

# MINNESOTA STATUTES 1978

**346.01 ANIMALS; ESTRAYS, DOING DAMAGE, AT LARGE, AND CRUELTY 4974**

## CHAPTER 346

### ANIMALS; ESTRAYS, DOING DAMAGE, AT LARGE, AND CRUELTY

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#### ESTRAYS

**346.01 WHO MAY TAKE UP.** No person shall take up any estray, except horses or mules, unless such estray shall be found on lands owned or occupied by him in the town wherein he resides.

[ *RL s 2769* ] (7267)

**346.02 FINDER TO GIVE NOTICE; PENALTY.** Every finder of an estray, within seven days thereafter, shall notify the owner thereof, if to him known, and request him to pay all reasonable charges and take such estray away; but, if such owner be to him unknown, he shall within ten days file a notice with the town clerk. The clerk shall transmit a copy thereof to the county recorder, who shall record the same in a book designated "estrays book." If the estray is of less value than \$5, the finder shall give posted notice thereof in said town, but, if the value exceeds \$5, he shall give four weeks' published notice thereof. The notice shall briefly describe the estray, giving its marks, natural and artificial, as nearly as practicable, naming the residence of the finder, and specifying the town, section, and time when taken up. For failure to give such notice, the finder shall be liable to the owner of the estray in double the amount of damages sustained by him thereby.

[ *RL s 2770; 1976 c 181 s 2* ] (7268)

**346.03 APPRAISEMENT.** Every finder of an estray of the value of \$10 or more at the time of taking up shall also, within one month thereafter, cause the same to be appraised by a justice of the peace of such town, and the certificate of such appraisalment shall be filed with the town clerk. The finder shall pay the justice 50 cents for such certificate, and six cents per mile for each mile necessarily traveled to make the same.

[ *RL s 2771* ] (7269)

**346.04 CHARGES FOR KEEPING.** The person entitled to the possession of any such estray, at any time within one year after such notice is filed with the town clerk, may have the same restored to him upon proving his right thereto and paying all lawful charges that occur in relation to the same. If such person and the finder cannot agree as to the amount of such charges, or upon what should be allowed for the use of such estray, either party, on notice to the other, may apply to a justice of the peace of such town to settle the same, who for that purpose may examine witnesses on oath. If any amount shall be found due to the finder, over the value of the use of such estray, the same, with costs, shall be a lien upon such estray, and the costs of such adjudication shall abide the decision of the justice.

[ *RL s 2772* ] (7270)

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**346.05 SALE OF ESTRAY.** If no claimant for such estray shall cause its return to him as before provided, and if such estray shall not have been appraised at more than \$10, the finder shall thereupon become the owner thereof; but, if such appraised value exceeds \$10, the estray shall be sold at public auction by any constable of the county on the request of the finder. Notice thereof shall be given and the sale conducted and the same fees allowed as in case of sales upon justice's execution. The finder may bid at such sale, and at the time thereof shall deliver to such officer a statement, in writing, of his charges. After deducting such charges, if reasonable, and the costs of sale, the officer shall deposit the remainder of the money, together with the written statement and a statement of the costs of sale, with the county treasurer, taking his receipt therefor. If the finder of any such estray shall fail to cause the sale to be made, he shall pay to the town the value of the estray, to be recovered in an action by the town.

[ *RL s 2773* ] (7271)

**346.06 MONEY, HOW DISPOSED OF.** If the money so deposited be not claimed by the former owner of the estray within one year after such sale, the same shall be paid by the county treasurer into the public school fund.

[ *RL s 2774* ] (7272)

**346.07 REMOVAL OF ESTRAY; NEGLECT TO GIVE NOTICE.** If any person, without the consent of the finder, shall take away any estray taken up pursuant to this chapter, without first paying all lawful charges incurred in relation to the same, he shall be liable to the finder for the value of the estray; and, if any person taking up the estray shall neglect to comply with the provisions of this chapter, he shall be precluded from acquiring any right of property in such estray and from receiving any charges or compensation in relation thereto.

[ *RL s 2775* ] (7273)

### ANIMALS DOING DAMAGE

**346.08 DISTRAINT OF ANIMALS DOING DAMAGE.** The owner or occupant of lands may distrain any beast doing damage thereon, either while upon the premises or upon immediate pursuit of such beast escaping therefrom, and before returning to the enclosure or immediate care of the owner or keeper, and keep such beast upon his premises, or in some public ground in his town, until his damages shall be appraised, as hereinafter provided.

[ *RL s 2776* ] (7274)

**346.09 ANIMALS DOING DAMAGE.** Subdivision 1. **Notice, appraisers.** The person distraining shall give notice to the owner of such beast, if known to him, within 24 hours if he resides in the same town, and within 48 hours if he resides in another town in the same county, Sundays excepted; specifying in the notice the time when and the place where distrained, the number of beasts, and the place of their detention, and that at a time and place stated therein, which shall not be less than 12 hours after the service of the notice, nor more than three days after such distress, he will apply to a designated justice of the peace of the county for the appointment of appraisers to appraise the damages. If the owner be unknown, or does not reside in the county, the distraining person shall apply for the appointment of such appraisers within 24 hours after such distress without notice. Upon such application the justice shall appoint in writing three disinterested freeholders of such town to appraise the damages, for which the justice shall receive a fee of 50 cents.

Subd. 2. **Owners right to appraisal.** If the distraining person fails to apply for appointment of appraisers within the time designated in subdivision 1, the owner of the beasts distrained may in the same manner apply for appointment of appraisers.

[ *RL s 2777; 1953 c 8 s 1* ] (7275)

**346.10 APPRAISEMENT; PROCEDURE.** The appraisers, immediately after their appointment, shall be sworn and view the damage done. They may take the evidence of any witnesses of the facts and circumstances necessary to enable them to ascertain the extent of such damage, and the insufficiency of any line fence on the premises where the damage was done, if any dispute shall arise touching the same, and may administer oaths to such witnesses. They shall certify, under their hands, the amount of such damages, and the costs of keeping such beasts to that time, with their

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fees, not exceeding \$1 per day each; and their determination as to such damages, and the sufficiency of such fence, if in dispute, shall be conclusive.

[ *RL s 2778* ] (7276)

**346.11 TENDER BY OWNER; EFFECT.** At any time before proceedings are begun for such appraisal, or before action is brought for the recovery of damages, the owner or his agent may tender, to the person aggrieved by the depredation of such animal, the amount of damages which such owner may believe has been sustained. If the tender be accepted, no further damages shall be recovered in any way; if refused, and the person aggrieved fails to substantiate or recover as damages a sum greater than that tendered, no costs, disbursements, or expenses shall be collected or recovered in his favor, but he shall pay the costs and disbursements of such owner.

[ *RL s 2779* ] (7277)

**346.12 IMPOUNDMENTS.** Unless the damages so ascertained, together with the fees of the appraisers and justice, shall be paid within 24 hours after appraisal, the person distraining shall cause the beasts to be put into the nearest pound of the same town, if there be one; and, if not, then in some secure enclosure therein, where the same shall remain until sold, as hereinafter directed, or until the damages, fees, and the costs of keeping the beasts after appraisal shall be paid, or until otherwise seized or discharged according to law. From the time of seizure until discharged or sold, such beasts shall be furnished with suitable food, the expense of which, after the appraisal, shall be added thereto as additional costs; and, if the beasts be put in a pound, the certificate of appraisal shall be delivered to the keeper thereof.

[ *RL s 2780* ] (7278)

**346.13 POUNDMASTER; CUSTODY; SALE; TIME; NOTICE.** The poundmaster shall receive and keep in the public pound any beasts so delivered to him; and, unless seized or discharged according to law within six days, shall sell the same or as many as shall be necessary to pay such damages, fees, and costs, at public auction, giving three days posted notice thereof, and posting one such notice on the pound.

[ *RL s 2781* ] (7279)

**346.14 SALE OF ANIMAL NOT IMPOUNDED.** If, by reason of there being no pound within such town, such beasts shall be kept within some other enclosure, and shall not be discharged therefrom in the manner hereinbefore provided within six days after being placed therein, the sheriff or any constable of the county shall sell such beasts, or so many as may be necessary to pay such damages, fees, and costs of keeping, upon the same notice as is required in sales of personal property, on execution.

[ *RL s 2782* ] (7280)

**346.15 REDEMPTION.** The purchaser of any animal sold under sections 346.13 and 346.14 shall keep the same at least two months, during which time the owner may redeem such animal by paying all costs and charges of keeping, and the amount paid therefor at the sale, with interest thereon at 12 percent per annum.

[ *RL s 2783* ] (7281)

## ANIMALS AT LARGE

**346.16 RUNNING AT LARGE; DEFINED; PROHIBITED; TREBLE DAMAGES.** The herding of any animal of the species of cattle, horse, ass, mule, sheep, swine, or goat upon any land over the protest and against the will of the owner shall be deemed a running at large.

It shall be unlawful for any owner or any person having the control of any such animal to permit the same to run at large in the state.

Any person who shall knowingly permit the running at large of any such domestic animal shall be liable to the person aggrieved for treble damages sustained by him, to be recovered in a civil action brought for that purpose.

[ *1913 c 459 s 1-3* ] (7295) (7296) (7297)

**346.17 PROCEEDS OF SALE.** From the proceeds of such sale the person making it shall retain his fees therefor, which shall be the same as are allowed constables on execution sales, and the costs of keeping such beasts, and he shall pay to the distrainer the damages so certified, with fees of the appraisers and justice; and the sur-

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plus, if any, shall be paid to the owner of the beasts, if known. If no one appears at the time of the sale, or within one week thereafter, who claims such surplus, the same shall be paid to the treasurer of the town, to be paid to the owner of the beasts, if claimed within one year after the distress. If not applied for within one year, the money shall be applied to the use of the town.

[ *RL s 2784* ] (7282)

**346.18 TAKING DISTRAINED BEASTS A MISDEMEANOR.** If any person, without authority of law, and without first paying the damages and costs, takes any distrained beast out of the possession of the person making the distress, or that of the sheriff, constable, or poundmaster, as the case may be, without his consent, he shall be guilty of a misdemeanor, and shall also be liable to the person injured in double the amount of the damage done by such beasts.

[ *RL s 2785* ] (7283)

**346.19 CERTAIN MALE ANIMALS OR BREACHY CATTLE.** Subdivision 1. **Running at large; penalty.** The owner of any stallion over the age of one year, bull over the age of nine months, boar or ram over the age of three months, or of any breachy cattle, who shall suffer the same to run at large in any town, shall forfeit to such town \$5 for each day any such animal shall be so at large. "Run at large" means any animal which is not picketed, confined in a corral or otherwise restricted by a properly constructed and maintained legal fence as defined by Minnesota Statutes 1945, Section 344.02.

**Subd. 2. Owner notified; proceedings; sale.** Upon notice that any such animal is running at large, the chairman of the town board shall forthwith notify its owner, and, if he does not immediately confine such animal, the chairman shall cause suit to be brought against him, in the name of the town, to recover the forfeiture, and the animal may be sold under execution in such action to pay the forfeiture and costs.

**Subd. 3. Disposal of proceeds.** After deducting the costs and expenses of suit, all such forfeitures collected shall be paid into the town treasury for the use of the road and bridge fund.

**Subd. 4. When owner not found.** If unable to find the owner of any such animal, the chairman shall cause it to be confined in the public pound, if there be one, and, if not, in some other enclosure, for three days; and, if not then claimed, he shall cause it to be sold, at public auction, upon five days' posted notice. From the proceeds of the sale he shall deduct the amount of the forfeiture and expenses, and deposit the balance with the town treasurer, which shall be paid to the owner of the animal if applied for within one year. If not so applied for, the same shall be paid into the town treasury for the use of the town.

**Subd. 5. Castration; limitation of liability in case of rams.** If, after being notified, the owner of any such stallion, bull, boar, or ram shall permit the same to continue or again to run at large, such chairman shall forthwith cause the same to be taken up and castrated in the usual manner, and shall have a lien on such animals for the expenses of so doing, and may also recover the amount of such expenses from the owner of the animal in a civil action brought in the name of the town; provided, that any such ram running at large may be castrated without liability for damages by any person among whose sheep he shall be found. Any chairman who shall refuse or neglect to perform any of the duties required by this section shall be guilty of a misdemeanor.

[ *RL s 2793, 2794, 2795, 2796; 1947 c 448 s 1* ] (7291, 7292, 7293, 7294)

### CRUELTY TO ANIMALS

**346.20 DEFINITIONS.** The word "animal" includes every living creature except the human race; the word "torture" or "cruelty," every act, omission, or neglect whereby unnecessary or unjustifiable pain, suffering, or death shall be caused or permitted. The term "impure and unwholesome milk" includes all milk obtained from animals in a diseased or unhealthy condition, or fed on distillery waste, usually called "swill," or upon any substance in a state of putrefaction or fermentation.

[ *RL s 5151* ] (10442)

**346.21 OVERWORKING OR MISTREATING ANIMALS; PENALTY.** Subdivision 1. No person shall overdrive, overload, torture, cruelly beat, neglect, or unjustifi-

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ably injure, maim, mutilate, or kill any animal, or cruelly work any animal when unfit for labor, whether belonging to himself or another.

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

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

Subd. 4. No person shall feed any cow on food which produces impure or unwholesome milk.

Subd. 5. No person shall abandon any animal.

Subd. 6. No person shall allow any maimed, sick, infirm, or disabled animal to lie in any street, road, or other public place for more than three hours after notice.

Subd. 7. No person shall wilfully set on foot, instigate, or in any way further any act of cruelty to any animal or animals, or any act tending to produce such cruelty.

Subd. 8. No person shall cage any animal for public display purposes unless said display cage is constructed of solid material on three sides to protect the caged animal from the elements and unless the horizontal dimension of each side of said cage is at least four times the length of the caged animal. The provisions of this subdivision shall not apply to the Minnesota state agricultural society (Minnesota state fair) and to the county agricultural societies (county fairs) nor to any agricultural display of caged animals by any political subdivision of the state of Minnesota, nor to district, regional or national educational livestock or poultry exhibitions. The provisions of this subdivision do not apply to captive wildlife, the exhibition of which is regulated by section 97.611.

Subd. 9. A violation of or failure to comply with any provision of this section is a misdemeanor.

[ *RL s 5152; 1959 c 571 s 1-2; 1974 c 3 s 2* ] (10443)

**346.215 INVESTIGATION OF CRUELTY COMPLAINTS.** Subdivision 1. Any person who has reason to believe that a violation of section 346.21 has taken place or is taking place may apply to any court having jurisdiction over actions alleging violation of such section for a warrant and for investigation. The court shall examine under oath the person so applying and any witnesses he may produce and must take his affidavit or their affidavits in writing, and cause same to be subscribed by the party or parties making same. The affidavit or affidavits must set forth the facts tending to establish the grounds for believing a violation of section 346.21 has occurred or is occurring, or probable cause to believe that they exist. If the court is thereupon satisfied of the existence of the grounds of the application, or that there is probable cause to believe their existence, it shall issue a search warrant and order for investigation, signed by the judge of such court with his name of office, to a peace officer in such county, commanding him to forthwith proceed to the location of the alleged violation taking with him a doctor of veterinary medicine and commanding such peace officer to search the place designated in such warrant and together with such veterinary doctor conduct an investigation of the facts surrounding the alleged violation, retaining in his custody subject to the order of the court such property or things which are specified in such warrant, including any animal if such warrant so specifies. The warrant shall contain the names of the persons presenting affidavits in support of the application, and the grounds for its issuance. Service shall be made in accordance with the provisions of sections 626.13, 626.14, and 626.16. The warrant must be executed and returned to the court which issued such warrant within ten days after its date; after the expiration of such time the warrant, unless executed, is void. The officer executing such warrant must forthwith return the warrant to the court, and deliver to it a written inventory of the property or things taken, verified by the certificate of the officer at the foot of the inventory. The warrant and order for investigation issued pursuant to this section and section 346.216 shall have the same force and effect as a warrant issued pursuant to chapter 626.

Subd. 2. Upon a proper determination by a licensed doctor of veterinary medicine, any animal taken into custody pursuant to subdivision 1 may be immediately disposed of when such animal is suffering and is beyond cure through reasonable care and treatment.

[ *1971 c 647 s 1; 1974 c 299 s 1* ]

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**346.216 EXPENSES OF INVESTIGATION.** The expenses of the investigation authorized by section 346.215 including the fee of the doctor of veterinary medicine, the expenses of keeping or disposing of any animal taken into custody pursuant to such investigation and all other expenses reasonably incident to such investigation shall be paid by the county treasurer from the general fund of the county. If the person alleged to have violated section 346.21 is found guilty of the violation, the county shall have judgment against the guilty person for the amount of the expenses.

[ 1971 c 647 s 2; 1977 c 332 s 16 ]

**346.22 CRUELTY IN TRANSPORTATION.** Every person who shall carry, or cause to be carried, any live animals upon any vehicle or otherwise, without providing suitable racks, cars, crates, or cages in which such animals can both stand and lie down during transportation, and while awaiting slaughter; every person who shall carry, or cause to be carried, upon a vehicle or otherwise, any live animal having feet or legs tied together, or in any other cruel or inhuman manner; and every person or corporation engaged in transporting livestock who shall detain the same in cars or compartments for more than 28 consecutive hours without unloading the same in a humane manner, into properly equipped pens for rest, water, and feeding for a period of at least five consecutive hours, unless requested to do so as hereinafter provided, or unless prevented by storm or unavoidable causes which cannot be anticipated or avoided by the exercise of due diligence and foresight, or shall permit the same to be crowded together without sufficient space to stand, or so as to overlie, crush, wound, or kill each other, shall be guilty of a misdemeanor; provided, that upon the written request of the owner or person in custody of that particular shipment, which written request shall be separate and apart from any printed bill of lading, or other railroad form, the time and confinement may be extended to 36 consecutive hours.

[ RL s 5153; 1921 c 186 s 1 ] (10444)

**346.23 DOCKING HORSES.** Every person who shall cut the bony part of a horse's tail for the purpose of docking it, or cause or knowingly permit the same to be done upon premises of which he is owner, lessee, or user, or who shall assist in such cutting, shall be punished by imprisonment in the county jail for not less than 30 nor more than 90 days, or by a fine of not less than \$25 nor more than \$100. When a horse shall be found so cut, and the wound resulting unhealed, upon the premises or in the custody of any person, such fact shall constitute prima facie evidence that the offense was committed by him. All fines resulting from complaint made by an officer or agent of any society of this state for the prevention of cruelty to animals, for any offense specified in this section, shall be paid to the society whose officer or agent made the complaint.

[ RL s 5154 ] (10445)

**346.24 CLIPPED HORSES; PENALTY.** Every person having the custody of any animal which shall have had its hair removed by clipping or shearing, who, within 60 days after such clipping or shearing, and between November 1 and May 1, shall cause or permit such animal to stand on a road, street, or other unsheltered place, without being blanketed, shall be guilty of a misdemeanor.

[ RL s 5155 ] (10446)

**346.25 POISONING ANIMALS.** Any person who unjustifiably administers any poisonous, or noxious drug or substance to any animal, or procures or permits the same to be done, or unjustifiably exposes any such drug or substance with intent that the same shall be taken by any animal, whether such animal be the property of himself or another, is punishable by imprisonment in the state prison for not exceeding two years or in a county jail for not exceeding six months or by a fine of not exceeding \$500 or by both such fine and imprisonment.

[ RL s 5157 ] (10448)

**346.26 ANIMAL WITH INFECTIOUS DISEASE.** Every owner or person having charge of any animal, knowing the same to have any infectious or contagious disease, or to have recently been exposed thereto, who shall sell or barter the same, or knowingly permit such animal to run at large or come into contact with any other animal, or with another person without his knowledge and permission shall be punished by

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imprisonment in the county jail for not more than 30 days or by fine of not less than \$20 nor more than \$100.

[ *RL s 5159* ] (10450)

**346.27 EXPOSURE OF ANIMALS; DUTY OF OFFICERS.** Subdivision 1. Any sheriff, constable, statutory city marshal, police officer, or any agent of the Minnesota society or other societies for the prevention of cruelty, may remove, shelter, and care for any horse or other animal found exposed to the weather and not properly blanketed, or remaining more than one hour without attention in cold or inclement weather, or not properly fed and watered, or provided with suitable food and drink, and, when necessary, may deliver such animal to another person to be so sheltered and cared for, and furnished with suitable food and drink; but in all cases the owner, if known, shall be immediately notified, and such officer, or the person having possession of the animal, shall have a lien thereon for its care and keeping and the reasonable value of the food and drink furnished and the expenses of such notice. If the owner or custodian be unknown, and cannot by reasonable effort be ascertained, or shall not, within five days after notice, redeem such animal by paying the expenses incurred as aforesaid, it may be treated as an estray, and be dealt with as such.

Subd. 2. Upon a proper determination by a licensed doctor of veterinary medicine, any animal taken into custody pursuant to subdivision 1 may be immediately disposed of when such animal is suffering and is beyond cure through reasonable care and treatment. The expenses of such disposal shall be subject to the provisions of section 346.216.

[ *RL s 5160; 1907 c 398 s 1; 1973 c 123 art 5 s 7; 1974 c 299 s 2* ] (10451)

**346.28 INJURY TO BIRDS.** Every person who shall in any manner wantonly maim, kill, or destroy any brown thrush, bluebird, martin, swallow, wren, catbird, robin, peewee, meadowlark, or other insect-devouring bird of any kind or name, or who shall wantonly destroy the nests or eggs of any such bird shall be guilty of a misdemeanor and punished by a fine of not less than \$1 nor more than \$15.

[ *RL s 5156* ] (10447)

**346.29 COCK-FIGHTS AND DOG-FIGHTS PROHIBITED.** Every person who shall engage in, be employed at, aid, or abet cock-fighting, dog-fighting, bear-baiting, pitting one animal against another of the same or a different kind, or any other similar cruelty to animals; or who shall receive money for the admission of any person to any place used, or about to be used, for any such purpose, or shall wilfully permit any one to enter or use for any such purpose premises of which he is the owner, agent, or occupant; and every person who shall use, train, or possess a dog or other animal for the purpose of seizing, detaining, or mistreating any domestic animal shall be punished by imprisonment in the county jail for not less than ten nor more than 90 days or by a fine of not less than \$5 nor more than \$100. Every person who shall knowingly purchase a ticket of admission to any such place, be present at or witness such spectacle shall be deemed an aider and abettor.

[ *RL s 5158* ] (10449)

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

[ *1965 c 620 s 1* ]

**346.31 USE AS ADVERTISING DEVICES.** Chicks, ducklings, and goslings younger than four weeks of age may not be sold or offered for sale; raffled; or offered or given as a prize, premium, or advertising device, in quantity of less than twelve birds to an individual person unless sold by a person, firm, partnership or corporation engaged in the business of selling such chicks, ducklings, and goslings for agricultural or wildlife purposes.

[ *1965 c 620 s 2* ]

**346.32 CARE OF ANIMALS USED AS ADVERTISING DEVICES.** Stores, shops, vendors, and others offering chicks, ducklings, or goslings for sale, raffle, or as a prize, premium, or advertising device, or displaying chicks, ducklings, or goslings to the public, shall provide and operate brooders or other heating devices that may be

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necessary to maintain the chicks, ducklings, or goslings in good health, and shall keep adequate food and water available to the birds at all times.

[ 1965 c 620 s 3 ]

**346.33 VIOLATIONS.** A violation of sections 346.30 to 346.33 shall be punished by a fine of not less than \$10 nor more than \$25; provided that, after any violation has been called to the attention of the violator by any law enforcement officer, each day on which such violation continued or is repeated shall constitute a separate offense.

[ 1965 c 620 s 4 ]

**346.34 GREASED PIG CONTESTS AND TURKEY SCRAMBLES.** No person shall operate, run or participate in a contest, game, or other like activity, in which a pig, greased, oiled or otherwise, is released and wherein the object is the capture of such pig, in which a chicken or turkey is released or thrown into the air and wherein the object is the capture of such chicken or turkey. Any violation of this section shall be a misdemeanor.

[ 1971 c 649 s 1 ]