enclosure. --Excreta and food waste shall be removed from a primary enclosure, including any floor area or ground surface beneath the primary enclosure, on a daily basis. When steam or water is used to clean the primary enclosure, whether by hosing, flushing, or other methods, dogs shall be removed, unless the enclosure is large enough to ensure that the dogs will not be harmed, wetted, or distressed in the process. Standing water shall be removed from the primary enclosure and dogs in other primary enclosures shall be protected from being contaminated with water and other wastes during the cleaning.

(6) Housekeeping for premises. --Premises where housing facilities are located, including buildings and surrounding grounds, shall be kept clean and in good

repair to protect the dogs from injury and to facilitate the husbandry practices set forth in this section.

(f) Civil Penalties. -- An owner who refuses, fails or neglects to comply with this section shall be penalized as follows:

- (1) For a first violation, a civil penalty of \$100 in addition to costs.
- (2) For a second violation, a civil penalty of \$250 in addition to costs.
- (3) For each subsequent violation, a civil penalty of \$500 in addition to costs.

#### **§ 3051F. Injuring or killing dogs for certain acts**

(a) Any police officer, animal welfare officer who finds a dog running at large and deems such dog to be an immediate threat to the public health and welfare may kill such dog.

(b) Any person may injure or kill a dog in self-defense or to protect livestock, poultry, or another human being at the time such dog is attacking such livestock, poultry, or human being.

(c) Any person may injure or kill a dog at the time such dog is wounding another dog if the dog being wounded is on the property of its owner or under the immediate control of its owner and being wounded by a dog that is running at large.

(d) Any person who injures or kills any dog in accordance with this section shall not be held criminally or civilly liable therefor.

#### **§ 3052F. Poisoning of dogs**

No person shall place any poison of any description in any place on the person's premises, or elsewhere, where it may be easily found and eaten by dogs.

#### **§ 3056F. Unauthorized acts against a service dog; penalties**

(a) For the purposes of this section, "service dog" means any guide dog, signal dog, or other animal individually trained to do work or perform tasks for the benefit of an individual with a disability, including guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.

(b) No person shall intentionally interfere with the use of a service dog by obstructing, intimidating, or otherwise jeopardizing the safety of the user or animal. Whoever violates this subsection shall be guilty of a class B misdemeanor.

(c) No person shall intentionally injure or disable a service dog that is being used by its owner or the officer teamed with the dog. Whoever violates this subsection shall be guilty of a class A misdemeanor.

(d) No person shall intentionally kill a service dog owned by a private person or agency. Whoever violates this subsection shall be guilty of a class D felony. This subsection, however, does not apply to a law-enforcement officer as defined by § 222 of Title 11 who is forced to take such action pursuant to the lawful performance of the officer's duties.



(e) No person shall intentionally steal, take, or wrongfully obtain a service dog owned by a private person or agency. Whoever violates this subsection shall be guilty of a class E felony.

(f) In any case where a person is convicted under subsection (b), (c), (d) or (e) of this section, that person shall also be ordered to make full restitution for all damages, including incidental and consequential expenses incurred by the service, guide, or seeing-eye dog owner and the dog which arise out of or are related to the criminal offense.

### **§ 7201. Possession; permit required**

No person shall bring into this State, possess, sell or exhibit any live wild mammal or hybrid of a wild mammal or live reptile not native to or generally found in Delaware without first securing a permit under this chapter. The Department of Agriculture may adopt regulations to exempt such mammals and reptiles that do not represent a significant threat to community interests from the provisions of this chapter. Notwithstanding any provision of this chapter to the contrary, except for medical or psychological research or for display in any licensed zoological park or traveling circus, no person shall bring into this State, possess, sell or exhibit any poisonous snake not native to or generally found in Delaware where the venom of such snake poses a risk of serious injury or death to a human, and no permit for the same shall be issued by the Department of Agriculture.

### **§ 7202. Permit; rules and regulations; exemptions**

The Department of Agriculture shall enforce this chapter and may issue a permit where the possession or exhibition of a live wild mammal or hybrid of a wild mammal or live reptile will be in the public interest, and may promulgate rules and regulations for the proper enforcement of this chapter. The Department may designate agencies authorized to conduct animal cruelty enforcement and/or dog control enforcement to enforce the provisions of this chapter. The Department shall receive a fee of \$25 for each and every permit issued. Nothing in this chapter shall be deemed to prevent the use of any live wild mammal or hybrid of a wild mammal or live reptile in medical or psychological research or for display in any municipal zoological park or traveling circus after issuance of a permit.

### **§ 7203. Penalties**

Whoever violates this chapter shall for each offense be fined not more than \$500, imprisoned not more than 30 days, or both. Justices of the peace shall have jurisdiction over offenses under this chapter.