

CHAPTER 346

STRAY ANIMALS; COMPANION ANIMALS

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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 the person in the town wherein the person resides.

History: (7267) *RL s 2769; 1986 c 444*

346.02 FINDER TO GIVE NOTICE; PENALTY.

A person who finds an estray and knows who owns it shall notify the owner within seven days after finding the estray and request the owner to pay all reasonable charges and take such estray away. A finder who does not know who owns the estray 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 "estray book." The finder shall give posted notice of the finding of the estray in said town. 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 the owner thereby.

History: (7268) *RL s 2770; 1976 c 181 s 2; 1984 c 543 s 31; 1986 c 444*

346.03 APPRAISEMENT.

Every finder of an estray of the value of \$10 or more at the time of taking up shall, within one month, have it appraised by a county or municipal judge. The certificate of appraisal shall be filed with the town clerk. The finder shall pay 50 cents for the certificate and six cents per mile for each mile necessarily traveled to make the appraisal.

History: (7269) *RL s 2771; 1983 c 359 s 34*

346.04 CHARGES FOR KEEPING.

The person entitled to the possession of any estray, at any time within one year after notice is filed with the town clerk, may have it restored upon proving the right to it and paying all lawful charges that occur in relation to it. If the person and the finder cannot agree as to the amount of the charges, or upon what should be allowed for the use of the estray, either party, on notice to the other, may apply to a district court judge to settle the disagreement. The judge may examine witnesses on oath. If any amount is owed to the finder, over the value of the use of the estray, the money, with costs, shall be a lien upon the estray. The costs of the adjudication shall be allocated by the judge.

History: (7270) *RL s 2772; 1983 c 359 s 35; 1986 c 444; 1998 c 254 art 2 s 33*

346.05 SALE OF ESTRAY.

If no claimant for such estray shall cause its return to the claimant 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 peace officer 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 the finder's 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 the treasurer's receipt therefor. If the finder of any such estray shall fail to cause the sale to be made, the finder shall pay to the town the value of the estray, to be recovered in an action by the town.

History: (7271) *RL s 2773; 1986 c 444; 2005 c 10 art 2 s 2*

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.

History: (7272) *RL s 2774*

346.07 REMOVAL OF ESTRAY; NEGLIGENCE 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, the person 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, that person shall be precluded from acquiring any right of property in such estray and from receiving any charges or compensation in relation thereto.

History: (7273) *RL s 2775; 1986 c 444*

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 the distrainer's premises, or in some public ground in the distrainer's town, until the damages shall be appraised, as hereinafter provided.

History: (7274) *RL s 2776; 1986 c 444*

346.09 ANIMALS DOING DAMAGE.

Subdivision 1. **Notice; appraisers.** The person distraining shall give notice to the owner of the beast, if known to the distrainer, within 24 hours if the owner resides in the same

town, and within 48 hours if the owner resides in another town in the same county, Sundays excepted. The notice shall specify 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 the distress, the distrainer will apply to a designated judge of the county for the appointment of appraisers to appraise the damages. If the owner is unknown or does not reside in the county, the distraining person shall apply for the appointment of appraisers within 24 hours after the distress without notice. After the application, the judge shall appoint three disinterested residents of the town to appraise the damages.

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.

History: (7275) *RL s 2777; 1953 c 8 s 1; 1983 c 359 s 36; 1986 c 444; 2006 c 260 art 5 s 7*

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 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.

History: (7276) *RL s 2778*

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 the owner's 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 the aggrieved person's favor, but the aggrieved person shall pay the costs and disbursements of such owner.

History: (7277) *RL s 2779; 1986 c 444*

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.

History: (7278) *RL s 2780*

346.13 POUNDMASTER; CUSTODY; SALE; TIME; NOTICE.

The poundmaster shall receive and keep in the public pound any beasts so delivered to the poundmaster; 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.

History: (7279) *RL s 2781; 1986 c 444*

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 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.

History: (7280) *RL s 2782; 2005 c 10 art 2 s 4*

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.

History: (7281) *RL s 2783*

POSSESSING REGULATED ANIMALS**346.155 POSSESSING REGULATED ANIMALS.**

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Person" means any natural person, firm, partnership, corporation, or association, however organized.

(c) "Wildlife sanctuary" means a 501(c)(3) nonprofit organization that:

(1) operates a place of refuge where abused, neglected, unwanted, impounded, abandoned, orphaned, or displaced wildlife are provided care for their lifetime;

(2) does not conduct any commercial activity with respect to any animal of which the organization is an owner; and

(3) does not buy, sell, trade, auction, lease, loan, or breed any animal of which the organization is an owner, except as an integral part of the species survival plan of the American Zoo and Aquarium Association.

(d) "Possess" means to own, care for, have custody of, or control.

(e) "Regulated animal" means:

(1) all members of the Felidae family including, but not limited to, lions, tigers, cougars, leopards, cheetahs, ocelots, and servals, but not including domestic cats or cats recognized as a domestic breed, registered as a domestic breed, and shown as a domestic breed by a national or international multibreed cat registry association;

(2) bears; and

(3) all nonhuman primates, including, but not limited to, lemurs, monkeys, chimpanzees, gorillas, orangutans, marmosets, lorises, and tamarins.

Regulated animal includes any hybrid or cross between an animal listed in clause (1), (2), or (3) and a domestic animal and offspring from all subsequent generations of those crosses or hybrids.

(f) "Local animal control authority" means an agency of the state, county, municipality, or other governmental subdivision of the state that is responsible for animal control operations in its jurisdiction.

(g) "Bodily harm," "substantial bodily harm," and "great bodily harm" have the meanings given them in section 609.02.

Subd. 2. **Possession of regulated animals.** (a) Except as provided in this section, it is unlawful for a person to possess a regulated animal.

(b) A person who possesses a regulated animal on January 1, 2005, has 90 days to come into compliance with regulations promulgated by the United States Department of Agriculture for regulated animals under the Animal Welfare Act, Public Law 89-544, and its subse-

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quent amendments, and the regulations adopted under that act relating to facilities and operations, animal health and husbandry, and veterinary care for regulated animals.

(c) Except as provided in paragraph (e), a person must not take possession of a regulated animal after January 1, 2005.

(d) Except as provided in paragraph (e), a person must not allow regulated animals in their possession to breed after January 1, 2005.

(e) Except as provided in paragraph (g), a person who possesses a valid United States Department of Agriculture license and is in compliance with the United States Department of Agriculture Animal Welfare Act regulations and standards on January 1, 2005, may breed, purchase, or otherwise acquire new regulated animals after January 1, 2005, in order to:

- (1) maintain the operating inventory of regulated animals possessed on January 1, 2005;
- (2) sell regulated animals to other United States Department of Agriculture licensed and compliant facilities within Minnesota for replacement purposes as provided in clause (1);
- (3) sell regulated animals outside Minnesota; or
- (4) sell regulated animals to persons eligible under paragraph (f). Offspring under six months of age shall not be counted for the purpose of determining the number of replacement animals that can be possessed under this paragraph.

(f) Except as provided in paragraph (g), a person who does not hold a United States Department of Agriculture license for regulated animals, possesses a regulated animal on January 1, 2005, and has properly registered the animal may replace the regulated animal if it dies, but may replace it only once.

(g) If a regulated animal dies of neglect or cruelty, is seized pursuant to subdivision 5, or if the person is involved in illegal activities, the person cannot acquire a replacement animal.

Subd. 3. Registration. (a) Within 60 days after January 1, 2005, a person who possesses a regulated animal must notify in writing the local animal control authority using a registration form prepared by the Minnesota Animal Control Association and approved by the Board of Animal Health. The notification shall include the person's name, address, telephone number, and a complete inventory of each regulated animal that the person possesses. The inventory shall include the following information: number and species of each regulated animal; the microchip number and manufacturer for each regulated animal if available; the exact location where each regulated animal is kept; and age, sex, color, weight, scars, and any distinguishing marks of each regulated animal.

(b) If a person who possesses a regulated animal has a microchip implanted in the animal for identification, the name of the microchip manufacturer and the identification number of the microchip must be provided to the local animal control authority. If a regulated animal is sedated for any reason and the animal does not have a microchip implanted, a microchip must be implanted in the regulated animal. Within 30 days after the microchip is implanted, the name of the microchip manufacturer and the identification number of the microchip must be provided to the local animal control authority. A person selling or transferring ownership of offspring under six months of age as provided in subdivision 2, paragraph (e), is encouraged to have a microchip implanted in the animal prior to the sale or transfer. Within 30 days of acquisition, a person acquiring ownership of an offspring with a microchip implanted shall comply with microchip information reporting requirements under this section.

(c) If a local animal control authority performs an initial site inspection, a fee of up to \$50 may be charged. An annual fee of \$25 per animal to register regulated animals up to a maximum of \$250 annually per person may be charged. The local animal control authority may charge an additional site inspection fee of \$50 if the person acquires and possesses another type of regulated animal. A certificate of registration must be issued by the local animal control authority to the person upon payment of the fee.

Subd. 4. Requirements. (a) A person who possesses a regulated animal must maintain health and ownership records on each animal and must maintain the records for the life of the

animal. If possession of the regulated animal is transferred to another person, a copy of the health and ownership records must accompany the animal.

(b) A person who possesses a regulated animal must maintain an ongoing program of veterinary care which includes a veterinary visit to the premises at least annually.

(c) A person who possesses a regulated animal must notify the local animal control authority in writing within ten days of a change in address or location where the regulated animal is kept. The notification of change in address or location form must be prepared by the Minnesota Animal Control Association and approved by the Board of Animal Health.

(d) A person with a United States Department of Agriculture license for regulated animals shall forward a copy of the United States Department of Agriculture inspection report to the local animal control authority within 30 days of receipt of the inspection report.

(e) A person who possesses a regulated animal shall prominently display a sign on the structure where the animal is housed indicating that a dangerous regulated animal is on the premises.

(f) A person who possesses a regulated animal must notify, as soon as practicable, local law enforcement officials of any escape of a regulated animal. The person who possesses the regulated animal is liable for any costs incurred by any person, city, county, or state agency resulting from the escape of a regulated animal unless the escape is due to a criminal act by another person or a natural event.

(g) A person who possesses a regulated animal must maintain a written recovery plan in the event of the escape of a regulated animal. The person must maintain live traps, or other equipment necessary to assist in the recovery of the regulated animal.

(h) A person may not move a regulated animal from its location unless the person notifies the local animal control authority prior to moving the animal. The notification must include the date and the location where the animal is to be moved. This paragraph does not apply to a regulated animal transported to a licensed veterinarian.

(i) If a person who possesses a regulated animal can no longer care for the animal, the person shall take steps to find long-term placement for the regulated animal.

Subd. 5. Seizure. (a) The local animal control authority, upon issuance of a notice of inspection, must be granted access at reasonable times to sites where the local animal control authority has reason to believe a violation of this chapter is occurring or has occurred.

(b) If a person who possesses a regulated animal is not in compliance with the requirements of this section, the local animal control authority shall take possession of the animal for custody and care, provided that the procedures in this subdivision are followed.

(c) Upon request of a person possessing a regulated animal, the local animal control authority may allow the animal to remain in the physical custody of the owner for 30 days, during which time the owner shall take all necessary actions to come in compliance with this section. During the 30-day period, the local animal control authority may inspect, at any reasonable time, the premises where the animal is kept.

(d) If a person who possesses a regulated animal is not in compliance with this section following the 30-day period described in paragraph (c), the local animal control authority shall seize the animal and place it in a holding facility that is appropriate for the species for up to ten days.

(e) The authority taking custody of an animal under this section shall provide a notice of the seizure by delivering or mailing it to the owner, by posting a copy of it at the place where the animal is taken into custody, or by delivering it to a person residing on the property. The notice must include:

(1) a description of the animal seized; the authority for and purpose of the seizure; the time, place, and circumstances under which the animal was seized; and a contact person and telephone number;

(2) a statement that a person from whom a regulated animal was seized may post security to prevent disposition of the animal and may request a hearing concerning the seizure and

that failure to do so within five business days of the date of the notice will result in disposition of the animal;

(3) a statement that actual costs of the care, keeping, and disposal of the regulated animal are the responsibility of the person from whom the animal was seized, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law; and

(4) a form that can be used by a person from whom a regulated animal was seized for requesting a hearing under this subdivision.

(f) If a person from whom the regulated animal was seized makes a request within five business days of the seizure, a hearing must be held within five business days of the request to determine the validity of the seizure and disposition of the animal. The judge or hearing officer may authorize the return of the animal to the person from whom the animal was seized if the judge or hearing officer finds:

(1) that the person can and will provide the care required by law for the regulated animal; and

(2) the regulated animal is physically fit.

(g) If a judge or hearing officer orders a permanent disposition of the regulated animal, the local animal control authority may take steps to find long-term placement for the animal with a wildlife sanctuary, persons authorized by the Department of Natural Resources, or an appropriate United States Department of Agriculture licensed facility.

(h) A person from whom a regulated animal is seized is liable for all actual costs of care, keeping, and disposal of the animal, except to the extent that a court or hearing officer finds that the seizure was not substantially justified by law. The costs must be paid in full or a mutually satisfactory arrangement for payment must be made between the local animal control authority and the person claiming an interest in the animal before return of the animal to the person.

(i) A person from whom a regulated animal has been seized under this subdivision may prevent disposition of the animal by posting security in the amount sufficient to provide for the actual costs of care and keeping of the animal. The security must be posted within five business days of the seizure, inclusive of the day of the seizure.

(j) If circumstances exist threatening the life of a person or the life of any animal, local law enforcement or the local animal control authority may seize a regulated animal without an opportunity for hearing or court order, or destroy the animal.

Subd. 6. Disposal of animals. Upon proper determination by a Minnesota licensed veterinarian, any regulated animal taken into custody under this section may be immediately disposed of when the regulated animal is suffering and is beyond cure through reasonable care and treatment. The authority taking custody of the regulated animal may recover all costs incurred under this section.

Subd. 7. Exemptions. This section does not apply to:

(1) institutions accredited by the American Zoo and Aquarium Association;

(2) a wildlife sanctuary;

(3) fur-bearing animals, as defined in section 97A.015, possessed by a game farm that is licensed under section 97A.105, or bears possessed by a game farm that is licensed under section 97A.105;

(4) the Department of Natural Resources, or a person authorized by permit issued by the commissioner of natural resources pursuant to section 97A.401, subdivision 3;

(5) a licensed or accredited research or medical institution; or

(6) a United States Department of Agriculture licensed exhibitor of regulated animals while transporting or as part of a circus, carnival, rodeo, or fair.

Subd. 8. License transfer. Nothing in this section precludes a person who holds a valid United States Department of Agriculture license from selling or transferring the entire business and the regulated animals covered by that license to another person who holds a valid United States Department of Agriculture license.

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Subd. 9. **Report to Board of Animal Health.** By July 1 each year, a local animal control authority shall report to the Board of Animal Health on regulated animals registered with the local animal control authority. The report shall include all registration information submitted to the local animal control authority under subdivision 3, paragraph (a), and information on enforcement actions taken under this section.

Subd. 9a. **Confinement and control.** A person violates this subdivision who possesses a regulated animal and negligently fails to control the animal or keep it properly confined and as a result the animal causes bodily harm, substantial bodily harm, or great bodily harm to another person.

Subd. 10. **Penalty.** (a) A person who knowingly violates subdivision 2, 3, paragraph (b) or (c), or 4 is guilty of a misdemeanor.

(b) A person who knowingly violates subdivision 3, paragraph (a), is guilty of a gross misdemeanor.

(c) A person who violates subdivision 9a, resulting in bodily harm is guilty of a misdemeanor and may be sentenced to imprisonment for not more than 90 days or to payment of a fine of not more than \$1,000, or both.

(d) A person who violates subdivision 9a, resulting in substantial bodily harm is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

(e) A person who violates subdivision 9a, resulting in great bodily harm or death is guilty of a felony and may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$5,000, or both, unless a greater penalty is provided elsewhere.

History: 2004 c 264 s 1; 2006 c 260 art 1 s 5-9

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 the aggrieved person, to be recovered in a civil action brought for that purpose.

History: (7295, 7296, 7297) 1913 c 459 s 1-3; 1986 c 444

346.17 PROCEEDS OF SALE.

From the proceeds of such sale the person making it shall retain sales fees, which shall be the same as are allowed on execution sales, and the costs of keeping such beasts, and shall pay to the distrainer the damages so certified, with fees of the appraisers and justice; and the surplus, 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.

History: (7282) RL s 2784; 1986 c 444; 2005 c 10 art 2 s 4

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 or poundmaster, as the case may be, without the possessor's consent, the taker 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.

History: (7283) *RL s 2785; 1986 c 444; 2005 c 10 art 2 s 4*

346.19 [Repealed, 2001 c 21 s 1]

346.20 [Renumbered 343.20]

346.21 [Renumbered 343.21]

346.215 [Renumbered 343.22]

346.216 [Renumbered 343.23]

346.22 [Renumbered 343.24]

346.23 [Renumbered 343.25]

346.24 [Renumbered 343.26]

346.25 [Renumbered 343.27]

346.26 [Renumbered 343.28]

346.27 [Renumbered 343.29]

346.28 [Renumbered 343.30]

346.29 [Renumbered 343.31]

346.30 [Renumbered 343.32]

346.31 [Renumbered 343.33]

346.32 [Renumbered 343.34]

346.33 [Renumbered 343.35]

346.34 [Renumbered 343.36]

PET AND COMPANION ANIMAL WELFARE ACT

346.35 CITATION.

Sections 346.35 to 346.44 may be cited as the "Pet and Companion Animal Welfare Act."

History: *1983 c 358 s 1*

346.36 DEFINITIONS.

Subdivision 1. **Scope.** Sections 346.35 to 346.44 shall only apply to veterinarians, animal boarding facilities, and commercial animal facilities. As used in sections 346.35 to 346.44 the terms defined in this section have the meanings given them.

Subd. 2. **Abuse.** "Abuse" means intentionally causing unnecessary pain, injury, suffering, or harassment to a pet or companion animal.

Subd. 3. **Cruelty.** "Cruelty" means causing or allowing unnecessary pain, suffering, or unjustifiable injury or death to a pet or companion animal.

Subd. 4. **Expert opinion.** "Expert opinion" means the opinion of at least one licensed Minnesota veterinarian selected by an investigating officer.

Subd. 5. **Neglect.** "Neglect" means failure to provide the minimum care required for the health and well-being of a pet or companion animal.

Subd. 6. **Pet or companion animal.** "Pet" or "companion animal" means a nonhuman mammal, bird, or reptile impounded or held for breeding, or possessed by, cared for, or controlled by a person for the present or future enjoyment of that person or another.

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Subd. 7. **Shelter; confinement area.** "Shelter" or "confinement area" means an enclosure provided to protect or confine a pet or companion animal when it is not in transit.

History: 1983 c 216 art 2 s 14; 1983 c 358 s 2

346.37 GENERAL PROVISIONS.

Subdivision 1. **Abandoned animals.** (a) If an animal is left with a veterinarian, boarding facility, or commercial facility pursuant to a written agreement with the owner or person in possession of the animal and the owner or lawful possessor of the animal has not claimed the animal within ten days after notice in accordance with paragraph (b) or (d), the animal is abandoned and the owner has no further rights or claim to the animal.

(b) The notice required under paragraph (a), must be given by the veterinarian, boarding facility, or commercial facility to the owner or the owner's agent at the person's last known address by certified mail, return receipt requested, or may be served upon the owner or owner's agent in the manner that a summons is served in a civil court action in the district courts. The notice must notify the owner or owner's agent that the animal may be redeemed by paying all prior expenses incurred within ten days or the animal is abandoned and will be disposed of in accordance with this subdivision.

(c) If the animal is not claimed within ten days, the veterinarian, boarding facility, or commercial facility becomes the owner of the animal and the animal may be disposed of by the veterinarian, boarding facility, or commercial facility as they consider proper. Upon the veterinarian, boarding facility, or commercial facility becoming the owner of the animal, the veterinarian, boarding facility, or commercial facility is relieved of any liability for disposal of the animal.

(d) If the notice under paragraph (c) is not given to the owner or owner's agent, or if the address of the owner or owner's agent is not known, notice must be given by the veterinarian, boarding facility, or commercial facility by publishing one notice in a legal newspaper circulated in the county where the animal was delivered to the veterinarian, boarding facility, or commercial facility not less than ten days before the animal is to become the property of the veterinarian, boarding facility, or commercial facility under paragraph (c). The published notice must contain the information required in paragraph (b).

(e) Each veterinarian, boarding facility, or commercial facility shall warn its patrons of the provisions of this subdivision by a conspicuously posted notice or by conspicuous type in a written document delivered to the owner or the owner's agent.

Subd. 2. **Good Samaritans.** A person is not liable for rendering humane assistance to an injured pet or companion animal.

Subd. 3. **Cruel training or handling.** A person may not inflict cruelty on a pet or companion animal by the use of a cruel training or handling device or method.

Subd. 4. **Health care.** Adequate health care, including parasite and pest control, must be provided to each pet or companion animal.

Subd. 5. **Interpretation of terms.** A dispute as to the meaning of "abuse," "cruelty," or "neglect" shall be resolved by an expert opinion.

Subd. 6. **Reports of abuse, cruelty, or neglect.** A veterinarian must report known or suspected cases of abuse, cruelty, or neglect to peace officers and humane agents as provided in 343.12 and 343.29.

History: 1983 c 358 s 3; 1987 c 394 s 10; 1994 c 401 s 1

346.38 EQUINES.

Subdivision 1. **Definition.** "Equines" are horses, ponies, mules, and burros.

Subd. 2. **Food.** Equines must be provided with food of sufficient quantity and quality to allow for normal growth or the maintenance of body weight. Feed standards shall be those recommended by the National Research Council.

Subd. 3. **Water.** Equines must be provided with clean, potable water in sufficient quantity to satisfy the animal's needs or supplied by free choice. Snow or ice is not an adequate water source.

Subd. 4. **Shelter.** Equines must be provided a minimum of free choice protection or constructed shelter from adverse weather conditions, including direct rays of the sun in extreme heat or cold, wind, or precipitation. Natural or constructed shelters must be of sufficient size to provide the necessary protection. Constructed shelters must be structurally sound, free of injurious matter, maintained in good repair, and ventilated. Outside exercise paddocks for equines do not require separate constructed shelter where a shelter is accessible to the equine on adjacent or other accessible areas of the property provided that equines are not kept in outdoor exercise paddocks during adverse weather conditions.

Subd. 5. **Space and cleanliness requirements.** Constructed shelters except for tie stalls must provide space for the animal to: (1) roll with a minimum danger of being cast; or (2) easily stand, lie down, and turn around. Stalls must be cleaned and kept dry to the extent the animal is not required to lie or stand in fluids. Bedding must be provided in all stalls, kept reasonably clean, and periodically changed. The nature of the bedding must not pose a health hazard to the animal.

Subd. 6. **Exercise.** Equines must be provided opportunity for periodic exercise, either through free choice or through a forced work program, unless exercise is restricted by a licensed veterinarian.

Subd. 7. **Hoof care.** All equines must have their hooves properly trimmed periodically to prevent lameness.

Subd. 8. **Transportation.** A vehicle used to transport an equine must have a floor capable of supporting the animal's weight safely. Floors must be of nonskid construction or of nonskid material sufficient to provide the animal with traction while in transport. A minimum of 12 inches must be allowed between the withers of the largest equine and the structure above the animal while it is in a natural standing position. Sturdy partitions must be provided at a minimum of approximately every ten feet inside the vehicle. Interior compartments of transporting vehicles must be of smooth construction with no protruding or sharp objects and must provide ventilation. Food and water must be provided in sufficient quantities to minimize stress and maintain hydration.

History: 1983 c 358 s 4; 1986 c 444; 1998 c 402 s 3,4

346.39 DOGS AND CATS.

Subdivision 1. **Food.** Dogs and cats must be provided with food of sufficient quantity and quality to allow for normal growth or the maintenance of body weight. Feed standards shall be those recommended by the National Research Council.

Subd. 2. **Water.** Dogs and cats must be provided with clean, potable water in sufficient quantity to satisfy the animal's needs or supplied by free choice. Snow or ice is not an adequate water source.

Subd. 3. **Transportation and shipment.** When dogs or cats are transported in crates or containers, the crates or containers must be constructed of nonabrasive wire or a smooth, durable material suitable for the animals. Crates and containers must be clean, adequately ventilated, contain sufficient space to allow the animals to turn around, and provide maximum safety and protection to the animals. Exercise for 20 to 30 minutes and water must be provided at least once every eight hours. Food must be provided at least once every 24 hours or more often, if necessary, to maintain the health and condition of the animals.

Subd. 4. **Shelter size.** A confinement area must provide sufficient space to allow each animal to turn about freely and to easily stand, sit, and lie in a normal position. Each confined animal must be provided a minimum square footage of floor space as measured from the tip of its nose to the base of its tail, plus 25 percent, expressed in square feet. The formula for computing minimum square footage is: (length of animal plus 25 percent) times (length of animal plus 25 percent), divided by 144. A shaded area must be provided sufficient to protect the animal from the direct rays of the sun at all times during the months of May to October.

Subd. 5. **Exercise.** All dogs and cats must be provided the opportunity for periodic exercise, either through free choice or through a forced work program, unless exercise is restricted by a licensed veterinarian.

Subd. 6. **Group housing and breeding.** Animals housed together must be kept in compatible groups. Animals must not be bred so often as to endanger their health.

Subd. 7. **Temperature.** Confinement areas must be maintained at a temperature suitable for the animal involved.

Subd. 8. **Ventilation.** An indoor confinement area must be ventilated. Drafts, odors, and moisture condensation must be minimized. Auxiliary ventilation, such as exhaust fans, vents, and air conditioning, must be used when the ambient temperature rises to a level that may endanger the health of the animal.

Subd. 9. **Lighting.** An indoor confinement area must have at least eight-hours of illumination sufficient to permit routine inspection and cleaning.

Subd. 10. **Confinement and exercise area surfaces.** Where applicable, the interior surfaces of confinement and exercise areas, including crates or containers, must be constructed and maintained so that they are substantially impervious to moisture and may be readily cleaned. They must protect the animal from injury and be kept in good repair.

Subd. 11. **Drainage.** Where applicable, a suitable method must be used to rapidly eliminate excess fluids from confinement areas.

Subd. 12. **Sanitation.** Food and water receptacles must be accessible to each animal and located so as to minimize contamination by excreta. Feeding and water receptacles must be kept clean. Disposable food receptacles must be discarded when soiled. Measures must be taken to protect animals from being contaminated with water, wastes, and harmful chemicals. Wastes must be disposed of properly. Where applicable, flushing methods and a disinfectant must be used periodically. Bedding, if used, must be kept clean and dry. Outdoor enclosures must be kept clean and base material replaced as necessary.

History: 1983 c 358 s 5

346.40 PET BIRDS.

Subdivision 1. **Food.** Birds must be fed at least once each day except as otherwise required to provide adequate health care. The food must be wholesome, palatable, and of sufficient quantity and nutritive value to meet the normal daily requirements for the condition and size of the bird, and must be free from contamination.

Subd. 2. **Water.** Except for birds in shipment for less than four hours, all birds must be provided with clean, potable water in sufficient quantity to satisfy the bird's needs or supplied by free choice. Snow or ice is not an adequate water source.

Subd. 3. **Transportation.** Birds may be transported only in containers constructed of a smooth, durable material. Containers must:

- (a) be suitable for the species being shipped;
- (b) be constructed to prevent escape or chewing of the container by the bird that may be injurious to the health of the bird;
- (c) have ventilation on only one side to prevent cross drafts;
- (d) provide enough space for the bird to stand up, turn around, and obtain necessary food, water, and roosting space;
- (e) have fresh food and water available to the bird at all times if the shipping period exceeds four hours.

Subd. 4. **Shelter or cage construction.** A shelter or cage for a bird must be constructed of materials that are impervious to moisture and can be readily cleaned. Perches or other space must be provided to allow the bird to roost without physical harassment from other birds.

Subd. 5. **Exercise.** Room must be provided for a bird to obtain exercise to maintain itself in good health.

Subd. 6. **Temperature.** A confinement area must be maintained at a temperature suitable for the bird involved.

Subd. 7. **Ventilation.** A bird shelter or cage must provide ventilation with minimized drafts, odors, and moisture condensation.

Subd. 8. **Lighting.** Shelters or cages for birds must have at least eight hours of either natural or artificial light to allow for intake of food and water. Lighting must be of sufficient intensity and distribution to permit routine inspection and cleaning on a regular basis.

Subd. 9. **Sanitation.** Excreta must be removed from the bottom of a bird cage on a regular basis to prevent the contamination of the caged bird. The cage, perches, and food and water receptacles must be cleaned on a regular basis.

History: 1983 c 358 s 6

346.41 RODENTS.

Subdivision 1. **Food.** Food must be made available to every pet rodent at least once a day. This food must be fresh, wholesome, palatable, free from contamination, and of sufficient nutritive value to meet the normal daily requirements necessary to maintain the health and condition of the animal.

Subd. 2. **Water.** A pet rodent must be provided with clean, potable water in sufficient quantity to satisfy the animal's needs or supplied by free choice. Snow or ice is not an adequate water source.

Subd. 3. **Transportation.** Rodents may be transported only in containers constructed of a smooth, durable material. Containers must:

- (a) be constructed so as to prevent escape or injury by chewing;
- (b) provide fresh air to each contained animal and yet prevent exposure to injurious drafts;
- (c) provide enough space for each animal to stand up, turn around, and obtain necessary food and water;
- (d) have fresh food and water available to each animal during all shipping periods exceeding six hours. Food and water requirements may be met by providing vegetables or fruits sufficient to meet an animal's food and water needs.

Subd. 4. **Shelter and cage construction.** Shelters or cages must be constructed in a manner that allows cleaning of the entire surface area. The materials used must be of sufficient strength to prevent escape or injury by chewing and to protect the animal from predators.

A shelter or cage with a solid bottom must be constructed of materials that are impervious to moisture. A shelter or cage with a wire or mesh bottom must be constructed to allow excreta to pass through the spaces in the wire or mesh. The wire or mesh floor must be constructed to prevent injury to the feet and legs of the animals.

Outdoor confinement areas must provide sufficient shade to protect the animal from the direct rays of the sun and shelter the animal from rain or snow.

Subd. 5. **Exercise.** A shelter or cage must be of sufficient height and have sufficient floor space to allow the caged animals to obtain proper exercise and maintain good health.

Subd. 6. **Temperature.** A confinement area must be maintained at a temperature suitable for the confined animal.

Subd. 7. **Ventilation.** A shelter or cage must provide ventilation to the confined animals. It must be constructed to minimize drafts, odors, and moisture condensation. Additional ventilation must be provided when the ambient temperature rises to a level that may endanger the health of the animal.

Subd. 8. **Lighting.** Lighting of sufficient intensity and distribution must be available to permit routine inspection and regular cleaning.

Subd. 9. **Sanitation.** A shelter or cage must be cleaned on a regular basis to prevent the accumulation of excreta, hair, contaminated or wet litter, and uneaten or contaminated food. If the shelter or cage has a solid floor, the floor must be covered with clean, dry bedding which must be changed at least once a week. If the shelter or cage has a wire or mesh floor, the catch pans or troughs under the cage must be cleaned at least once a week. If the cage or shelter becomes soiled or wet to a degree that may be harmful to the caged animals due to water

leakage, dead animals, or spoiled foods, the animals must be transferred to clean, dry quarters as soon as possible after discovery of the condition. The shelter or cage, and food and water receptacles, must be regularly cleaned.

Subd. 10. **Chewing materials.** A rodent must be provided with materials that allow necessary chewing to prevent detrimental overgrowth of the animal's teeth.

History: 1983 c 358 s 7

346.42 OTHER ANIMALS.

Animals not covered in detail in sections 346.38 to 346.41 must be maintained in accordance with a general standard of care necessary for the species as determined by an expert opinion.

History: 1983 c 358 s 8

346.43 FARM ANIMALS EXCLUDED.

Sections 346.35 to 346.44 do not apply to the care or treatment of an agricultural or farm animal which is used for food or other products or any other agricultural use.

History: 1983 c 358 s 9

346.44 PENALTIES.

Except where otherwise indicated, a person found guilty of failure to comply with a provision of sections 346.36 to 346.42 is guilty of a misdemeanor.

History: 1983 c 358 s 10

DOGS; CATS; ANIMAL SHELTERS; RESEARCH ANIMALS

346.50 DOGS; IDENTIFICATION.

An owner or custodian of a dog who permits the dog to be uncontrolled off the owner's or custodian's premises shall have the dog identified in one of the following ways:

(1) by a device, tag, or plate attached to the dog by a collar, harness, or device giving the name, address, and telephone number of the current owner;

(2) by an electronically activated identification device within or attached to the body of the dog through which the owner can be promptly identified;

(3) by a number legibly tattooed on the thigh, abdomen, or ear of the dog through which the owner can be promptly identified using information from official dog registries, city or county registries, veterinary hospital registries, or driver's license records;

(4) by an official license tag of a city or county through which the owner can be promptly identified; or

(5) by a current rabies vaccination tag or other identification device of a city, a county, or a veterinarian through which the owner can be promptly identified.

History: 1985 c 294 s 1

346.51 BITES.

An owner or custodian of a dog which does not have an appropriate antirabies vaccination and which bites or otherwise exposes a person to rabies virus may be penalized under section 346.53.

History: 1985 c 294 s 2

346.52 LOCAL PROGRAMS.

Sections 346.50 to 346.54 do not prohibit or restrict a local governmental unit from imposing an identification or rabies control program with more restrictive provisions or prohibiting dogs from running uncontrolled.

History: 1985 c 294 s 3

346.53 PENALTIES.

Violation of sections 346.50 and 346.51 is a petty misdemeanor.

History: 1985 c 294 s 4

346.54 NOTIFICATION OF OWNERS.

Animal shelter personnel who receive animals shall check for identification on each animal, identify the owner by the identification whenever possible, and promptly notify the owner of the location of the animal by the most expedient means.

History: 1985 c 294 s 5

346.55 CIVIL LIABILITY.

Subdivision 1. **Penalty.** The transfer by a person other than the owner of a dog or cat to a dealer, the possession of a dog or cat by a dealer without the permission of the owner, or the transfer of a dog or cat by a dealer to an institution without the permission of the owner is prohibited. Nothing in this section prohibits the transfer of a dog or cat to a dealer if the dog or cat is removed from a property by or at the request of a person in possession of the property. For the purpose of this subdivision, "dealer" and "institution" have the meanings given them in section 347.31.

A person who transfers or possesses a dog or cat without claim of right with intent to deprive the owner permanently of possession of the dog or cat violates this section and is liable for a civil penalty of up to \$1,000 per dog or cat for each violation. In bringing a civil action under this section the charging attorney shall consider, and in imposing a fine the court shall consider:

- (1) the history of previous violations;
- (2) the number of violations;
- (3) the degree of willfulness of the violation;
- (4) the good faith of the dealer;
- (5) the good faith of the person delivering the dog or cat to the dealer; and
- (6) the gravity of the violation.

A fine paid by the defendant in a criminal action that arose from the same violation may not be applied toward payment of the civil penalty under this subdivision.

Subd. 2. **Jurisdiction.** The district court may hear, try, and determine actions started under this section. Trials under this section must be to the court, sitting without a jury.

Subd. 3. **Appearances.** Notwithstanding section 8.01, county or city attorneys may appear for the board of animal health in civil actions started under this section at the request of the attorney general. Actions under this section may be brought in the name of the state of Minnesota with the consent of the Board of Animal Health or directly by a city or county attorney at the request of a person filing a complaint.

Subd. 4. **Venue.** Civil actions under this section may be started in any county in which the animal in question was transferred or possessed, or from which the dog or cat was removed without the permission of the lawful owner.

Subd. 5. **Fines.** Fines collected under this section must be disposed of as follows:

- (a) If the violation occurs in the county, and the county attorney appears in the action, 50 percent to the county and 50 percent to the state.
- (b) If the violation occurs within the municipality, and the city attorney appears in the action, 50 percent to the city and 50 percent to the state.
- (c) If the attorney general appears in the action, all penalties imposed and fines collected must be credited to the general fund in the state treasury.

History: 1987 c 380 art 3 s 1; 1998 c 254 art 2 s 34

346.56 UNAUTHORIZED RELEASE OF ANIMALS.

Subdivision 1. [Repealed, 1989 c 55 s 3]

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Subd. 2. Liability for damages. A person who without permission releases an animal lawfully confined for science, research, commerce, or education is liable:

(1) to the owner of the animal for damages, including the costs of restoring the animal to confinement and to its health condition prior to release;

(2) for damage to personal and real property caused by the released animal;

(3) if the release causes the failure or interruption of an experiment, for all costs of repeating the experiment, including replacement of the animals, labor, and materials; and

(4) for any other damage the person causes to property in the facility from which the animal was released.

Subd. 3. Amount of damages. A person who is damaged under subdivision 2, clause (3) or (4), is entitled to recover a minimum of \$5,000 or three times the actual damages incurred by that person under subdivision 2, clause (3) or (4), whichever is greater, and punitive damages, costs, and reasonable attorney fees.

Subd. 4. Third party liability; presumption. A person or organization who plans or assists in the development of a plan to release, without permission, an animal lawfully confined for science, research, commerce, or education, or who otherwise aids, advises, hires, counsels, or encourages another to commit the act is jointly and severally liable for all damages under subdivision 3. There is a rebuttable presumption that a person or organization who claims responsibility for the act is liable under this subdivision.

History: 1988 c 535 s 1; 1989 c 55 s 1; 1999 c 216 art 6 s 14

346.57 DOGS AND CATS IN MOTOR VEHICLES.

Subdivision 1. Unattended dogs or cats. A person may not leave a dog or a cat unattended in a standing or parked motor vehicle in a manner that endangers the dog's or cat's health or safety.

Subd. 2. Removal of dogs or cats. A peace officer, as defined in section 626.84, a humane agent, a dog warden, or a volunteer or professional member of a fire or rescue department of a political subdivision may use reasonable force to enter a motor vehicle and remove a dog or cat which has been left in the vehicle in violation of subdivision 1. A person removing a dog or a cat under this subdivision shall use reasonable means to contact the owner of the dog or cat to arrange for its return home. If the person is unable to contact the owner, the person may take the dog or cat to an animal shelter.

Subd. 3. Petty misdemeanor. A person who violates subdivision 1 is subject to a fine of \$25.

History: 1988 c 711 s 6

346.58 DOGS AND CATS; BEST MANAGEMENT STANDARDS FOR CARE BY DEALERS, COMMERCIAL BREEDERS, AND BROKERS.

The commissioner of agriculture shall consult with interested persons, including but not limited to persons representing dog and cat dealers, breeders, and brokers, the Minnesota Federated Humane Society, the Minnesota Council for Dog Clubs, the American Dog Owners Association, the Board of Animal Health, the Minnesota Purebred Dog Breeders Association, the Minnesota Citizens for Animal Care, the United States Department of Agriculture, and the Minnesota Veterinary Medical Association. The commissioner shall issue an order containing best management standards of care for dogs and cats by dealers, commercial breeders, and brokers. The commissioner shall urge dealers, commercial breeders, and brokers to follow the standards issued in the order.

History: 1994 c 642 s 8; 1997 c 187 art 3 s 31