WISCONSIN LEGISLATIVE COUNCIL

Terry C. Anderson, Director
Laura D. Rose, Deputy Director

TO: REPRESENTATIVE JON RICHARDS

FROM: Mark C. Patronsky, Senior Staff Attorney MCP

RE: Statutes Related to Animal Welfare

DATE: January 9, 2003

This memorandum is in response to your request for a list and brief description of the current statutes that relate to animal welfare. Although there are many statutes related to animals, most of those statutes do not expressly state that the regulatory purpose is animal welfare. It has been necessary to make judgments regarding the statutes that are described in this memorandum. For example, the Tuberculosis Control Program administered by the DATCP under s. 95.25, Stats., obviously relates to the health of an individual animal. However, the primary purpose of this statute appears to be the maintenance of Wisconsin's tuberculosis-free status and the overall economic health of animal agriculture in Wisconsin. Statutes of this nature are not included in this memorandum. Other statutes may have a dual purpose, such as s. 951.095, Stats., relating to harassment of police and fire animals. This statute appears to relate both to preventing harm to the animals and penalizing interference with police and fire department functions. This type of statute is included in this memorandum.

The descriptions of each statute in this memorandum are necessarily brief, and the text of the statute should be consulted to gain a full understanding of the statutory provisions. A copy of each statute is included as an attachment to this memorandum. The statutory text in the attachment is current as of the date of this memorandum.

It should be noted that this memorandum describes only statutes. There are a number of administrative rules that implements statutes described in this memorandum. Generally, the administrative rules relate to the details regarding how a program is implemented, such as the standards for keeping native animals in captivity promulgated by the Department of Natural Resources (DNR).

The remainder of this memorandum contains a list and description of the statutes.

One East Main Street, Suite 401 • P.O. Box 2536 • Madison, WI 53701-2536
(608) 266-1304 • Fax: (608) 266-3830 • Email: leg.council@legis.state.wi.us
http://www.legis.state.wi.us/lc

Prohibitions: Civil Penalties

Section 29.088 (1) and (2) prohibits the use of bait containing poison in forests, fields, or other places where it might destroy wild animals or birds. No person may take a wild animal with explosives or poison gas.

Chapter 951 contains the statutes regarding crimes against animals. The key statutes in this chapter relate to mistreating animals, instigating fights between animals, abandoning animals, and shooting at caged or staked animals. This chapter also contains a number of other statutes, such as prohibitions on the sale of artificially colored live chicks or ducklings, and harassment of police or fire animals. These statutes relate to crimes against animals, and contain a number of civil forfeitures, as well as criminal penalties.

Prohibitions: Criminal Penalties

Section 94.708 prohibits the sale or use of pesticides for bat control, except in emergency situations. The statute provides a criminal penalty for knowing violations, and imposes a civil forfeiture for lesser violations.

Section 95.235 prohibits the sale of utensils painted with any substance having a toxic effect on livestock, where the utensil is intended for the purpose of feeding livestock.

Section 134.52 prohibits the shipment of chickens in crowded or congested conditions that endanger the well-being of the chickens.

Section 562.105 requires the use of humane methods to kill racing dogs.

Miscellaneous Regulations

Section 195.24 requires railroads to give precedence to shipments of livestock over other freight.

Section 562.001 expresses a legislative intent that animals bred and used for racing in the state be treated humanely throughout their lives.

Department of Natural Resources (DNR)

Section 169.39 requires the DNR to promulgate rules regarding the humane care and housing of native wild animals that are held in captivity.

Department of Administration (DOA)

Section 562.02 (1) (b) requires DOA to promulgate rules to assure the humane treatment of animals used for racing in this state.

University of Wisconsin

Section 36.40 requires the Board of Regents to adopt criteria regarding the humane treatment of animals for scientific research purposes.

Department of Agriculture, Trade and Consumer Protection (DATCP)

Section 93.07 (10) authorizes DATCP to protect the health of domestic animals in this state.

Section 93.07 (11) authorizes DATCP to cooperate with humane societies and humane officers in the enforcement of laws related to humane education and the prevention of cruelty to animals.

Section 95.68 (8) authorizes DATCP to promulgate rules to regulate the humane treatment of animals in livestock markets, and requires compliance with those rules.

Section 95.69 (8) authorizes DATCP to promulgate rules to regulate the humane treatment of animals by livestock dealers, and requires compliance with those rules.

Section 95.71 (8) authorizes DATCP to promulgate rules to regulate the humane treatment of animals by livestock truckers, and requires compliance with those rules.

Section 173.27 requires DATCP to promulgate rules regarding the training and certification of humane officers.

Section 173.40 (5) authorizes DATCP to promulgate rules setting minimum requirements for humane care of animals by the operator of an animal shelter or kennel.

Local Government

Section 173.15 authorizes local units of government to provide or contract for the adequate care and treatment of animals taken into custody by a humane officer or law enforcement officer.

Section 173.21 authorizes a local governmental unit or person contracting with the local governmental unit to withhold an animal in custody from an owner if there are reasonable grounds to believe that the owner has mistreated the animal in violation of ch. 951, Stats.

Humane Officers, Law Enforcement Officers, Veterinarians

Section 95.21 (4) (b) and (5) (d) requires a humane officer, local health officer, or law enforcement officer to order a dog or cat quarantined if it is suspected of having rabies, and authorizes the officer to kill the animal in a humane manner if quarantine cannot be imposed because the animal cannot be captured.

Section 173.07 gives humane officers broad authority regarding statutes and ordinances relating to animals.

Section 173.10 authorizes the issuance of search warrants to investigate violations of ch. 951, Stats., relating to crimes against animals.

Section 173.12 requires a veterinarian to submit a report to the local humane officer or law enforcement agency if the veterinarian believes that an animal has been in a fight in violation of s. 951.08, Stats.

Humane Organizations

Section 70.11 (28) provides a property tax exemption for property owned and operated by a humane society that is a nonprofit organization.

Section 174.09 requires the payment of surplus dog license taxes to the county humane society or other organization that provides a pound.

Section 95.01 prohibits the administration of drugs to a horse in order to affect the performance of the horse in a pulling contest.

Section 95.72 (10) requires that live downer animals that are picked up for animal food processing or rendering must be slaughtered humanly before loading for transport.

Section 95.80 defines humane methods of slaughter and requires that humane methods be used by any slaughterer.

Section 174.13 authorizes the officer or pound which has custody of an unclaimed dog to release the dog to scientific or educational institutions. "Humane" is used in the title of the statute authorizing the "humane use of dogs for scientific or educational purposes," but does not appear in the substantive provisions of the statute.

Section 350.07 prohibits the use of a snowmobile to drive or pursue an animal, except as part of normal farming operations involving the driving of livestock.

If you have any questions or need additional information, please contact me directly at the Legislative Council staff offices.

MCP:rv:tlu:ksm;jal

Attachment

ATTACHMENT

Text of Statutes Listed in Memorandum
2001-03 Statutes (as Amended Through January 6, 2003)

29.088 Use of poison and explosives; pole traps. (1) Except as provided by s. 29.601 (4), it is unlawful to use baits containing poison of any description in any forests, fields or other places where it might destroy or cause the destruction of wild animals or birds, and the possession of any poison or poison baits in a hunting or trapping camp or on any person while hunting or trapping shall be prima facie evidence of a violation.

(2) Except as provided in sub. (3), no person may take, capture or kill or attempt to take, capture or kill any wild animal with the aid of any explosive or poison gas, or set any explosive near or on any beaver or muskrat houses. Possession or control of an explosive or a poison gas in places described in sub. (1) is prima facie evidence of intent to violate this subsection. Any person who violates this subsection shall be fined not more than $300 or imprisoned for not more than 30 days or both.

36.40 Use of animals for research purposes. The board shall adopt criteria for researchers to follow regarding humane treatment of animals for scientific research purposes.

70.11 [Property tax exemptions] **(28)** HUMANE SOCIETIES. Property owned and operated by a humane society organized primarily for the care and shelter of homeless, stray or abused animals, on a nonprofit basis, no part of the net income of which inures to the benefit of any member, officer or shareholder, if the property is used exclusively for the primary purposes of the humane society.

93.07 [DATCP duties] **(10)** ANIMAL HEALTH; QUARANTINE. To protect the health of animals located in this state and of humans residing in this state and to determine and employ the most efficient and practical means for the prevention, suppression, control, and eradication of communicable diseases among animals. For these purposes, the department may establish, maintain, enforce, and regulate such quarantine and such other measures relating to the importation, movement, and care of animals and their products, the disinfection of suspected localities and articles, and the disposition of animals, as the department determines are necessary. The definition of "communicable disease" in s. 990.01 (5g) does not apply to this subsection.

(11) HUMANE ACTIVITIES. To cooperate with humane societies and assist duly appointed humane officers in the enforcement of the laws relating to humane education and the prevention of cruelty to animals.

94.708 Pesticides; sale and use to control bats. (1) DEFINITION. As used in this section, "bat control purposes" means for the purpose of killing, injuring, repelling or otherwise affecting the behavior of bats.

(2) SALE PROHIBITED. Except as provided under sub. (4), no person may sell, hold for sale or distribute any pesticide except naphthalene for bat control purposes to a person in this state. No dealer may advertise in this state or recommend any pesticide for bat control purposes to a person in this state.

(3) USE PROHIBITED. Except as provided under sub. (4), no person may use any pesticide except naphthalene for bat control purposes.

(4) EXCEPTION. The department shall promulgate rules establishing standards for the sale, advertisement and use of pesticides for emergency bat control. The department may issue a permit authorizing the use of a pesticide in accordance with the rules that it promulgates only in the case of an individual bat colony after a determination that there exists an outbreak of rabies that threatens public health or another situation where the existence of a colony of bats threatens the health or welfare of any person. The department may not base its determination on an isolated individual instance of a rabid bat.

95.01 Administration of drugs to horses. (1) No person may administer a drug to a horse, either internally or externally, for the purpose of altering the performance of the horse in a horse pulling contest.

(2) Persons in charge of a horse pulling contest may require as a condition of participation in the contest that the exhibitor submit the exhibitor's horse for examination by a licensed veterinarian to determine the presence of drugs under sub. (1).

95.21 **(4)** (b) *Sacrifice of other animals.* An officer may order killed or may kill an animal other than a dog or cat if the officer has reason to believe that the animal bit a person or is infected with rabies. Except as provided in s. 95.36, if an animal of a species raised primarily to produce food for human consumption is killed under this paragraph, the owner is eligible for an indemnity payment in an amount equal to the indemnity provided under s. 95.31 (3). If the decision is made by an employee of the department, the indemnity shall be paid from the appropriation under s. 20.115 (2) (b). If the decision is made by another officer, the indemnity shall be paid from the dog license fund.

(5) **(d)** *Sacrifice of a dog or cat exhibiting symptoms of rabies.* If a veterinarian determines that a dog or cat exhibits symptoms of rabies during the original or extended observation period, the veterinarian shall notify the owner and the officer who ordered the animal quarantined and the officer or veterinarian shall kill the animal in a humane manner and in a manner which avoids damage to the animal's head. If the dog or cat is suspected to have bitten a person, the veterinarian shall notify the person or the person's physician.

95.235 Sale of certain painted utensils. Any person who sells, for the purpose of feeding livestock, any utensil painted with a substance having a toxic effect upon livestock when taken orally shall be punished under s. 95.99 (1).

95.68 **(8)** RULES. The department [DATCP] may promulgate rules to specify license fees under sub. (4) or to regulate the operation of animal markets, including rules related to market operator qualifications, market construction and maintenance, construction and maintenance of animal transport vehicles, identification of animal transport vehicles, disease sanitation, humane treatment of animals, identification of animals, record keeping, reports to the department and compliance with applicable financial security requirements under state or federal law.

95.69 **(8)** RULES. The department [DATCP] may promulgate rules to specify license fees under sub. (4) or to regulate animal dealers, including rules related to animal dealer qualifications, construction and

maintenance of animal transport vehicles, identification of animal transport vehicles, disease sanitation, humane treatment of animals, identification of animals, record keeping, reports to the department and compliance with applicable financial security requirements under state or federal law.

95.71 **(8)** RULES. The department [DATCP] may promulgate rules to specify license fees under sub. (5) or to regulate animal truckers, including rules related to animal trucker qualifications, construction and maintenance of animal transport vehicles, identification of animal transport vehicles, disease sanitation, humane treatment of animals, identification of animals, record keeping, reports to the department and compliance with applicable financial security requirements under state or federal law.

95.72 **(10)** HUMANE HANDLING. Live downer animals picked up for animal food processing or rendering shall be slaughtered before loading for transport to a processing or rendering plant. Slaughtering shall be done by humane methods as defined in s. 95.80 (1) (a).

95.80 Humane slaughtering. (1) DEFINITIONS. As used in this section:

(a) "Humane method" means:

1. Any method of slaughtering livestock which normally causes animals to be rendered insensible to pain by a single blow or shot of a mechanical instrument or by electrical, chemical or other means that is rapid and effective, before being shackled, hoisted, thrown, cast, or cut; or

2. The method of slaughtering, including handling and other preparation for slaughtering, required by or used in connection with the ritual of any religious faith, whereby the animal suffers loss of consciousness by anemia of the brain caused by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument.

(b) "Livestock" means cattle, horses, swine, sheep, goats, farm-raised deer and other species of animals susceptible of use in the production of meat and meat products.

(c) "Slaughterer" means any person operating a slaughterhouse licensed under s. 97.42, or registered under s. 97.44.

(2) PROHIBITION. No slaughterer may slaughter livestock except by a humane method.

134.52 Shipment of chickens. (1) It shall be unlawful for any person, or the person's agent or servant, to ship, or for any common carrier or the agent or servant of such common carrier to allow, aid, or abet in the shipment of chickens confined in coops unless such coops are at least 13 inches in height on the inside and are covered at the top by wires or slats not more than one inch apart or by wire screening with meshes of not more than one inch.

(2) It shall be unlawful for any person or the person's agent or servant or for any common carrier or the agent or servant of such common carrier to so crowd or congest or to allow, aid or abet in the crowding or congesting of chickens within any coop in any shipment as to impair or endanger the well-being of such chickens during the course of transportation thereof; and any such crowding or congesting shall be deemed cruelty.

(3) Whenever any humane officer or any peace officer in this state ascertains or observes any shipment of chickens in a crowded or congested condition, such officer may take or cause to be taken such steps as to give immediate relief.

(4) Any person who shall violate the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than $10 nor more than $50, or by imprisonment in the county jail not less than 10 days nor more than 30 days.

169.39 Humane care and housing. (1) COMPLIANCE WITH RULES. No license may be issued under this chapter unless the department [DNR] determines that the applicant will comply with all of the rules promulgated under subs. (2) and (3).

(2) RULES; GENERAL. The department shall promulgate and enforce rules for the housing, care, treatment, enrichment, feeding, and sanitation of wild animals subject to regulation under this chapter to ensure all of the following:

(a) That the wild animals receive humane treatment and enrichment.

(b) That the wild animals are held under sanitary conditions.

(c) That the wild animals receive adequate housing, care, and food.

(d) That the public is protected from injury by the wild animals.

(3) RULES; HOUSING. The rules for housing under sub. (2) shall include requirements for the size and location of permanent enclosures and of temporary enclosures at locations other than those where the wild animals are permanently housed. The rules regulating the location of enclosures shall include the distance required between 2 enclosures. The rules for housing shall include specifications for enclosures for each species of harmful wild animal that the department designates under s. 169.11 (1).

(4) ORDERS. The department may issue an order requiring any person holding a license under this chapter to comply with the rules promulgated under sub. (2).

173.07 Powers and duties of humane officers. (1) ENFORCEMENT. A humane officer shall enforce s. 95.21, this chapter, chs. 174 and 951 and ordinances relating to animals enacted by political subdivisions in which the humane officer has jurisdiction under s. 173.03 (3).

(2) INVESTIGATION. A humane officer shall investigate alleged violations of statutes and ordinances relating to animals and, in the course of the investigations, may execute inspection warrants under s. 66.0119.

(3) SEEK SUBPOENAS. A humane officer may request the district attorney for the county to obtain subpoenas to compel testimony and obtain documents in aid of investigations.

(4) ISSUE CITATIONS. If authorized by the appointing political subdivision, a humane officer shall issue citations under s. 66.0113 for violations of ordinances relating to animals.

(4m) REQUEST PROSECUTIONS. A humane officer may request law enforcement officers and district attorneys to enforce and prosecute violations of state law and may cooperate in those prosecutions.

(5) PROHIBITED ACTIONS. Unless also a law enforcement officer, a humane officer may not in the course of his or her duties do any of the following:

(a) Execute a search warrant.

(b) Carry firearms.

(c) Stop or arrest persons.

(d) Stop, search, or detain vehicles, except under an inspection warrant under s. 66.0119.

(e) Enter any place or vehicle by force or without the consent of the owner, except in an emergency occasioned by fire or other circumstance in which that entry is reasonable and is necessary to save an animal from imminent death or a person from imminent death or injury.

(f) Remove any animal from the custody of another person by force.

(6) Conflict of interest prohibited. No humane officer may sell or otherwise dispose of any animal that came into the humane officer's custody in the course of his or her duties.

173.10 Investigation of cruelty complaints. A person may apply for a search warrant under s. 968.12 if there is reason to believe that a violation of ch. 951 has taken place or is taking place. If the court is satisfied that probable cause exists, it shall issue a search warrant directing a law enforcement officer in the county to proceed immediately to the location of the alleged violation with a doctor of veterinary medicine, if the court determines that a veterinarian is necessary for purposes of the search, and directing the law enforcement officer to search the place designated in the warrant, retaining in his or her custody subject to the order of the court such property or things as are specified in the warrant, including any animal. If the person applying for the search warrant is a humane officer, the warrant shall direct that the humane officer accompany the law enforcement officer who is directed to perform the search. The warrant shall be executed and returned to the court which issued the warrant in accordance with ss. 968.15 and 968.17. This section does not affect other powers and duties of law enforcement officers.

173.12 Animal fighting; seizure. (1) Any veterinarian who has reason to believe that an animal has been in a fight in violation of s. 951.08 shall report the matter to the local humane officer or to a local law enforcement agency. The report shall be in writing and shall include a description and the location of the animal, any injuries suffered by the animal and the name and address of the owner or person in charge of the animal, if known.

(1m) If an animal has been seized because it is alleged that the animal has been used in or constitutes evidence of any crime specified in s. 951.08, the animal may not be returned to the owner by an officer

under s. 968.20 (2). In any hearing under s. 968.20 (1), the court shall determine if the animal is needed as evidence or there is reason to believe that the animal has participated in or been trained for fighting. If the court makes such a finding, the animal shall be retained in custody.

(2) If the charges under s. 951.08 are dismissed or if the owner is found not guilty of a crime specified in s. 951.08, the animal shall be returned to the owner unless he or she is subject to the restrictions under s. 951.08 (2m).

(3) (a) If the owner is convicted under s. 951.08 or is subject to the restrictions under s. 951.08 (2m), the animal shall be delivered to the local humane officer or county or municipal pound. If there is no local humane officer or pound, the animal may be delivered to a local humane society or to another person designated by the court. If the animal is one year old or older or shows indication of having participated in fighting, the animal shall be disposed of in a proper and humane manner.

(b) If the animal is less than one year old and shows no indication of having participated in fighting, the animal shall be released to a person other than the owner or disposed of in a proper and humane manner. If the animal is a dog, the release or disposal shall be in accordance with s. 173.23 (1m), except that the fees under s. 173.23 (1m) (a) 4. are covered under s. 173.24.

173.15 Provision of care, treatment or disposal services. (1) PROVIDING SERVICES. A political subdivision may provide for the care, treatment or disposal of animals taken into custody by a humane officer or law enforcement officer. A political subdivision may provide these services directly or by contracting with any other person. A political subdivision may establish standard fees for the care, custody and treatment of animals in its custody. The political subdivision may establish different fees for animals released to their owners and animals released to persons other than their owners. If the political subdivision does not establish standard fees, it may charge no more than the actual costs of care, custody or treatment to any person required to pay for the care, custody or treatment of an animal.

(2) Contract for services. Every person entering into a contract with a political subdivision under sub. (1) shall agree to do all of the following:

(a) Provide adequate care and treatment of all animals delivered under the contract.

(b) Maintain adequate records consistent with s. 173.17.

(c) Release or dispose of animals under s. 173.23 or as provided in a court order.

(3) An officer or pound that has custody of unclaimed dogs shall maintain records as provided under s. 173.17.

(4) It shall be unlawful for any person, except a person licensed or registered and regulated under federal animal welfare laws, to take or send outside the state or to purchase or otherwise acquire in this state for the purpose of taking or sending outside the state, any living cat or dog to be used for any medical, surgical or chemical investigation, experiment or demonstration.

173.21 Holding animals for cause. (1) GROUNDS. A political subdivision may withhold, or direct a person contracting under s. 173.15 (1) to withhold, an animal in custody from an owner who makes an otherwise adequate claim for the animal under s. 173.23 (1) on any of the following grounds:

(a) There are reasonable grounds to believe that the owner has mistreated the animal in violation of ch. 951.

(b) There are reasonable grounds to believe that the animal poses a significant threat to public health, safety or welfare.

(c) The animal may be used as evidence in a pending prosecution.

(d) A court has ordered the animal withheld for any reason.

(2) EXAMINATION PERMITTED. If an animal is withheld under sub. (1), upon request by the owner, a veterinarian retained by the owner may examine the animal.

(3) COSTS. The owner of an animal withheld under sub. (1) is not liable for any costs of custody, care or treatment except as provided by court order.

(4) RETURN. A political subdivision or person contracting under s. 173.15 (1) having custody of an animal withheld under sub. (1) shall release the animal to the owner at the direction of the humane officer or law enforcement officer that took custody of the animal if the requirements of s. 173.23 (1) (a) to (c) are satisfied.

173.27 Duties of the department. The department [DATCP] shall do all of the following:

(1) RULES. (a) Adopt, by rule, standards for the training and certification of humane officers to ensure that humane officers are at least minimally qualified to perform the duties of a humane officer. The standards shall provide for training offered by the department or by others.

(b) Adopt, by rule, deadlines by which humane officers must obtain certification.

(2) TRAINING. Offer training courses for humane officers or approve training courses offered by others, or both. The department may charge a fee sufficient to recover the costs of training courses that it provides.

(3) CERTIFICATION. Examine, as necessary, and certify humane officers as qualified. The department may charge a fee, established by rule, sufficient to recover the costs of certification.

(4) REGISTRY OF HUMANE OFFICERS. Maintain and keep current a registry of all persons serving as humane officers for political subdivisions.

173.40 **(5)** RULES. The department [DATCP] may promulgate rules that specify any of the following:

(a) Minimum standards for animal shelter and kennel facilities and facilities at which pet dealers and pet breeders operate.

(b) Minimum requirements for humane care to be provided by persons required to obtain licenses under sub. (2).

(c) Requirements relating to the transportation of animals by persons required to obtain licenses under sub. (2).

(d) Grounds for revocation of licenses issued under sub. (2).

(e) Grounds for the department to issue orders prohibiting a person required to be licensed under this section from selling or moving an animal.

(f) Minimum ages for the sale of animals by persons required to be licensed under sub. (2).

(g) Reinspection fees to be charged when an inspection by the department under this section reveals conditions that require correction and reinspection.

(h) Requirements for record keeping by persons required to be licensed under sub. (2).

(i) Requirements relating to space and opportunity for exercise to be provided to animals by persons required to be licensed under sub. (2).

173.40 (5) RULES. The department [DATCP] may promulgate rules that specify any of the following:

(a) Minimum standards for animal shelter and kennel facilities and facilities at which pet dealers and pet breeders operate.

(b) Minimum requirements for humane care to be provided by persons required to obtain licenses under sub. (2).

(c) Requirements relating to the transportation of animals by persons required to obtain licenses under sub. (2).

(d) Grounds for revocation of licenses issued under sub. (2).

(e) Grounds for the department to issue orders prohibiting a person required to be licensed under this section from selling or moving an animal.

(f) Minimum ages for the sale of animals by persons required to be licensed under sub. (2).

(g) Reinspection fees to be charged when an inspection by the department under this section reveals conditions that require correction and reinspection.

(h) Requirements for record keeping by persons required to be licensed under sub. (2).

(i) Requirements relating to space and opportunity for exercise to be provided to animals by persons required to be licensed under sub. (2).

174.09 Dog license fund; how disposed of and accounted for. (1) The dog license taxes so paid to the county treasurer shall be kept in a separate account and shall be known as the "dog license fund" and shall be appropriated and disbursed for the purposes and in the manner following: Within 30 days after receipt of the same the county treasurer shall pay into the state treasury 5% of the minimum tax as provided for under s. 174.05 (2) of all dog license taxes which shall have been received by the county treasurer.

(2) Expenses necessarily incurred by the county in purchasing and providing books, forms and other supplies required in the administering of the dog license law, expenses incurred by the county under s. 95.21 (4) (b) and (8) and expenses incurred by the county pound or by a humane society or other organization designated to provide a pound for collecting, caring for and disposing of dogs may be paid out of the dog license fund. The amount remaining in the fund after deducting these expenses shall be available for and may be used as far as necessary for paying claims allowed by the county to the owners of domestic animals because of damages done by dogs during the license year for which the taxes were paid. Any surplus in excess of $1,000 which may remain from the dog license taxes of any license year shall on March 1 of the succeeding year be paid by the county treasurer to the county humane society or other organization designated by the county board to provide a pound. If there is no humane society or other organization designated to provide a pound, these funds shall be paid to the towns, villages and cities of the county for their use in the proportion in which the towns, villages and cities contributed to the fund out of which the surplus arises.

195.24 Interchange of traffic. All railroads shall afford reasonable and proper facilities for the interchange of traffic between their respective lines for forwarding and delivering passengers and freight, and shall transfer, switch for a reasonable compensation, and deliver without unreasonable delay or discrimination any freight or cars destined to any point on its tracks or any connecting lines; and shall give precedence over other freight to livestock and perishable freight.

350.07 Driving animals. No person shall drive or pursue any animal with a snowmobile, except as a part of normal farming operations involving the driving of livestock.

562.001 Humane treatment of animals. It is the intent of the legislature that animals which participate in races in this state on which pari-mutuel wagering is conducted and animals which are bred and trained in this state for racing shall be treated humanely, both on and off racetracks, throughout the lives of the animals.

562.02 [DOA duties.] **(1)** (b) Promulgate rules to ensure the humane treatment of animals which race in this state or which are bred and trained in this state for racing and shall establish a program to administer those rules.

562.105 Humane killing of dogs. No person may kill or cause to be killed any dog which races in this state or was bred, whelped or trained in this state for racing, except by a humane chemical method,

specified by the department [DOA] by rule, which normally causes dogs to be rendered insensible to pain, is rapid and effective and is administered by a veterinarian.

CHAPTER 951

CRIMES AGAINST ANIMALS

951.01 Definitions.
951.015 Construction and application.
951.02 Mistreating animals.
951.025 Decompression prohibited.
951.03 Dognapping and catnapping.
951.04 Leading animal from motor vehicle.
951.05 Transportation of animals.
951.06 Use of poisonous and controlled substances.
951.07 Use of certain devices prohibited.
951.08 Instigating fights between animals.
951.09 Shooting at caged or staked animals.
951.095 Harassment of police and fire animals.
951.10 Sale of baby rabbits, chicks and other fowl.
951.11 Artificially colored animals; sale.
951.13 Providing proper food and drink to confined animals.
951.14 Providing proper shelter.
951.15 Abandoning animals.
951.18 Penalties.

951.01 Definitions. In this chapter:

(1) "Animal" includes every living:

(a) Warm-blooded creature, except a human being;

(b) Reptile; or

(c) Amphibian.

(1m) "Conservation warden" means a warden appointed under s. 23.10.

(2) "Cruel" means causing unnecessary and excessive pain or suffering or unjustifiable injury or death.

(3) "Farm animal" means any warm-blooded animal normally raised on farms in the United States and used or intended for use as food or fiber.

(3e) "Humane officer" means an officer appointed under s. 173.03.

(3f) "Fire department" includes a volunteer fire department and a department under s. 61.66.

(3m) "Law enforcement agency" has the meaning given in s. 165.83 (1) (b).

(4) "Law enforcement officer" has the meaning assigned under s. 967.02 (5) but does not include a conservation warden appointed under s. 23.10.

951.015 Construction and application. (1) This chapter may not be interpreted as controverting any law regulating wild animals that are subject to regulation under ch. 169, the taking of wild animals, as defined in s. 29.001 (90), or the slaughter of animals by persons acting under state or federal law.

(2) For purposes of enforcing this chapter as to wild animals subject to regulation under ch. 169, a conservation warden has the same powers and duties that a law enforcement officer has under this chapter.

951.02 Mistreating animals. No person may treat any animal, whether belonging to the person or another, in a cruel manner. This section does not prohibit bona fide experiments carried on for scientific research or normal and accepted veterinary practices.

951.025 Decompression prohibited. No person may kill an animal by means of decompression.

951.03 Dognapping and catnapping. No person may take the dog or cat of another from one place to another without the owner's consent or cause such a dog or cat to be confined or carried out of this state or held for any purpose without the owner's consent. This section does not apply to law enforcement officers or humane officers engaged in the exercise of their official duties.

951.04 Leading animal from motor vehicle. No person shall lead any animal upon a highway from a motor vehicle or from a trailer or semitrailer drawn by a motor vehicle.

951.05 Transportation of animals. No person may transport any animal in or upon any vehicle in a cruel manner.

951.06 Use of poisonous and controlled substances. No person may expose any domestic animal owned by another to any known poisonous substance, any controlled substance included in schedule I, II, III, IV or V of ch. 961, or any controlled substance analog of a controlled substance included in schedule I or II of ch. 961, whether mixed with meat or other food or not, so that the substance is liable to be eaten by the animal and for the purpose of harming the animal. This section shall not apply to poison used on one's own premises and designed for the purpose of rodent or pest extermination nor to the use of a controlled substance in bona fide experiments carried on for scientific research or in accepted veterinary practices.

951.07 Use of certain devices prohibited. No person may directly or indirectly, or by aiding, abetting or permitting the doing thereof, either put, place, fasten, use or fix upon or to any animal used or readied

for use for a work purpose or for use in an exhibition, competition, rodeo, circus or other performance, any of the following devices: a bristle bur, tack bur or like device; or a poling device used to train a horse to jump which is charged with electricity or to which have been affixed nails, tacks or other sharp points.

951.08 Instigating fights between animals. **(1)** No person may intentionally instigate, promote, aid or abet as a principal, agent or employee, or participate in the earnings from, or intentionally maintain or allow any place to be used for a cockfight, dog fight, bullfight or other fight between the same or different kinds of animals or between an animal and a person. This section does not prohibit events or exhibitions commonly featured at rodeos or bloodless bullfights.

(2) No person may own, possess, keep or train any animal with the intent that the animal be engaged in an exhibition of fighting.

(2m) If a person has been convicted under sub. (1) or (2), the person may not own, possess, keep or train any animal for a period of 5 years after the conviction. In computing the 5-year period, time which the person spent in actual confinement serving a criminal sentence shall be excluded. The person may move the sentencing court to have this requirement waived. The court may waive the requirement except that the waiver may not authorize the person to own, possess, keep or train animals of the species involved in the offense under sub. (1) or (2).

(3) No person may intentionally be a spectator at a cockfight, dog fight, bullfight or other fight between the same or different kinds of animals or between an animal and a person.

951.09 Shooting at caged or staked animals. **(1)** No person may shoot, kill, or wound with a firearm, or with any deadly weapon, any animal that is tied, staked out, caged or otherwise intentionally confined in an artificial enclosure, regardless of size.

(2) (a) Whoever is concerned in the commission of a violation of this section is a principal and may be charged with and convicted of the violation although he or she did not directly commit it and although the person who directly committed it has not been convicted of the violation.

(b) A person is concerned in the commission of a violation of this section under par. (a) if the person does any of the following:

1. Instigates, promotes, aids, or abets the violation as a principal, agent, employee, participant, or spectator.

2. Participates in any earnings from the commission of the violation.

3. Intentionally maintains or allows any place to be used for the commission of the violation.

(3) This section does not apply to any of the following animals:

(b) A captive wild bird that is shot, killed, or wounded on a bird hunting preserve licensed under s. 169.19.

(c) Farm-raised deer, as defined in s. 95.001 (1) (ag).

(d) Animals that are treated in accordance with normally acceptable husbandry practices.

951.095 Harassment of police and fire animals. (1) No person may do any of the following to any animal that is used by a law enforcement agency or fire department to perform agency or department functions or duties:

(a) Frighten, intimidate, threaten, abuse or harass the animal.

(b) Strike, shove, kick or otherwise subject the animal to physical contact.

(c) Strike the animal by using a dangerous weapon.

(2) Subsection (1) does not apply to any of the following:

(a) Any act that is performed by or with the authorization of the animal's handler or rider.

(b) Any act that is necessary for the training of an animal to perform functions or duties for a law enforcement agency.

951.10 Sale of baby rabbits, chicks and other fowl. (1) No person may sell, offer for sale, barter or give away living chicks, ducklings or other fowl unless the person provides proper brooder facilities for the care of such chicks, ducklings or other fowl during the time they are in the person's possession.

(2) No retailer, as defined in s. 100.30 (2) (e), may sell, offer for sale, barter or give away living baby rabbits, baby chicks, ducklings or other fowl under 2 months of age in any quantity less than 6 unless in the business of selling these animals for agricultural, wildlife or scientific purposes.

951.11 Artificially colored animals; sale. No person may sell, offer for sale, raffle, give as a prize or premium, use as an advertising device or display living chicks, ducklings, other fowl or rabbits that have been dyed or otherwise colored artificially.

951.13 Providing proper food and drink to confined animals. No person owning or responsible for confining or impounding any animal may fail to supply the animal with a sufficient supply of food and water as prescribed in this section.

(1) FOOD. The food shall be sufficient to maintain all animals in good health.

(2) WATER. If potable water is not accessible to the animals at all times, it shall be provided daily and in sufficient quantity for the health of the animal.

951.14 Providing proper shelter. No person owning or responsible for confining or impounding any animal may fail to provide the animal with proper shelter as prescribed in this section. In the case of farm animals, nothing in this section shall be construed as imposing shelter requirements or standards

more stringent than normally accepted husbandry practices in the particular county where the animal or shelter is located.

(1) INDOOR STANDARDS. Minimum indoor standards of shelter shall include:

(a) *Ambient temperatures.* The ambient temperature shall be compatible with the health of the animal.

(b) *Ventilation.* Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animals at all times.

(2) OUTDOOR STANDARDS. Minimum outdoor standards of shelter shall include:

(a) *Shelter from sunlight.* When sunlight is likely to cause heat exhaustion of an animal tied or caged outside, sufficient shade by natural or artificial means shall be provided to protect the animal from direct sunlight. As used in this paragraph, "caged" does not include farm fencing used to confine farm animals.

(b) *Shelter from inclement weather.* 1. `Animals generally.' Natural or artificial shelter appropriate to the local climatic conditions for the species concerned shall be provided as necessary for the health of the animal.

2. 'Dogs.' If a dog is tied or confined unattended outdoors under weather conditions which adversely affect the health of the dog, a shelter of suitable size to accommodate the dog shall be provided.

(3) SPACE STANDARDS. Minimum space requirements for both indoor and outdoor enclosures shall include:

(a) *Structural strength.* The housing facilities shall be structurally sound and maintained in good repair to protect the animals from injury and to contain the animals.

(b) *Space requirements.* Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of debility, stress or abnormal behavior patterns.

(4) SANITATION STANDARDS. Minimum standards of sanitation for both indoor and outdoor enclosures shall include periodic cleaning to remove excreta and other waste materials, dirt and trash so as to minimize health hazards.

951.15 Abandoning animals. No person may abandon any animal.

951.18 Penalties. (1) Any person violating s. 951.02, 951.025, 951.03, 951.04, 951.05, 951.06, 951.07, 951.09, 951.10, 951.11, 951.13, 951.14 or 951.15 is subject to a Class C forfeiture. Any person who violates any of these provisions within 3 years after a humane officer issues an abatement order under s. 173.11 prohibiting the violation of that provision is subject to a Class A forfeiture. Any person who intentionally or negligently violates any of those sections is guilty of a Class A misdemeanor. Any

person who intentionally violates s. 951.02, resulting in the mutilation, disfigurement or death of an animal, is guilty of a Class I felony. Any person who intentionally violates s. 951.02 or 951.06, knowing that the animal that is the victim is used by a law enforcement agency to perform agency functions or duties and causing injury to the animal, is guilty of a Class I felony.

(2) Any person who violates s. 951.08 (2m) or (3) is guilty of a Class A misdemeanor. Any person who violates s. 951.08 (1) or (2) is guilty of a Class I felony for the first violation and is guilty of a Class H felony for the 2nd or subsequent violation.

(2m) Any person who violates s. 951.095 is subject to a Class B forfeiture. Any person who intentionally or negligently violates s. 951.095, knowing that the animal that is the victim is used by a law enforcement agency or fire department to perform agency or department functions or duties, is guilty of a Class A misdemeanor. Any person who intentionally violates s. 951.095, knowing that the animal that is the victim is used by a law enforcement agency or fire department to perform agency or department functions or duties and causing injury to the animal, is guilty of a Class I felony. Any person who intentionally violates s. 951.095, knowing that the animal that is the victim is used by a law enforcement agency or fire department to perform agency or department functions or duties and causing death to the animal, is guilty of a Class H felony.

(3) In addition to penalties applicable to this chapter under this section, a district attorney may apply to any court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating this chapter.

(4) In addition to penalties applicable to this chapter under this section:

(a) 1. In this paragraph, "pecuniary loss" has the meaning described in s. 943.245 (1).

2. A sentencing court shall require a criminal violator to pay restitution to a person, including any local humane officer or society or county or municipal pound or a law enforcement officer or conservation warden, for any pecuniary loss suffered by the person as a result of the crime, including expenses in keeping any animal that is involved in the crime. This requirement applies regardless of whether the criminal violator is placed on probation under s. 973.09. If restitution is ordered, the court shall consider the financial resources and future ability of the criminal violator to pay and shall determine the method of payment. Upon the application of any interested party, the court shall schedule and hold an evidentiary hearing to determine the value of any pecuniary loss under this paragraph.

(b) 1. A sentencing court may order that an animal be delivered to the local humane officer or society or the county or municipal pound or to a law enforcement officer if a person commits a crime under this chapter, the person is the owner of the animal that is involved in the crime and the court considers the order to be reasonable and appropriate. A sentencing court may order that an animal be delivered to the department of natural resources, if the animal is a wild animal that is subject to regulation under ch. 169 and the court considers the order to be reasonable and appropriate. The society, pound, officer or department of natural resources shall release the animal to a person other than the owner or dispose of the animal in a proper and humane manner. If the animal is a dog, the release or disposal shall be in accordance with s. 173.23 (1m), except that the fees under s. 173.23 (1m) (a) 4. do not apply if the

expenses are covered under s. 173.24. If the animal is not a dog, the society, pound or officer may charge a fee for the release of the animal.

2. If the court is sentencing a person covered under s. 173.12 (3) (a) and an animal has been seized under s. 173.12, the court shall act in accordance with s. 173.12 (3).

(c) Except as provided in s. 951.08 (2m), a sentencing court may order that the criminal violator may not own, possess or train any animal or type or species of animal for a period specified by the court, but not to exceed 5 years. In computing the time period, time which the person spent in actual confinement serving a sentence shall be excluded.