

**§1039. Cruel confinement of calves raised for veal and sows during gestation**

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

A. "Calf raised for veal" means a calf of the bovine species kept for the purpose of producing the food product referred to as veal. [PL 2009, c. 127, §2 (NEW); PL 2009, c. 127, §3 (AFF).]

B. "Covered animal" means a sow during gestation or calf raised for veal that is kept on a farm. [PL 2009, c. 127, §2 (NEW); PL 2009, c. 127, §3 (AFF).]

C. "Enclosure" means a cage, crate or other structure used to confine a covered animal, including, but not limited to, what is commonly described as a "gestation crate" for sows or a "veal crate" for calves. [PL 2009, c. 127, §2 (NEW); PL 2009, c. 127, §3 (AFF).]

D. "Farm" has the same meaning as in Title 7, section 152, subsection 5. [PL 2013, c. 588, Pt. A, §22 (AMD).]

E. "Fully extending the animal's limbs" means fully extending all limbs without touching the side of an enclosure. [PL 2009, c. 127, §2 (NEW); PL 2009, c. 127, §3 (AFF).]

F. "Sow during gestation" means a pregnant pig of the porcine species kept for the primary purpose of breeding. [PL 2009, c. 127, §2 (NEW); PL 2009, c. 127, §3 (AFF).]

G. "Turning around freely" means turning in a complete circle without any impediment, including a tether, and without touching the side of an enclosure. [PL 2009, c. 127, §2 (NEW); PL 2009, c. 127, §3 (AFF).]

[PL 2013, c. 588, Pt. A, §22 (AMD).]

**2. Prohibition.** A person may not tether or confine a covered animal for all or the majority of a day in a manner that prevents the animal from:

A. Lying down, standing up and fully extending the animal's limbs; and [PL 2009, c. 127, §2 (NEW); PL 2009, c. 127, §3 (AFF).]

B. Turning around freely. [PL 2009, c. 127, §2 (NEW); PL 2009, c. 127, §3 (AFF).]  
[PL 2009, c. 127, §2 (NEW); PL 2009, c. 127, §3 (AFF).]

**3. Exceptions.** Subsection 2 does not apply:

A. To an animal while it is the subject of scientific or agricultural research; [PL 2009, c. 127, §2 (NEW); PL 2009, c. 127, §3 (AFF).]

B. During examination, testing, individual treatment of or operation on an animal for veterinary purposes; [PL 2009, c. 127, §2 (NEW); PL 2009, c. 127, §3 (AFF).]

C. To an animal being transported; [PL 2009, c. 127, §2 (NEW); PL 2009, c. 127, §3 (AFF).]

D. To an animal at a rodeo exhibition or state or county fair exhibition; [PL 2009, c. 127, §2 (NEW); PL 2009, c. 127, §3 (AFF).]

E. To an animal at a 4-H event or similar exhibition; [PL 2009, c. 127, §2 (NEW); PL 2009, c. 127, §3 (AFF).]

F. To the slaughter of an animal in accordance with Title 22, chapter 562-A, subchapter 4 and rules pertaining to the slaughter of animals; and [PL 2009, c. 127, §2 (NEW); PL 2009, c. 127, §3 (AFF).]

G. To a sow during the 7-day period prior to the sow's expected date of giving birth and until the sow's litter is weaned. [PL 2009, c. 127, §2 (NEW); PL 2009, c. 127, §3 (AFF).]  
[PL 2009, c. 127, §2 (NEW); PL 2009, c. 127, §3 (AFF).]

**4. Relation to other laws.** The provisions of this section are in addition to, and not in lieu of, any other laws protecting animal welfare. This section may not be construed to limit any state law or rules protecting the welfare of animals or to prevent a local governing body from adopting and enforcing its own animal welfare laws and regulations.

[PL 2009, c. 127, §2 (NEW); PL 2009, c. 127, §3 (AFF).]

**5. Penalty.** A violation of subsection 2 is a Class D crime.

[PL 2009, c. 127, §2 (NEW); PL 2009, c. 127, §3 (AFF).]

**6. Criminal or civil prosecution.** A person may be arrested or detained for a violation of subsection 2 in accordance with the rules of criminal procedure. A person may not be arrested or detained for the civil violation of cruel confinement under Title 7, section 4020. The attorney for the State may elect to charge a defendant with a criminal violation under this section or a civil violation under Title 7, section 4020. In making this election, the attorney for the State shall consider the severity of the cruelty displayed, the number of animals involved, any prior convictions or adjudications of animal cruelty entered against the defendant and such other factors as may be relevant to a determination of whether criminal or civil sanctions will best accomplish the goals of the animal welfare laws in the particular case before the attorney for the State. The election and determination required by this subsection are not subject to judicial review. The factors involved in the election and determination are not elements of the criminal offense or civil violation of cruel confinement and are not subject to proof or disproof as prerequisites or conditions for conviction under this section or adjudication under Title 7, section 4020.

It is not an affirmative defense to prosecution under this section that the sow or calf is kept as part of an agricultural operation and in compliance with best management practices for animal husbandry.

[RR 2019, c. 2, Pt. A, §19 (COR).]

#### SECTION HISTORY

PL 2009, c. 127, §2 (NEW). PL 2009, c. 127, §3 (AFF). PL 2013, c. 588, Pt. A, §22 (AMD).  
RR 2019, c. 2, Pt. A, §19 (COR).

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