

**§ 14. Reporting of animal cruelty, abuse or neglect**

(a) During any investigation or evaluation reported under section 5, any investigator designated by the commission, the general counsel, or a department within the executive office of health and human services, when acting in his or her professional capacity or within the scope of his or her employment, who has knowledge of or observes an animal whom he or she knows or reasonably suspects has been the victim of animal cruelty, abuse or neglect, may report the known or suspected animal cruelty, abuse or neglect to the entities that investigate reports of animal cruelty, abuse or neglect, as described in section 57 of chapter 22C, or any local animal control authority.

(b) The report may be made within 2 working days of receiving the information concerning the animal, by facsimile transmission or a written report or by telephone. In cases where an immediate response may be necessary in order to protect the health and safety of the animal, the report should be made by telephone as soon as possible.

(c) When 2 or more investigators are present and jointly have knowledge of known or reasonably suspected animal cruelty, abuse or neglect, and where there is agreement among them, a report may be made by 1 person by mutual agreement. Any reporter who has knowledge that the person designated to report has failed to do so may thereafter make the report.

(d) No person making such report shall be liable in any civil or criminal action by reason of such report if it was made in good faith. Any applicable privilege that relates to confidential communications made to the commission shall not prohibit the filing of a report pursuant to this section.

(e) Nothing in this section shall impose a duty on the commission to investigate known or reasonably suspected animal cruelty, abuse or neglect.

(f) Nothing in this section shall prevent the commission from entering into an agreement, contract or memorandum of understanding with the entities that investigate reports of animal cruelty, abuse or neglect as described in section 57 of chapter 22C, to require such reports or to engage in training in identification and reporting of animal abuse, cruelty and neglect.

**§ 42. Commission on malnutrition prevention among older adults**

There shall be within the department a commission on malnutrition prevention among older adults. The commission shall consist of 17 members, including the secretary of elder affairs or a designee, who shall serve as chair; the

commissioner of public health or a designee; the commissioner of transitional assistance or a designee; the commissioner of agricultural resources or a designee; 2 members of the house of representatives or their designees, 1 of whom shall be appointed by the speaker of the house and 1 of whom shall be appointed by the minority leader of the house; 2 members of the senate or their designees, 1 of whom shall be appointed by the senate president and 1 of whom shall be appointed by the minority leader of the senate; and 9 persons to be appointed by the governor, 1 of whom shall be a physician, 1 of whom shall be a university researcher, 1 of whom shall be a community-based registered dietitian or nutritionist working with a program funded pursuant to the Older Americans Act, 1 of whom shall be a representative of a hospital or integrated health system, 2 of whom shall be nurses working in home care, 1 of whom shall be a registered dietitian or nutritionist working with a long-term care or assisted living facility, 1 of whom shall be a registered dietitian or nutritionist representing the Massachusetts Dietetic Association and 1 of whom shall be a representative from the Massachusetts Association of Councils on Aging, Inc.

The commission shall make an investigation and comprehensive study of the effects of malnutrition on older adults and of the most effective strategies for reducing it. The commission shall monitor the effects that malnutrition has on health care costs and outcomes, quality indicators and quality of life measures on older adults. The commission shall: (i) consider strategies to improve data collection and analysis to identify malnutrition risk, health care cost data and protective factors for older adults; (ii) assess the risk and measure the incidence of malnutrition occurring in various settings across the continuum of care and the impact of care transitions; (iii) identify evidence-based strategies that raise public awareness of older adult malnutrition including, but not limited to, educational materials, social marketing, statewide campaigns and public health events; (iv) identify evidence-based strategies, including community nutrition programs, used to reduce the rate of malnutrition among older adults and reduce the rate of rehospitalizations and health care acquired infections related to malnutrition; (v) consider strategies to maximize the dissemination of proven, effective malnutrition prevention interventions, including community nutrition programs, medical nutrition therapy and oral nutrition supplements, and identify barriers to those interventions; and (vi) examine the components and key elements of clauses (i) to (v), inclusive, consider their applicability and develop strategies for pilot testing, implementation and evaluation.

The commission shall file a report annually on its activities and on any findings and recommendations to the house and senate chairs of the joint committee on elder affairs and chairs of the house and senate committees on ways and means not later than December 31.

#### **§ 42. Reporting of animal cruelty, abuse or neglect**

(a) During any investigation or evaluation reported under section 18, any employee of the department, its designated agency or any person employed pursuant to a contract with the department or its designated agency, when acting

in his or her professional capacity or within the scope of his or her employment, who has knowledge of or observes an animal whom he or she knows or reasonably suspects has been the victim of animal cruelty, abuse or neglect, may report the known or suspected animal cruelty, abuse or neglect to the entities that investigate reports of animal cruelty, abuse or neglect, as described in section 57 of chapter 22C, or any local animal control authority.

(b) The report may be made within 2 working days of receiving the information concerning the animal, by facsimile transmission or a written report or by telephone. In cases where an immediate response may be necessary in order to protect the health and safety of the animal, the report should be made by telephone as soon as possible.

(c) When 2 or more employees of the department or its designated agency, or persons employed pursuant to a contract with the department or its designated agency, are present and jointly have knowledge of known or reasonably suspected animal cruelty, abuse or neglect, and where there is agreement among them, a report may be made by 1 person by mutual agreement. Any reporter who has knowledge that the person designated to report has failed to do so may thereafter make the report.

(d) No person making such report shall be liable in any civil or criminal action by reason of such report if it was made in good faith. Any privilege established by sections 135A and 135B of chapter 112 or by section 20B of chapter 233, relating to confidential communications, shall not prohibit the filing of a report pursuant to this section.

(e) Nothing in this section shall impose a duty on the department or its designated agency to investigate known or reasonably suspected animal cruelty, abuse or neglect.

(f) Nothing in this section shall prevent the department, area office or subdivision or its designated agency from entering into an agreement, contract or memorandum of understanding with the entities that investigate reports of animal cruelty, abuse or neglect as described in section 57 of chapter 22C, to require such reports or to engage in training in identification and reporting of animal abuse, cruelty and neglect.

**§ 58B. Reports of suspected acts of cruelty to animals; veterinarians; immunity from liability; failure to report**

A veterinarian who, while in the normal course of business, observes an animal whom such veterinarian knows or reasonably suspects has been the victim of animal cruelty prohibited under sections 77 or 94 of chapter 272 shall report said suspected animal cruelty to a police officer or special state police officer appointed under section 57 of chapter 22C.

A veterinarian duly registered under section 55 who reports, in good faith and in the normal course of business, a suspected act of cruelty to animals prohibited

under said sections 77 or 94 of chapter 272 to a police officer or special state police officer appointed under said section 57 of said chapter 22C, shall not be liable in a civil or criminal action for reporting such act.

Any veterinarian who fails to report such an act of animal cruelty shall be reported to the board of registration in veterinary medicine.

## **§ 77. Cruelty to animals; prohibition from work involving contact with animals**

Whoever overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, cruelly beats, mutilates or kills an animal, or causes or procures an animal to be overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, cruelly beaten, mutilated or killed; and whoever uses in a cruel or inhuman manner in a race, game, or contest, or in training therefor, as lure or bait a live animal, except an animal if used as lure or bait in fishing; and whoever, having the charge or custody of an animal, either as owner or otherwise, inflicts unnecessary cruelty upon it, or unnecessarily fails to provide it with proper food, drink, shelter, sanitary environment, or protection from the weather, and whoever, as owner, possessor, or person having the charge or custody of an animal, cruelly drives or works it when unfit for labor, or willfully abandons it, or carries it or causes it to be carried in or upon a vehicle, or otherwise, in an unnecessarily cruel or inhuman manner or in a way and manner which might endanger the animal carried thereon, or knowingly and willfully authorizes or permits it to be subjected to unnecessary torture, suffering or cruelty of any kind shall be punished by imprisonment in the state prison for not more than 7 years in state prison or imprisonment in the house of correction for not more than 2 ½ years or by a fine of not more than \$5,000 or by both fine and imprisonment; provided, however, that a second or subsequent offense shall be punished by imprisonment in the state prison for not more than 10 years or by a fine of not more than \$10,000 or by both such fine and imprisonment. Notwithstanding section 26 of chapter 218 or any other general or special law to the contrary, the district courts and the divisions of the Boston municipal court department shall have original jurisdiction, concurrent with the superior court, of a violation of this section.

In addition to any other penalty provided by law, upon conviction for any violation of this section or of sections 77A, 77C, 78, 78A, 79A, 79B, 80A, 80B, 80C, 80D, 80E, 80E ½, 80F, 86, 86A, 86B or 94 the defendant shall forfeit to the custody of any society, incorporated under the laws of the commonwealth for the prevention of cruelty to animals or for the care and protection of homeless or suffering animals, the animal whose treatment was the basis of such conviction.

A person convicted of a crime of cruelty to an animal shall be prohibited from working in any capacity that requires such person to be in contact with an animal, including a commercial boarding or training establishment, shelter, animal control facility, pet shop, grooming facility, commercial breeder service, veterinary hospital or clinic or animal welfare society or other nonprofit organization

incorporated for the purpose of providing for and promoting the welfare, protection and humane treatment of animals.

### **§ 77A. Willfully injuring police dogs and horses**

Whoever willfully tortures, torments, beats, kicks, strikes, mutilates, injures, disables or otherwise mistreats, a dog or horse owned by a police department or police agency of the commonwealth or any of its political subdivisions or whoever, willfully by any action whatsoever, interferes with the lawful performance of such dog or horse shall be punished by a fine of not less than one hundred dollars and not more than five hundred dollars or by imprisonment for not more than two and one-half years or both. Persons violating this section may be arrested without a warrant by any officer qualified to serve criminal process provided said offense is committed in his presence.

### **§ 77B. Exhibition of wild animals**

No person shall exhibit or sponsor an exhibition of any wild animal for the purpose of attracting trade at or for any place of amusement, recreation or entertainment. This section shall not be deemed to prevent the exhibition of any wild animal in a zoological garden or in connection with any theatrical exhibition or circus or by any educational institution or wild animal farm, whether on or off the premises of such educational institution or wild animal farm. Whoever violates the provisions of this section shall be punished by a fine of not more than two hundred dollars or by imprisonment for not more than thirty days.

### **§ 77C. Sexual contact with animal**

(a) For the purposes of this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:

“Animal”, a living nonhuman mammal, bird, reptile, amphibian, fish or invertebrate.

“Sexual contact”, (i) any act between a person and an animal that involves contact between the sex organs or anus of one and the mouth, anus or sex organs of the other; (ii) touching or fondling by a person of the sex organs or anus of an animal, either directly or through clothing, without a bona fide veterinary or animal husbandry purpose; (iii) any transfer or transmission of semen by the person upon any part of the animal; or (iv) the insertion, however slight, of any part of a person's body or any object into the vaginal or anal opening of an animal or the insertion of any part of the animal's body into the vaginal or anal opening of the person.

(b) A person who willingly: (i) engages in sexual contact with an animal or advertises, offers, accepts an offer for, sells, transfers, purchases or otherwise obtains an animal with the intent that the animal be used for sexual contact; (ii)

organizes, promotes, conducts or knowingly participates in as an observer an act involving sexual contact with an animal; (iii) causes, aids or abets another person to engage in sexual contact with an animal; (iv) knowingly permits sexual contact with an animal to be conducted on any premises under the person's control; (v) induces or otherwise entices a child younger than 18 years of age or a person with a developmental or intellectual disability, as defined in section 1 of chapter 123B, to engage in sexual contact with an animal or engages in sexual contact with an animal in the presence of a child younger than 18 years of age or a person with a developmental or intellectual disability; (vi) forces another person to engage in sexual contact with an animal; or (vii) disseminates photographs, videotapes or other depictions prohibited sexual contact with an animal shall, for a first offense, be punished by imprisonment in the state prison for not more than 7 years or by imprisonment in a jail or house of correction for not more than 2 ½ years, by a fine of not more than \$5,000 or by both such fine and imprisonment and, for a second or subsequent offense, by imprisonment in the state prison for not more than 10 years, by a fine of not more than \$10,000 or by both such fine and imprisonment.

(c) Notwithstanding section 26 of chapter 218 or any other general or special law to the contrary, the district courts and the divisions of the Boston municipal court department shall have original jurisdiction, concurrent with the superior court, of a violation of this section.

(d) Upon a conviction for a violation of this section and in addition to any other penalties as may be provided by law, the defendant shall forfeit the animal whose treatment was the basis of the conviction to the custody of an entity incorporated under the laws of the commonwealth for the prevention of cruelty to animals or for the care and protection of homeless or suffering animals.

Upon a conviction for a violation of this section, the defendant shall not: (i) work in any capacity that requires the person to be in contact with an animal, including a commercial boarding or training establishment, shelter, animal control facility, pet shop, grooming facility, commercial breeder service, veterinary hospital or clinic or animal welfare society or other nonprofit organization incorporated for the purpose of providing for and promoting the welfare, protection and humane treatment of animals; or (ii) harbor, own, possess or exercise control over an animal, reside in a household where any animals are present or engage in an occupation, whether paid or unpaid, or participate in a volunteer position at any establishment where animals are present for any length of time that the court deems reasonable for the protection of all animals; provided, however, that the length of time shall not be less than 5 years after the person's release from custody.

(e) This section shall not apply to lawful and accepted practices that relate to veterinary medicine performed by a licensed veterinarian or a certified veterinary technician under the guidance of a licensed veterinarian, artificial insemination of

animals for the purpose of procreation, accepted animal husbandry practices, including raising, breeding or assisting with the birthing process of animals or any other practice that provides care for animals, or conformation judging.

**§ 78. Selling, leading, or using horses not fit for work; forfeiture of auctioneer's license**

No person holding an auctioneer's license shall receive or offer for sale or sell at public auction, nor shall any person sell at private sale, or lead, ride or drive on any public way, for any purpose except that of conveying the horse to a proper place for its humane keeping or killing, or for medical or surgical treatment, any horse which, by reason of debility, disease or lameness, or for other cause, could not be worked in the commonwealth without violating the laws against cruelty to animals. This section shall not prohibit the purchase of horses by humane societies incorporated under the laws of the commonwealth for the purpose of humanely killing the same. Violation of this section shall be punished by a fine of not less than five nor more than one hundred dollars or by imprisonment for not more than six months. If a licensed auctioneer violates this section, he shall also forfeit his license.

**§ 78A. Sale of foals under five months; penalty**

No person shall sell, offer for sale or otherwise dispose of any foal under five months of age other than for the purpose of immediate slaughter or humane killing unless such foal is accompanied by its dam. Violation of this section shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than six months.

**§ 79. Violations by business entities of statutes relating to the treatment, care and protection of animals**

A for-profit corporation, nonprofit corporation, business, professional corporation, partnership, limited liability company, limited partnership, limited liability partnership or any other business entity violating section 112 of chapter 266 or section 77, 77A, 77B, 78, 78A, 79A, 80 ½, 80A, 80B, 80C, 80D, 80E, 80E ½, 80F, 80G, 80H, 80I, 81, 85A, 85B, 87, 94 or 95 of this chapter shall be punished by a fine as therein provided, and shall be responsible for the knowledge and acts of its agents and servants relative to animals transported, owned or used by it or in its custody.

**§ 79A. Cutting bones or muscles to dock or set tail of horse; wound as evidence**

Whoever cuts the bone of the tail of a horse for the purpose of docking the tail, or whoever causes or knowingly permits the same to be done upon premises of which he is the owner, lessee, proprietor or user, or whoever assists in or is present at such cutting, shall be punished by imprisonment for not more than one year or by a fine of not less than one hundred nor more than three hundred dollars; and whoever cuts the muscles or tendons of the tail of a horse for the purpose of setting up the tail, or whoever causes or

knowingly permits the same to be done upon premises of which he is the owner, lessee, proprietor or user, or whoever assists in or is present at such cutting, shall be punished by a fine of not more than two hundred and fifty dollars. If a horse is found with the bone of its tail cut as aforesaid or with the muscles or tendons of its tail cut as aforesaid, and with the wound resulting from such cutting unhealed, upon the premises or in the charge and custody of any person, such fact shall be prima facie evidence of a violation of this section by the owner or user of such premises or the person having such charge or custody, respectively.

**§ 79B. Exhibiting horse with tail cut under Sec. 79A; affidavit as to cutting in state where not prohibited; inspection**

Whoever shows or exhibits at any horse show or exhibition in the commonwealth a horse with its tail cut in either manner prohibited in section seventy-nine A shall be punished by a fine of not more than two hundred and fifty dollars; provided, that this section shall not apply to the showing or exhibiting at such a show or exhibition of a horse with its tail cut in either manner prohibited by section seventy-nine A, if the owner of such horse furnishes to the manager or other official having charge of the horse show or exhibition at which such horse is shown or exhibited an affidavit by the owner, in a form approved by the director of the division of animal health of the department of food and agriculture, that the tail of such horse was so cut in a state wherein such cutting was not then specifically prohibited by the laws thereof and while the horse was actually owned by a legal resident of such state. Said affidavit shall state the year of such cutting, the name of the state wherein the cutting was done, and the sex and age of the horse, shall describe the markings of the horse, if any, and shall be subject to inspection by any officer or agent mentioned in section eighty-four.

**§ 80 ½ . Devocalization of dogs or cats; definitions; penalty; exceptions; records**

(a) For the purposes of this section, the following words shall have the following meanings: --

“Board”, the board of registration in veterinary medicine.

“Devocalization”, a procedure on the larynx or vocal cords of an animal which causes the reduction or elimination of vocal sounds produced by that animal.

(b) Whoever performs, or causes to be performed, the surgical devocalization of a dog or cat shall be punished by imprisonment in the state prison for not more than 5 years or imprisonment in a house of correction for not more than 2 ½ years, or by a fine of not more than \$2,500 or by both such fine and imprisonment. In addition to this penalty, the court may order that any person who violates this section shall successfully complete a course of instruction relative to the humane treatment of animals or be barred from owning or keeping a dog or cat or sharing a residence with another who owns or keeps a dog or cat for a period of time as determined by said court.

(c) Subsection (b) shall not apply if:

(1) the person performing such devocalization is licensed under section 55 of chapter 112; and

(2) surgical devocalization of a dog or cat is medically necessary to treat or relieve an illness, disease or injury or to correct a congenital abnormality that is causing or may cause the animal physical pain or harm; or

(3) the person who causes a devocalization procedure to be performed is relying upon the opinion of a person licensed under section 55 of chapter 112 that surgical devocalization of the dog or cat is medically necessary to treat or relieve an illness, disease or injury or to correct a congenital abnormality that is causing or may cause the animal physical pain or harm.

(d) A veterinarian who performs a surgical devocalization procedure on a dog or cat shall keep a record of the procedure for a period of 4 years after the last contact with the animal. This record shall include: the name and address of the animal's owner; the name and address of the person from whom payment is received for the procedure; a description of the animal, including its name, species, breed, date of birth, sex, color, markings and current weight; the license number and municipality that issued the license for the animal; the date and time of the procedure; the reason the procedure was performed; and any diagnostic opinion, analysis or test results to support the diagnosis. These records shall be subject to audit by the board.

Any person who performs a devocalization procedure on a dog or cat shall report the number of all such procedures to the board annually on or before March 30. The board shall maintain all notices received under this subsection for 4 years from the date of receipt.

Records maintained under this subsection shall not be considered a public record, as defined in clause twenty-sixth of section 7 of chapter 4 or section 10 of chapter 66, and these records shall not be publicly disseminated.

(e) The board shall, annually on or before March 1, report to the joint committee on the environment, natural resources and agriculture the number of animals that were the subject of devocalization notices received under subsection (d).

(f) Whoever being licensed under section 55 of chapter 112 violates any provision of this section shall be subject to the suspension or revocation of such license under section 59 of said chapter 112 and 256 CMR 7.00.

#### **§ 80A. Cropping or cutting off ear of dog; wound as prima facie evidence**

Whoever, not being a veterinarian duly registered under chapter one hundred and twelve, crops or cuts off the whole or any part of the ear of a dog shall be punished by a fine of not more than two hundred and fifty dollars. If a dog with an ear cropped or cut off in whole or in part and with the wound resulting therefrom unhealed is found confined upon the premises or in the charge or custody of any person other than such veterinarian, or a dog officer of a city or town duly appointed under section one hundred and fifty-one of chapter one hundred and forty, such fact shall be prima facie evidence of a violation of this section by the person in control of such premises or the person having such charge or custody.

**§ 80B. Exhibiting dogs with ears cropped or cut off**

Whoever shows or exhibits or procures to be shown or exhibited at any dog show or exhibition in the commonwealth a dog with an ear or ears cropped or cut off, except when and as certified to be reasonably necessary by a veterinarian duly registered under the laws of the state of his residence, shall be punished by a fine of not more than two hundred and fifty dollars.

**§ 80C. Taking cat, dog or bird to exhibit it, subject it to experimentation or mutilation, or to sell it for such purposes; application of law**

Whoever, without the consent of the owner, takes a cat, dog or bird, with intent to exhibit or cause it to be exhibited or to subject it or cause it to be subjected to experimentation or mutilation while alive, or with intent to sell it or cause it to be sold for the purpose of being exhibited or subjected to experimentation or mutilation as aforesaid, shall be punished by a fine of not less than one hundred dollars nor more than the maximum fine permitted by law for the larceny of an article of the same value as such cat, dog or bird. This section shall not apply to an institution acquiring a cat, dog or bird under the provisions of chapter forty-nine A.

**§ 80D. Living rabbits, baby chickens, ducklings or other fowl; sale, barter or gift**

No person shall sell, offer for sale, barter or give away as premiums living baby chickens, ducklings or other fowl under two months of age.

No person shall sell, offer for sale, barter, display or give away living rabbits, chickens, ducklings or other fowl which have been dyed, colored or otherwise treated so as to impart to them an artificial color.

Nothing in this section shall be construed to prohibit the sale or display of baby chickens, ducklings or other fowl under two months of age by breeders or stores engaged in the business of selling for purposes of commercial breeding and raising; provided, however, that prior to May first in any year, such ducklings may be sold or purchased only in quantities of twenty-four or more.

This section shall not prohibit, however, the sale or donation of such chickens, ducklings or fowl to schools for use in classroom instruction.

Whoever violates the provisions of this section shall be punished by a fine of not more than one hundred dollars.

**§ 80E. Putting animal to death by use of decompression chamber**

Whoever puts any animal to death by the use of a decompression chamber shall be punished by a fine of not less than one hundred dollars.

**§ 80E ½ . Putting animal to death by drowning**

Whoever puts an animal to death by drowning shall be punished by imprisonment in the state prison for not more than 7 years in state prison or imprisonment in a jail or house of correction for not more than 2 ½ years, by a fine of not more than \$5,000 or by both such fine and imprisonment for a first offense and punished by imprisonment in the state

prison for not more than 10 years, by a fine of not more than \$10,000 or by both such fine and imprisonment for a second or any subsequent offense.

**§ 80F. Giving away live animals as prize or award**

No person shall offer or give away any live animal as a prize or an award in a game, contest or tournament involving skill or chance. The provisions of this section shall not apply to awards made to persons participating in programs relating to animal husbandry.

Whoever violates the provisions of this section shall be punished by a fine of not more than one hundred dollars.

**§ 80G. Experiments on vertebrates; vivisection, dissection of animals; care**

No school principal, administrator or teacher shall allow any live vertebrate to be used in any elementary or high school under state control or supported wholly or partly by public money of the state as part of a scientific experiment or for any other purpose in which said vertebrates are experimentally medicated or drugged in a manner to cause painful reactions or to induce painful or lethal pathological conditions, or in which said vertebrates are injured through any other type of treatment, experiment or procedure including but not limited to anesthetization or electric shock, or where the normal health of said animal is interfered with or where pain or distress is caused.

No person shall, in the presence of a pupil in any elementary or high school under state control or supported wholly or partly by public money of the state, practice vivisection, or exhibit a vivisected animal. Dissection of dead animals or any portions thereof in such schools shall be confined to the class room and to the presence of pupils engaged in the study to be promoted thereby, and shall in no case be for the purpose of exhibition.

Live animals used as class pets or for purposes not prohibited in paragraphs one and two hereof in such schools shall be housed or cared for in a safe and humane manner. Said animals shall not remain in school over periods when such schools are not in session, unless adequate care is provided at all times.

The provisions of the preceding three paragraphs shall also apply to any activity associated with or sponsored by the school.

Whoever violates the provisions of this section shall be punished by a fine of not more than one hundred dollars.

**§ 80H. Motor vehicles; striking, injuring or killing dogs or cats**

The operator of a motor vehicle that strikes and injures or kills a dog or cat shall forthwith report such an accident to the owner or custodian of said dog or cat or to a police officer in the town wherein such accident has occurred. A violation of this section shall be punished by a fine of not more than \$100 for a first offense or not more 10 days in a house of corrections and a fine of \$500 and the cost of medical expenses, not to exceed \$2,500, imprisonment in a house of correction for not more than 6 months or both such fine and cost and imprisonment for a second and subsequent offense. Nothing in this section shall preclude a civil cause of action including, but not limited to medical expenses, by the aggrieved party.

## **§ 80I. Leasing or renting dogs; penalties**

(a) As used in this section, the following words shall have the following meanings unless the context clearly requires otherwise: --

“Assistance and service dog”, a canine specifically trained to help persons with disabilities or a canine trained to help a person with a disability in life; provided, however, that “assistance and service dog” shall also include a canine trained for search and rescue and a medical response dog.

“Canine foster care”, an organization that places canines in a temporary home while awaiting pet adoption.

“Earth dog”, a canine breed used as a hunting dog to track game above and below ground.

“Farm dog”, a canine that works on a farm to assist humans or other animals.

“Pet adoption”, the permanent ownership of and responsibility for a pet that a previous owner has abandoned or otherwise abdicated its responsibility.

“Renting and leasing”, the practice of renting a dog for a fee or a cost which will knowingly result in a temporary possession of the animal by another party.

“Therapy dog”, a canine that is used under the ownership and care of its handler that visits people for educational, medical or mental purposes.

(b) No person shall engage in the business of leasing or renting a dog. A dog held for such leasing or renting may be seized or impounded by an organization or agent thereof that is authorized to seize or impound animals under the General Laws. A violation of this section shall be punished by a fine of not less than \$100 for the first violation, not less than \$500 for the second violation and \$1,000 for subsequent violations. Fines may be levied on both the business that is leasing a dog and the person that has entered into a rental agreement. Nothing in this section shall prohibit service animal businesses or organizations, pet adoption and foster care services, and working animals for the following purposes including, but not limited to: service animal businesses or organizations, pet adoption and foster care services, farming and agriculture, working dog activities, dogs working in entertainment and shows which are authorized to do so under the General Laws, dogs participating in performance sports or activities including, but not limited to, sporting, hunting, earth dog and racing dog activities and people engaged in breeding, training and showing dog, and dogs used for medical or scientific purposes so long as such use is lawful. This section shall not prohibit a pet store, kennel, pet adoption service or other entity authorized to sell pets under the General Laws for a fee or a cost from taking back a pet that it may have sold if the owner is unable to keep or handle that pet.

## **§ 81. Rest, water and feed for transported animals; lien; liability for detention**

Railroad corporations shall not permit animals carried or transported by them to be confined in cars longer than twenty-eight consecutive hours without unloading them for at least five consecutive hours for rest, water and feeding, unless prevented by storm or accident. In estimating such confinement, the time during which the animals have been

confined without such rest on connecting roads from which they are received shall be included. Animals so unloaded shall during such rest be properly fed, watered and sheltered by the owner or person having the custody of them, or, in case of his default, by the railroad corporation transporting them, at the expense of said owner or person in custody thereof. In such case the corporation shall have a lien upon such animals for food, care and custody furnished, and shall not be liable for such detention. A corporation, owner or custodian of such animals failing to comply with this section shall be punished by a fine of not less than one hundred nor more than five hundred dollars. This section shall not apply to animals carried in cars in which they can and do have proper food, water, space and opportunity for rest.

**§ 82. Arrest without warrant for violation of Sec. 77 or 81; notice; care of animals; lien**

A person found violating any provision of section seventy-seven or eighty-one may be arrested and held without a warrant as provided in section fifty-four; the person making an arrest with or without a warrant shall use reasonable diligence to give notice thereof to the owner of animals found in the charge or custody of the person arrested, shall properly care and provide for such animals until the owner thereof takes charge of them, not, however, exceeding sixty days from the date of said notice, and shall have a lien on said animals for the expense of such care and provision.

**§ 83. Complaint, warrant and search relative to cruelty to animals**

If complaint is made to a court or magistrate authorized to issue warrants in criminal cases that the complainant has reasonable cause to believe that the laws relative to cruelty to animals have been or are violated in any particular building or place, such court or magistrate, if satisfied that there is reasonable cause for such belief, shall issue a search warrant authorizing any sheriff, deputy sheriff, constable or police officer to search such building or place; but no such search shall be made after sunset, unless specially authorized by the magistrate upon satisfactory cause shown.

**§ 84. Prosecutions under Secs. 77 to 81**

Sheriffs, deputy sheriffs, constables and police officers shall prosecute all violations of sections seventy-seven to eighty-one, inclusive, which come to their notice.

**§ 85A. Injuring, taking away or harboring domesticated animals or birds; removal of dog license tag, collar or harness; imitation tag**

Whoever with wrongful intent kills, maims, entices or carries away a dog or other domesticated animal or bird shall be liable in tort to its owner for three times its value. Any person who removes from the dog of another its license tag, collar or harness, or who, without the authorization of the owner or keeper, holds or harbors a dog or other domesticated animal of another, or who holds or harbors a lost or strayed dog or other domesticated animal for more than forty-eight hours after such animal comes into his possession without reporting or taking it to the police station or dog officer nearest to the place where it was found and informing the police officer or dog officer in charge where such dog or other animal was found, the name, color, age, size and pedigree, as fully as possible, of such animal and the person's own name and address, or who shall cause a dog to wear an imitation or counterfeit of the official tag prescribed by section one

hundred and thirty-seven, one hundred and thirty-seven A or one hundred and thirty-seven B of chapter one hundred and forty, shall be punished by a fine of not more than one hundred dollars.

**§ 85B. Assistance animals stolen or attacked; actions for economic and non-economic damages**

(a) A physically impaired person who uses an assistance animal or the owner of the assistance animal, may bring an action for economic and non-economic damages against a person who steals or attacks the assistance animal. The action authorized by this subsection may be brought by the physically impaired person or owner notwithstanding that the assistance animal was in the custody or under the supervision of another person when the theft or attack occurred. If any other non-assistance animal should attack an assistance animal, the owner of the assistance animal may seek compensation from the owner or custodian of the non-assistance animal found to have caused harm to the assistance animal.

(b) If the theft or attack of an assistance animal as described in subsection (a) results in the death of the animal or the animal is not returned or if injuries sustained prevent the assistance animal from returning to service, the measure of economic damages shall include, but are not limited to, the veterinary medical expenses and the replacement cost of an equally trained assistance animal, without any differentiation for the age or the experience of the animal.

(c) A cause of action shall not arise under this section if the physically impaired individual, owner or the individual having custody or supervision of the assistance animal was engaged in the commission of a crime at the time of injury sustained by the assistance animal.

**§ 86. Stabling horses or mules on second or higher floors, in places other than cities**

No person shall stable a horse or mule on the second or any higher floor of any building, unless there are two means of exit therefrom, at opposite ends of the building, to the main or street floor, unless such building is equipped with an automatic sprinkler system. This section shall not apply to cities.

**§ 86A. Stabling horses and mules above first floor; exceeding six; fire exits**

No person shall stable a horse or mule above the first or ground floor of any building not equipped with an automatic sprinkler system, or horses or mules exceeding six in all on the first or ground floor of any building not so equipped, unless there are two unobstructed means of exit from each floor whereon it or they are stabled, as far apart as practicable and so constructed as to grade that the said animal or animals can quickly and safely leave the building in case of fire and approved as to situation, arrangement and utility by the chief of the fire department. The person in charge of horses and mules stabled in any building not equipped with such a system and requiring two exits as aforesaid shall cause each such animal to use each such exit at least once a week. This and the four following sections shall apply only to cities.

**§ 86B. Stabling horses or mules exceeding fifteen**

No person shall stable horses or mules exceeding fifteen in all at any one time in a building not equipped with an automatic sprinkler system unless a watchman is employed constantly on the premises to guard against fire.

**§ 86C. Smoking in buildings used for stabling horses or mules**

No person shall have a lighted cigarette, cigar or pipe in his possession in any building in which by the provisions of section eighty-six A two unobstructed means of exit are required or in which by the provisions of section eighty-six B the employment of a watchman is required, except in a room in said building made fire-resisting.

**§ 86D. Pails of water and sand in buildings used for stables**

On every floor of a building not equipped with an automatic sprinkler system, where horses or mules are stabled, there shall be kept in accessible locations and filled at all times, four pails of water and one pail of sand, for each one thousand square feet of floor space, to be used for no other purpose than extinguishing fires and to be so marked.

**§ 86E. Entry upon premises to enforce Secs. 86A to 86D; orders**

The chief of the fire department or any person designated by him may, at all reasonable hours, enter into buildings within their jurisdiction where horses or mules are stabled, or upon premises adjacent thereto, for the purpose of enforcing sections eighty-six A to eighty-six D, inclusive, and if any such official or person so authorized finds the existence of conditions likely to cause a fire in such buildings or on such premises, he shall order such conditions to be remedied. Such order shall be served by delivering the same in hand or by posting the same in a conspicuous place on the building or premises affected thereby.

**§ 86F. Violation of Secs. 86 to 86D; refusal or neglect to comply with Sec. 86E orders**

Whoever violates any provision of sections eighty-six to eighty-six D, inclusive, shall be punished by a fine of not more than two hundred dollars or by imprisonment for not more than one month, or both. Whoever refuses or unreasonably neglects to comply with any order issued under section eighty-six E shall be punished by a fine of not more than ten dollars for each day during which such refusal or neglect continues after service of said order.

**§ 87. Keeping or using birds to be shot at; shooting them; permitting premises to be used for shooting**

Whoever keeps or uses any live bird, to be shot at either for amusement or as a test of skill in marksmanship, or shoots at a bird kept or used as aforesaid, or is a party to such shooting, or lets any building, room, field or premises, or knowingly permits the use thereof, for the purpose of such shooting, shall be punished by a fine of not more than fifty dollars or by imprisonment for not more than one month, or both. Nothing herein contained shall apply to the shooting of wild game.

### **§ 88. Complaints and warrants relative to fighting animals; searches; arrests**

If complaint is made to a court or magistrate authorized to issue warrants in criminal cases that the complainant has reasonable cause to believe that preparations are being made for an exhibition of the fighting of birds, dogs or other animals, or that such exhibition is in progress, or that birds, dogs or other animals are kept, owned, possessed, trained, bred, loaned, sold, exported or otherwise transferred in violation of section 94 at any place or in any building or tenement, such court or magistrate, if satisfied that there is reasonable cause for such belief, shall issue a search warrant authorizing any sheriff, deputy sheriff, constable or police officer, or special police officer duly appointed by the colonel of the state police at the request of the Massachusetts Society for the Prevention of Cruelty to Animals or at the request of the Animal Rescue League of Boston, to search such place, building or tenement at any hour of the day or night and take possession of all such animals and all paraphernalia, implements, equipment or other property used or employed, or intended to be used or employed, in violation of section 94 there found, and arrest all persons there present.

### **§ 89. Exhibition place of fighting animals; entry without warrant; arrests; seizure of animals**

Any officer authorized to serve criminal process, or any special police officer duly appointed by the colonel of the state police at the request of the Massachusetts Society for the Prevention of Cruelty to Animals, or any municipal officer involved with animal control may, without a warrant, enter any place or building in which there is an exhibition of any fighting birds, dogs or other animals, preparations are being made for such an exhibition, or birds, dogs or other animals are owned, possessed, kept, trained, bred, loaned, sold, exported or otherwise transferred in violation of section 94. Any such officer may arrest all persons there present and take possession of and remove from the place of seizure such animals there found in violation of said section 94, and hold the same in custody subject to the order of court as hereinafter provided.

### **§ 90. Custody of arrested persons; time limitation**

Persons arrested under either of the two preceding sections shall be kept in jail or other convenient place not more than twenty-four hours, Sundays and legal holidays excepted, at or before the expiration of which time they shall be taken before a district court and proceeded against according to law.

### **§ 91. Forfeiture of animal or property used or employed in violation of Sec. 94; application; notice; hearing; adjudication; assessment of forfeited animal for suitability for adoption; transfer or other disposition of animal.**

After seizure and removal of animals or property used or employed, or intended to be used or employed, in violation of section 94, application shall be made to a court having jurisdiction over the offense for a decree of forfeiture of the animals or property. If after a hearing on the application, notice thereof having been previously given as the court orders, it shall be found that the animals, at the time of seizure, were engaged in or were intended to be engaged in fighting at an exhibition thereof or the animals were owned, possessed, kept, trained, bred, loaned, sold, exported or otherwise transferred in violation of section 94, such animals shall be adjudged forfeited. A forfeited animal shall

be individually assessed by the organization to which it is forfeited to determine the animal's suitability for adoption or the organization shall transfer it to another organization or for another disposition. Any person shall be allowed to appear as claimant in the proceeding upon the application for a decree of forfeiture.

#### **§ 92. Appeal; recognizance; custody and disposition of animals**

An owner or claimant aggrieved by such judgment may, within twenty-four hours after the entry thereof and before its execution, appeal therefrom to the superior court; and all proceedings upon and after such appeal, including the right of exception, shall conform, so far as may be, to those in criminal cases, except that before such appeal is allowed the appellant shall recognize to the commonwealth in the sum of two hundred dollars, with sufficient sureties, to prosecute his appeal and to pay such expenses of the prosecution as the court may order and such expenses as may be thereafter incurred in the care and keeping of the birds, dogs or other animals claimed by such appellant if final judgment is rendered against them, and to abide the judgment of the court thereon. Upon the final judgment, the birds, dogs or other animals held in custody to abide such judgment shall be disposed of, under the direction of the superior court, in like manner as the court or justice might have disposed of them if no appeal had been taken. During the pendency of the appeal, all birds, dogs or other animals adjudged forfeited shall be kept in custody in a place other than that from which they were taken.

#### **§ 92A. Advertisement, book, notice or sign relative to discrimination; definition of place of public accommodation, resort or amusement**

No owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, resort or amusement shall, directly or indirectly, by himself or another, publish, issue, circulate, distribute or display, or cause to be published, issued, circulated, distributed or displayed, in any way, any advertisement, circular, folder, book, pamphlet, written or painted or printed notice or sign, of any kind or description, intended to discriminate against or actually discriminating against persons of any religious sect, creed, class, race, color, denomination, sex, sexual orientation, which shall not include persons whose sexual orientation involves minor children as the sex object, nationality, or because of deafness or blindness, or any physical or mental disability, in the full enjoyment of the accommodations, advantages, facilities or privileges offered to the general public by such places of public accommodation, resort or amusement.

A place of public accommodation, resort or amusement within the meaning hereof shall be defined as and shall be deemed to include any place, whether licensed or unlicensed, which is open to and accepts or solicits the patronage of the general public and, without limiting the generality of this definition, whether or not it be (1) an inn, tavern, hotel, shelter, roadhouse, motel, trailer camp or resort for transient or permanent guests or patrons seeking housing or lodging, food, drink, entertainment, health, recreation or rest; (2) a carrier, conveyance or elevator for the transportation of persons, whether operated on land, water or in the air, and the stations, terminals and facilities appurtenant thereto; (3) a gas station, garage, retail store or establishment, including those dispensing personal services; (4) a restaurant, bar or eating place, where food, beverages, confections or their derivatives are sold for consumption on or off the premises; (5) a rest room, barber shop, beauty parlor, bathhouse, seashore facilities or swimming pool,

except such rest room, bathhouse or seashore facility as may be segregated on the basis of sex; (6) a boardwalk or other public highway; (7) an auditorium, theatre, music hall, meeting place or hall, including the common halls of buildings; (8) a place of public amusement, recreation, sport, exercise or entertainment; (9) a public library, museum or planetarium; or (10) a hospital, dispensary or clinic operating for profit; provided, however, that with regard to the prohibition on sex discrimination, this section shall not apply to a place of exercise for the exclusive use of persons of the same sex which is a bona fide fitness facility established for the sole purpose of promoting and maintaining physical and mental health through physical exercise and instruction, if such facility does not receive funds from a government source, nor to any corporation or entity authorized, created or chartered by federal law for the express purpose of promoting the health, social, educational vocational, and character development of a single sex; provided, further, that with regard to the prohibition of sex discrimination, those establishments which rent rooms on a temporary or permanent basis for the exclusive use of persons of the same sex shall not be considered places of public accommodation and shall not apply to any other part of such an establishment.

Any person who shall violate any provision of this section, or who shall aid in or incite, cause or bring about, in whole or in part, such a violation shall be punished by a fine of not more than one hundred dollars, or by imprisonment for not more than thirty days, or both.

#### **§ 93. Expenses of care and destruction of fighting animals**

The necessary expenses incurred in the care and destruction of such birds, dogs and other animals may be allowed and paid in the same manner as expenses in criminal prosecutions.

#### **§ 94. Owning, possessing or training fighting animals; establishing or promoting exhibition; loaning, selling or exporting fighting animals; owning or possessing animals for breeding fighting animals**

Whoever: (i) owns, possesses, keeps or trains any bird, dog or other animal, with the intent that it shall be engaged in an exhibition of fighting; (ii) establishes or promotes an exhibition of the fighting of any birds, dogs or other animals; (iii) loans, sells, exports or otherwise transfers any bird, dog or other animal for the purpose of animal fighting; or (iv) owns, possesses or keeps any bird, dog or other animal for the purpose of breeding such animal with the intent that its offspring be used for animal fighting shall be punished by imprisonment in the state prison for not more than 5 years or in the house of correction for not more than 1 year, or by a fine of not more than \$1,000 or by both such fine and imprisonment.

#### **§ 95. Aiding or being present at exhibition of fighting animals**

Whoever is present at any place, building or tenement where preparations are being made for an exhibition of the fighting of birds, dogs or other animals, with intent to be present at such exhibition, or is present at, aids in or contributes to such exhibition, shall be punished by a fine of not more than \$1,000 or by imprisonment in the state prison for not more than 5 years or imprisonment in the house of correction for not more than 2½ years or by both such fine and imprisonment.

## **§ 104. Security for seizure and impoundment of animals relating to cruelty to animals or animal fighting**

(a) As used in this section, the word “authority” shall mean an organization or the authorized agent of an organization that seizes or impounds an animal pursuant to the General Laws.

(b) If an animal is seized or impounded pursuant to section 112 of chapter 266 or section 77, 77C or 94 of chapter 272 resulting in the issuance of a criminal complaint or a criminal indictment, the authority or prosecuting agency, including the district attorney or attorney general, may file a petition with the court requesting that the person from whom the animal was seized or a person claiming an interest in the seized animal be ordered to post a security. The authority or prosecuting agency shall serve a copy of the petition on the person from whom the animal was seized or who is claiming an interest in the seized animal; provided, however, that if such a person cannot be found, service may be made by posting a copy of the petition at the place from which the animal was seized. If the petition is filed by the authority, the authority shall also serve a copy of the petition on the prosecuting agency.

(c) The security shall be in an amount sufficient to secure payment for the reasonable expenses incurred by the authority that has custody of the seized or impounded animal and the reasonable expenses anticipated by the authority. In determining the amount of the security, expenses shall be calculated from the date of seizure or impoundment and continue until the authority ends custody of the animal; provided, however, that the amount shall be determined for a period of not less than 30 days. The amount of the security shall be determined by the court upon the recommendation of the authority. Reasonable expenses shall include, but shall not be limited to, estimated medical care, quarantine costs, shelter and board.

(d) When a security is posted in accordance with this section, the authority may draw from the security the actual, reasonable costs incurred for medical care, quarantine costs, shelter, board and any other expenses ordered by the court. If the expenses already incurred by the seizing authority at the time of judicial decision on the petition exceed the petitioned for security amount, the court may order the security to be paid in its entirety to the authority through the court or directly from the respondent to the authority, as the court deems appropriate in the interest of justice.

(e) If the court orders the posting of a security, the security shall be posted with the clerk within 10 business days of the court’s allowance of the petition. The defendant’s failure to post the security within the appointed time shall be deemed an immediate forfeiture of the seized animal to the authority. The court may waive the security requirement or reduce the amount of the security for good cause. The court may extend the time for posting the security with the clerk;

provided, however, that the time between the court's allowance of the petition and the posting shall be not more than 20 business days.

(f) The posting of the security shall not prevent the authority from euthanizing the seized or impounded animal for humane reasons before the expiration of the period covered by the security; provided, however, that the euthanasia shall be done in a humane manner.

(g) The authority may humanely transfer or euthanize the animal at the end of the period for which expenses are covered by the security if a transfer or euthanasia is ordered by the court. If the transfer or euthanasia order is denied, the court may require the animal's owner or custodian or any other person claiming interest in the animal to provide an additional security to secure payment of reasonable expenses and to extend the period of time pending adjudication by the court of the charges against the person from whom the animal was seized.

(h) The owner or custodian of an animal, or a person claiming interest in such an animal pursuant to this section, that is humanely transferred or euthanized shall not be entitled to recover damages or the actual value of the animal if the owner, custodian or other person failed to post the required security.

(i) The court may direct a refund to the person who posted the security in whole or part, for expenses not incurred by the authority. The court may direct a refund to the person who posted security upon acquittal of the charges.