

## §4041. Animal trespass

### 1. Definitions.

[PL 1999, c. 254, §15 (RP).]

**1-A. Trespass.** An owner or keeper of an animal may not allow that animal to enter onto or remain on the property of another or unattended on any local, county or state road or highway after the owner or keeper has been informed by a law enforcement officer, authorized employee of the department or animal control officer that that animal was found on that property or on that local, county or state road or highway.

[PL 2011, c. 18, §1 (AMD).]

**2. Removal.** The owner or keeper of an animal is responsible, at the owner's or keeper's expense, for removing any animal found trespassing. An animal control officer, authorized employee of the department or law enforcement officer may, at the owner's or keeper's expense, remove and control an animal found trespassing if:

A. The owner or keeper fails to remove the animal after having been notified by an animal control officer, authorized employee of the department or law enforcement officer that the animal was trespassing; or [PL 2011, c. 18, §1 (AMD).]

B. The animal is an immediate danger to itself, persons or another's property. [PL 1999, c. 254, §15 (AMD).]

[PL 2011, c. 18, §1 (AMD).]

**3. Civil violation.** A person commits a civil violation if an animal owned or kept by that person is found trespassing and:

A. That person fails to remove the animal within 12 hours, or immediately if public safety or private or public property is threatened, after having been personally notified by an animal control officer, authorized employee of the department or law enforcement officer that the animal was trespassing; or [PL 2011, c. 18, §1 (AMD).]

B. [PL 1999, c. 254, §15 (RP).]

C. That person owns an animal or animals that have been found trespassing on 5 or more days within a 30-day period or 3 or more days within a 7-day period. [PL 2011, c. 18, §1 (NEW).]

[PL 2011, c. 18, §1 (AMD).]

**4. Fines.** A person who violates this section is subject to the following fines.

A. A person who violates this section commits a civil violation for which a fine of not less than \$50 nor more than \$500 must be adjudged. [PL 2013, c. 348, §1 (NEW).]

B. A person who violates this section after having been adjudicated as having committed a violation of this section commits a civil violation for which a fine of \$1,000 must be adjudged. [PL 2013, c. 348, §1 (NEW).]

C. A person who violates this section after having been adjudicated as having committed 2 or more violations of this section commits a civil violation for which a fine of \$2,500 must be adjudged. [PL 2013, c. 348, §1 (NEW).]

[PL 2013, c. 348, §1 (RPR).]

**4-A. Restitution; court costs and fees.** In addition to fines, the court may as part of the sentencing include an order of restitution for costs incurred in removing and controlling the animal. When appropriate, the court may order restitution to the property owner based on damage done and financial loss. Any restitution ordered and paid must be deducted from the amount of any judgment awarded in a civil action brought by the property owner against the owner or keeper of the animal based on the same facts. When an owner or keeper violates this section 3 or more times within a 90-day period, the

court shall order restitution of all costs incurred by the department in responding to a violation of this section or assisting an animal control officer or law enforcement officer responding to a violation of this section. Upon application of the department, municipality or law enforcement agency enforcing this section, the owner or keeper of the animal must also pay reasonable court costs and attorney's fees of the department, municipality or law enforcement agency if the department, municipality or law enforcement agency is the prevailing party in any court proceeding.

[PL 2013, c. 348, §2 (NEW).]

**4-B. Forfeiture.** If the department, a municipality or a law enforcement agency determines that a repeated violation of this section by an owner or keeper of an animal jeopardizes the public health, welfare or safety of the community, the department, municipality or law enforcement agency may bring a forfeiture action in the county in which the violations occurred under Title 14, section 506. In an action brought under this subsection, the burden of proof is on the department, municipality or law enforcement agency. If a court determines that a repeated violation of this section jeopardizes the public health, welfare or safety of the community, the court may order any animal that is the subject of the violation sold in a commercially reasonable manner and apply the proceeds to any fine, fee, restitution or cost owed by the owner or keeper under this section with any remaining balance returned to the owner or keeper of the animal.

[PL 2013, c. 348, §2 (NEW).]

**5. Exemption.** A person is not liable under this section if, at the time of the alleged trespass, that person was licensed or privileged to allow the animal to be on the property.

[PL 1999, c. 254, §15 (AMD).]

**6. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Animal" does not include cats. [PL 2011, c. 18, §1 (NEW).]

B. "Authorized employee of the department" means a humane agent or any other employee of the department designated by the commissioner to assist with compliance and enforcement of this section. [PL 2011, c. 18, §1 (NEW).]

[PL 2011, c. 18, §1 (AMD).]

## SECTION HISTORY

PL 1989, c. 91 (NEW). PL 1995, c. 351, §5 (AMD). PL 1997, c. 104, §1 (AMD). PL 1997, c. 690, §§47-49 (AMD). PL 1999, c. 254, §15 (AMD). PL 2001, c. 15, §1 (AMD). PL 2007, c. 439, §§29, 30 (AMD). PL 2009, c. 548, §§4, 5 (AMD). PL 2011, c. 18, §1 (AMD). PL 2013, c. 348, §§1, 2 (AMD).

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