



Photo: Animal Rescue League of Boston.

STANDARD OPERATING PROCEDURES – LAW

CONTEXT, PREPARATION,
INVESTIGATION

The background features abstract, overlapping green geometric shapes, primarily triangles and polygons, in various shades of green, creating a modern, layered effect on the right side of the slide.

Familiarize

Don't feel like you
have to memorize

RECOGNIZE

1. Be Familiar with MA Laws

Animal cruelty is a crime

Massachusetts laws and regulations dictate how a veterinarian can or must be involved in crimes against animals and what is required from a legal and ethical standpoint.

Become familiar with the statutory language:

- **Massachusetts reporting**
(see page 30)
- **Massachusetts licensure and conduct**
(see page 32)
- **AVMA and AAHA guidelines**
(see pages 37-38)
- **Massachusetts Statutes Ch. 272 and related laws**
(see pages 45-50, 149-157)

Specific Massachusetts statutes are listed and briefly described on the following pages, with the definitions of animal and animal cruelty.

TIP: *Update your cruelty files on a yearly basis, in case laws and/or rules have changed. Massachusetts statutes can be found at: <https://malegislature.gov/GeneralLaws/GoTo>*

Massachusetts Statutes:

Animal Cruelty

When reporting suspected or known animal cruelty, you are dealing with possible criminal behavior.

Become familiar with the animal anti-cruelty statutes in Massachusetts. The primary anti-cruelty statute is known as Cruelty to Animals. It is found in Section 77 of Chapter 272. (The symbol § stands for “section.”)

Massachusetts General Laws (M.G.L.)

**Chapter 272: Crimes Against Chastity, Morality,
Decency and Good Order**

Section 77: Cruelty to Animals

Chapter 272, Section 77: Cruelty to Animals G.L. c. 272, § 77 is one law that provides for charging the crime of cruelty to animals.

As a summary statement, generally speaking **every act or omission** which causes unjustifiable, unnecessary pain, suffering, and/or death to an animal can be said to be included within the statute.

The law is broad in the sense that it is worded so as to include acts ranging from the failure to do something – such as to provide proper food, drink, shelter, or protection from the weather --- to the most intentional types of actions such as torture, maiming and beating.

Animal

The word “animal” includes all animals. Below is case law that establishes understanding of an “animal” in Massachusetts:

- *Commonwealth v. Turner*, 145 Mass. 296 (1887)
- *Commonwealth v. Higgins*, 277 Mass. 191 (1931)
- *Knox v. MSPCA*, 12 Mass. App. Ct. 407 (1981)

Pain and Suffering

Massachusetts courts have held that cruelty includes acts which inflict pain. Actions can be cruel regardless of whether a defendant viewed them as cruel. The anti-cruelty statute is generally a general intent statute, not a specific intent statute.

Commonwealth v. Zalesky, 74 Mass. App. Ct. 908 (2009);
Commonwealth v. Erickson, 74 Mass. App. Ct. 172 (2009)

Unnecessary

“Unnecessary” is used within this statute as a qualifying term. This term recognizes that there may be circumstances, such as surgery, where there may be infliction of pain but such infliction is medically necessary and is not considered cruelty.

MASSACHUSETTS GENERAL LAW

CHAPTER 272, SECTION 77

ANIMAL

► What is an animal?

DEFINITION

- Definition not found in statute
- Case law -- decisions of the court -- define "animal" to include all animals.

There is nothing in the general purpose and intent of the statute that would prevent it from including all animals, within the common meaning of that word.

Cruelty

Massachusetts courts have defined multiple ways in which cruelty can be inflicted. The following are a few examples of acts that have been held to violate the anti-cruelty statute:

- cruel beating or torture for the purpose of training or correcting an animal
- infliction of pain without regard for the suffering it caused and which was so excessive to be cruel
- neglecting an animal by confining the animal and leaving the animal to die from starvation
- hoarding or housing animals resulting in a failure to provide proper food, drink, shelter, sanitary environment, or protection from the weather

“
The term cruelty means inflicting
severe or unnecessary pain upon an
animal without justifiable cause.”

Cruelty to Animals Jury Instructions, Instruction 7.270, May 2017

What are we not going to talk about?

- ▶ Mental State of the Person(s)
- ▶ Intent
- ▶ Specific v. general intent
- ▶ Intentionally
- ▶ Willfully
- ▶ Negligently

Keep to the medical facts

You may hear that the person did not “intend” to or did not mean to be cruel or that a person was reckless or neglectful and did not mean to cause the injury.

The reason or reasons why a person committed an act or acts of cruelty or neglect is not important to the finding of medical facts.

Poverty, mental illness, old age, cultural traditions, ignorance, and commercial interests may be raised as defenses to a charge of cruelty but there are no excuses for cruelty recognized under the law.

But collection of, and documentation of, all aspects and information are important in the general sense of an investigation into animal cruelty.

“Whoever overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, cruelly beats, mutilates or kills an animal,”

This covers any multitude of acts or omissions.

“or causes or procures an animal to be overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, cruelly beaten, mutilated or killed;”

This clause is meant to address the conduct of a person who, either directly or indirectly through another person or thing, causes or allows the acts to occur.

“and whoever uses in a cruel or inhuman manner in a race, game, or contest, or in training therefor, as lure or bait a live animal, except an animal if used as lure or bait in fishing;”

Baiting a trap with a live animal in order to hunt would be an example of this prohibited conduct. There is an exemption for lure or bait in fishing.

“and whoever, having the charge or custody of an animal, either as owner or otherwise, inflicts unnecessary cruelty upon it,”

As noted, unnecessary cruelty has been defined by the courts as causing unjustifiable pain and suffering. Infliction of cruelty is not limited to the owner of the animal. A person who has care of, or has custody of, an animal is also responsible.

“or unnecessarily fails to provide it with proper food, drink, shelter, sanitary environment, or protection from the weather,”

This clause can be used to address not only intentional acts but acts of neglect and hoarding situations.

“and whoever, as owner, possessor, or person having the charge or custody of an animal, cruelly drives or works it when unfit for labor,”

This would cover any act of driving or work which is cruelty due to condition of the animal.

“or willfully abandons it,”

A classic example of willful abandonment is leaving an animal by the side of the road without food, water or shelter. But abandonment can take place under many circumstances including leaving an animal behind in an apartment.

“or carries it or causes it to be carried in or upon a vehicle, or otherwise, in an unnecessarily cruel or inhuman manner or in a way and manner which might endanger the animal carried thereon,”

Please note that acts occurring under this section may also violate Massachusetts General Law c. 90, § 22H which prohibits transporting an animal in the back of a motor vehicle. See statute for full language.

“or knowingly and willfully authorizes or permits it to be subjected to unnecessary torture, suffering or cruelty of any kind...”

This is arguably the broadest prohibition in the statute which holds the owner, possessor, or any person having the charge or custody of an animal responsible if they authorize or permit the animal to be subjected to torture, suffering or cruelty of any type.

For statute, go to:

<https://malegislature.gov/Laws/GeneralLaws/PartIV/TitleI/Chapter272/Section77>

Massachusetts Statute: Animal Fighting

M.G.L. Chapter 272 § 94

This law is the animal fighting statute which prohibits specific behaviors, as defined below.

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

Other related sections in this law include:

Sections 88, 89, 93, and 95 - Refer to each section for further information about expenses of care, destruction of fighting animals, exhibition of fighting animals, warrants, seizures, and other legal requirements.

Animal Cruelty takes on many forms and can be addressed in different forums

Animal Crush Videos -

Live animal is intentionally crushed, burned, drowned, suffocated, impaled or otherwise subjected to serious bodily injury

Photograph, video, or digital recording and person intends or has reason to know that it will be distributed in or uses a means of interstate commerce - i.e., the internet.

Sell, make, advertise, exchange or distribute a photograph video or digital recording in or using a means of interstate commerce

Animal Fighting

Enforcement of animal fights prohibitions. Violate Animal Welfare Act by promoting, engaging or attending or causing a minor under the age of 16 to attend.