

SENATE BILL 356

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2001 Regular Session
(11r1451)

ENROLLED BILL
-- Judicial Proceedings/Judiciary --

Introduced by **Senators Jimeno, Collins, DeGrange, Frosh, Jacobs, Neall,
Stone, and Teitelbaum** Teitelbaum, Colburn, Lawlah, McCabe, and Van
Hollen

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER 592

1 AN ACT concerning

2 **Crimes - Aggravated Cruelty to Animals**

3 FOR the purpose of establishing as the felony of aggravated cruelty to animals certain
4 acts relating to the mutilation, torture, killing, or beating of an animal, certain
5 actions relating to dogfighting and cockfighting, and certain injuries to animals
6 owned or used by law enforcement units under certain circumstances; allowing
7 a court to order certain psychological counseling for persons convicted of certain
8 crimes involving cruelty to animals; establishing a certain exception for research
9 activities under certain circumstances; repealing certain provisions relating to
10 animal cruelty; establishing that the District Court has jurisdiction that is
11 concurrent with a circuit court in felony cases involving cruelty to animals;
12 making stylistic changes; and generally relating to animal cruelty.

13 BY repealing

14 Article 27 - Crimes and Punishments

1 Section 59
 2 Annotated Code of Maryland
 3 (1996 Replacement Volume and 2000 Supplement)

4 BY adding to
 5 Article 27 - Crimes and Punishments
 6 Section 59
 7 Annotated Code of Maryland
 8 (1996 Replacement Volume and 2000 Supplement)

9 BY repealing and reenacting, with amendments,
 10 Article - Courts and Judicial Proceedings
 11 Section 4-301(b)(13) and (14) and 4-302(a) and (d)(1)
 12 Annotated Code of Maryland
 13 (1998 Replacement Volume and 2000 Supplement)

14 BY adding to
 15 Article - Courts and Judicial Proceedings
 16 Section 4-301(b)(15)
 17 Annotated Code of Maryland
 18 (1998 Replacement Volume and 2000 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article 27 - Crimes and Punishments**

22 [59.

23 (a) Any person who (1) overdrives, overloads, deprives of necessary
 24 sustenance, tortures, torments, or cruelly beats; (2) causes, procures or authorizes
 25 these acts; or (3) having the charge or custody of an animal, either as owner or
 26 otherwise, inflicts unnecessary suffering or pain upon the animal, or unnecessarily
 27 fails to provide the animal with nutritious food in sufficient quantity, necessary
 28 veterinary care, proper drink, air, space, shelter or protection from the weather; or (4)
 29 uses or permits to be used any bird, fowl, or cock for the purpose of fighting with any
 30 other animal, which is commonly known as cockfighting; or (5) knowingly attends a
 31 deliberately conducted dogfight as a spectator, is guilty of a misdemeanor punishable
 32 by a fine not exceeding \$1,000 or by imprisonment not to exceed 90 days, or both.

33 (b) (1) Any person who (i) intentionally mutilates or cruelly kills an animal,
 34 or causes, procures, or authorizes the cruel killing or intentional mutilation of an
 35 animal; or (ii) uses or permits a dog to be used in or arranges or conducts a dogfight;
 36 or (iii) except in the case of self-defense, intentionally inflicts bodily harm, disability,
 37 or death on an animal used by a law enforcement unit, is guilty of a misdemeanor

1 punishable by a fine not exceeding \$5,000 or by imprisonment not to exceed 3 years,
2 or both.

3 (2) As a condition of sentence for a person convicted under paragraph (1)
4 of this subsection, a court may order the person to participate in psychological
5 counseling that is to be paid for by the person.

6 (c) Customary and normal veterinary and agricultural husbandry practices
7 including but not limited to dehorning, castration, docking tails, and limit feeding, are
8 not covered by the provisions of this section. In the case of activities in which physical
9 pain may unavoidably be caused to animals, such as food processing, pest elimination,
10 animal training, and hunting, cruelty shall mean a failure to employ the most
11 humane method reasonably available. It is the intention of the General Assembly that
12 all animals, whether they be privately owned, strays, domesticated, feral, farm,
13 corporately or institutionally owned, under private, local, State, or federally funded
14 scientific or medical activities, or otherwise being situated in Maryland shall be
15 protected from intentional cruelty, but that no person shall be liable for criminal
16 prosecution for normal human activities to which the infliction of pain to an animal is
17 purely incidental and unavoidable.]

18 59.

19 (A) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT ALL ANIMALS BE
20 PROTECTED FROM INTENTIONAL CRUELTY IF THEY ARE:

21 (1) PRIVATELY OWNED;

22 (2) STRAYS;

23 (3) DOMESTICATED;

24 (4) FERAL;

25 (5) FARM ANIMALS;

26 (6) CORPORATELY OR INSTITUTIONALLY OWNED;

27 (7) IN PRIVATELY, LOCALLY, STATE, OR FEDERALLY FUNDED
28 SCIENTIFIC OR MEDICAL ACTIVITIES; OR

29 (8) OTHERWISE LOCATED IN THE STATE.

30 (B) (1) A PERSON MAY NOT:

31 (I) OVERDRIVE OR OVERLOAD AN ANIMAL;

32 (II) DEPRIVE AN ANIMAL OF NECESSARY SUSTENANCE;

33 (III) CAUSE, PROCURE, OR AUTHORIZE AN ACT PROHIBITED IN ITEM
34 (I) OR ITEM (II) OF THIS PARAGRAPH;

1 (IV) WITH THE CHARGE OR CUSTODY OF AN ANIMAL, AS OWNER OR
2 OTHERWISE:

3 1. INFLECT UNNECESSARY SUFFERING OR PAIN ON THE
4 ANIMAL; OR

5 2. UNNECESSARILY FAIL TO PROVIDE THE ANIMAL WITH
6 NUTRITIOUS FOOD IN SUFFICIENT QUANTITY, NECESSARY VETERINARY CARE,
7 PROPER DRINK, AIR, SPACE, SHELTER, OR PROTECTION FROM THE WEATHER; OR

8 (V) KNOWINGLY ATTEND A DELIBERATELY CONDUCTED
9 DOGFIGHT AS A SPECTATOR.

10 (2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A
11 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:

12 (I) IMPRISONMENT NOT EXCEEDING 90 DAYS OR A FINE NOT
13 EXCEEDING \$1,000 OR BOTH; AND

14 (II) PSYCHOLOGICAL COUNSELING, AS A CONDITION OF
15 SENTENCING, THAT IS TO BE PAID FOR BY THE DEFENDANT.

16 (C) (1) A PERSON MAY NOT:

17 (I) INTENTIONALLY MUTILATE, TORTURE, CRUELLY BEAT, OR
18 CRUELLY KILL AN ANIMAL;

19 (II) CAUSE, PROCURE, OR AUTHORIZE AN ACT DESCRIBED IN ITEM
20 (I) OF THIS PARAGRAPH;

21 (III) USE OR ALLOW A DOG TO BE USED IN OR ARRANGE OR
22 CONDUCT A DOGFIGHT;

23 (IV) USE OR ALLOW TO BE USED A BIRD, FOWL, OR COCK TO FIGHT
24 WITH ANOTHER ANIMAL, COMMONLY KNOWN AS COCKFIGHTING; OR

25 (V) EXCEPT IN THE CASE OF SELF-DEFENSE, INTENTIONALLY
26 INFLECT BODILY HARM, PERMANENT DISABILITY, OR DEATH ON AN ANIMAL OWNED
27 OR USED BY A LAW ENFORCEMENT UNIT.

28 (2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF THE
29 FELONY OF AGGRAVATED CRUELTY TO ANIMALS AND ON CONVICTION IS SUBJECT
30 TO:

31 (I) IMPRISONMENT NOT EXCEEDING 3 YEARS OR A FINE NOT
32 EXCEEDING \$5,000 OR BOTH; AND

33 (II) PSYCHOLOGICAL COUNSELING, AS A CONDITION OF
34 SENTENCE, THAT IS TO BE PAID FOR BY THE DEFENDANT.

35 (D) (1) THIS SECTION DOES NOT APPLY TO:

1 (I) CUSTOMARY AND NORMAL VETERINARY AND AGRICULTURAL
2 HUSBANDRY PRACTICES, INCLUDING, BUT NOT LIMITED TO, DEHORNING,
3 CASTRATION, DOCKING TAILS, OR LIMIT FEEDING; OR

4 (II) RESEARCH CONDUCTED IN ACCORDANCE WITH PROTOCOLS
5 APPROVED BY AN ANIMAL CARE AND USE COMMITTEE, AS REQUIRED UNDER THE
6 FEDERAL ANIMAL WELFARE ACT OR THE FEDERAL HEALTH RESEARCH EXTENSION
7 ACT.

8 (2) WHEN ACTIVITIES IN WHICH PHYSICAL PAIN MAY UNAVOIDABLY BE
9 CAUSED TO ANIMALS, AS IN FOOD PROCESSING, PEST ELIMINATION, ANIMAL
10 TRAINING, OR HUNTING, "CRUELTY" MEANS A FAILURE TO EMPLOY THE MOST
11 HUMANE METHOD REASONABLY AVAILABLE.

12 (3) A PERSON MAY NOT BE HELD LIABLE FOR CRIMINAL PROSECUTION
13 FOR NORMAL HUMAN ACTIVITIES IN WHICH THE INFLICTION OF PAIN TO AN ANIMAL
14 IS PURELY INCIDENTAL AND UNAVOIDABLE.

15 Article - Courts and Judicial Proceedings

16 4-301.

17 (b) *Except as provided in § 4-302 of this subtitle, the District Court also has*
18 *exclusive original jurisdiction in a criminal case in which a person at least 18 years*
19 *old or a corporation is charged with:*

20 (13) *Violation of Article 27, § 388A of the Code; [or]*

21 (14) *Violation of Title 11, Subtitle 5 of the Financial Institutions Article;*
22 OR

23 (15) VIOLATION OF ARTICLE 27, § 59 OF THE CODE, WHETHER
24 FELONY OR MISDEMEANOR.

25 4-302.

26 (a) *Except as provided in § 4-301(b)(2), (6), (7), (8), (9), (10), (11), (12), (13),*
27 *[and] (14), AND (15) of this subtitle, the District Court does not have jurisdiction to*
28 *try a criminal case charging the commission of a felony.*

29 (d) (1) *Except as provided in paragraph (2) of this subsection, the jurisdiction*
30 *of the District Court is concurrent with that of the circuit court in a criminal case:*

31 (i) *In which the penalty may be confinement for three years or more*
32 *or a fine of \$2,500 or more; or*

33 (ii) *Which is a felony, as provided in § 4-301(b)(2), (6), (7), (8), (9),*
34 *(10), (11), (12), (13), [and] (14), AND (15) of this subtitle.*

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2001.