

# Update on Animal Abuse Laws

July 2022 Edition



In 2019, Congress amended the Animal Crush Video Prohibition Act of 1999, which criminalizes the distribution of videos and images depicting animal cruelty. In 2021, the Texas Legislature passed additional prohibitions against animal cruelty, to include unlawful restraints on dogs. This resource summarizes these laws and offers procedures for reporting animal abuse.

## **Preventing Animal Cruelty and Torture Act (PACT Act)**

### **1. What is the PACT Act and when did it take effect?**

The Preventing Animal Cruelty and Torture Act (“PACT Act”) revises and expands federal criminal provisions with respect to animal “crushing,” and animal “crush videos.”<sup>1</sup> The PACT Act became effective on November 25, 2019.

### **2. What are “crush videos”?**

The term “crush videos” has been commonly used to describe videos uploaded online depicting individuals torturing and killing small animals. Although these videos shock the conscious for most of society, there existed an interstate market for these videos, usually to satisfy a “sexual fetish.”<sup>2</sup>

For purposes of the PACT Act, “animal crushing” is defined as “actual conduct in which one or more living non-human mammals, birds, reptiles, or amphibians is purposely crushed, burned, drowned, suffocated, impaled, or otherwise subjected to serious bodily injury.”<sup>3</sup>

### **3. Weren’t “crush videos” illegal prior to 2019?**

In short, yes. From 1999 through 2010, the Animal Crush Video Prohibition Act of 1999<sup>4</sup> targeted the interstate market for “crush videos.” It specifically provided a criminal penalty for anyone who “knowingly creates, sells, or possesses a depiction of animal cruelty,” if done “for commercial gain” in interstate or foreign commerce.<sup>5</sup>

However, in 2010, the Supreme Court held the 1999 Act to be unconstitutional due to its broad language implicating activities protected by the First Amendment.<sup>6</sup> In response, Congress redrafted the statute in 2010 to regulate only the creation, sale, or possession of animal “crush videos,” but not animal abuse videos generally.<sup>7</sup>

Although the prohibition against “crush videos” continued at the federal level, the law did not address the actual acts of animal cruelty, which have generally been criminal offenses under the laws of all fifty states.

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<sup>1</sup> 18 U.S.C. § 48 (2019).

<sup>2</sup> *United States v. Stevens*, 559 U.S. 460, 465–66 (2010).

<sup>3</sup> 18 U.S.C. § 48(f)(1) (2020).

<sup>4</sup> 18 U.S.C. § 48 (1999).

<sup>5</sup> *Id.*

<sup>6</sup> *United States v. Stevens*, 559 U.S. 460, 465–66 (2010).

<sup>7</sup> 18 U.S.C. § 48 (2010).

#### **4. Why was the PACT Act passed?**

Because animal abuse laws and penalties varied from state to state, and the location of the person uploading the barbaric videos could not always be identified, prosecuting the animal cruelty became increasingly difficult. As a result, many have described the PACT Act as serving as a “gap-filler” to hold animal abusers accountable for their conduct. Specifically, the PACT Act expands the jurisdiction of law enforcement to prosecute animal cruelty that occurs across state lines and is committed in areas under direct federal control, i.e., national parks and military bases.<sup>8</sup>

#### **5. What does the PACT Act criminalize?**

In addition to the abuse made unlawful in the 1999 Act, the PACT Act adds that it is unlawful for “any person to purposely engage in animal crushing in or affecting interstate or foreign commerce or within the special maritime and territorial jurisdiction of the United States.”<sup>9</sup> Further, it is unlawful “for any person to knowingly create an animal crush video, if the person intends or has reason to know that the animal crush video will be distributed in, or using a means or facility of, interstate or foreign commerce; or if the animal crush video is distributed in, or using a means or facility of, interstate or foreign commerce.”<sup>10</sup> Finally, it is “unlawful for any person to knowingly sell, market, advertise, exchange, or distribute an animal crush video in, or using a means or facility of, interstate or foreign commerce.”<sup>11</sup>

The PACT Act does not apply with regard to any conduct, or the visual depiction of that conduct, that is: customary and normal veterinary or agricultural husbandry practice; the slaughter of animals for food; hunting, trapping, and fishing; medical or scientific research; necessary to protect the life of property of a person; or performed as part of euthanizing an animal.<sup>12</sup>

#### **6. What are the penalties for defendants found guilty under the PACT Act?**

A person who violates the PACT Act may face fines, jailtime, or both.<sup>13</sup>

#### **7. What should I do if I think someone is violating the PACT Act?**

If you have witnessed an animal crushing video online, please immediately report it to the website. If you are aware of someone creating or distributing these videos, please immediately report them to your local animal control agency and local law enforcement. If you have inadvertently received an animal crushing video, please contact your local office of the Federal Bureau of Investigation.

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<sup>8</sup> See Hannah Knowles & Katie Mettler, *Trump Signs a Sweeping Federal Ban on Animal Cruelty*, WASH. POST (Nov. 25, 2019).

<sup>9</sup> 18 U.S.C. § 48(a)(1) (2020).

<sup>10</sup> *Id.* § 48(a)(2).

<sup>11</sup> *Id.* § 48(a)(3).

<sup>12</sup> *Id.* § 48(d)(1).

<sup>13</sup> *Id.* § 48(c).

# **Safe Outdoors Dog Act**

## **1. What is the Safe Outdoors Dog Act and when did it take effect?**

The Safe Outdoors Dog Act revises and expands state criminal provisions with respect to the tethering of animals.<sup>14</sup> The Safe Outdoors Dog Act became effective on January 18, 2022.

## **2. Why did the Legislature revise the previous dog restraint requirements?**

The purpose of the law was to alter preexisting requirements to ensure that dogs are restrained in a humane manner while minimizing the burden of compliance on owners.

## **3. What does the law entail?**

The law states that an owner may not leave a dog outside and unattended by use of a restraint unless the owner provides the dog access to:

- adequate shelter;
- an area that allows the dog to avoid standing water and exposure to excessive animal waste;
- shade from direct sunlight; and
- potable water.<sup>15</sup>

Additionally, the owner cannot restrain a dog outside and unattended by use of a restraint that:

- is a chain;
- has weights attached;
- is shorter in length than the greater of 10 feet or five times the length of the dog, as measured from the tip of the dog's nose to the base of the dog's tail; or
- is attached to a collar or harness not properly fitted.<sup>16</sup>

## **4. What is considered "adequate shelter"?**

A sturdy structure that provides the dog protection from inclement weather and with dimensions that allow the dog while in the shelter to stand erect, sit, turn around, and lie down in a normal position.<sup>17</sup>

## **5. What is considered "inclement weather"?**

Inclement weather includes rain, hail, sleet, snow, high winds, extreme low temperatures, or extreme high temperatures.<sup>18</sup>

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<sup>14</sup> Act of Oct. 25, 2021, 87th Leg., 3rd C.S., ch. 6, § 1, 2021 Tex. Sess. Law Serv. 4048 (West).

<sup>15</sup> Tex. Health & Safety Code § 821.102(a).

<sup>16</sup> *Id.* § 821.102(b).

<sup>17</sup> *Id.* § 821.101(1).

<sup>18</sup> *Id.* § 821.101(4).

## 6. What, if any, exceptions apply?

The bill provides certain exceptions to these prohibitions relating to:

- public camping or recreational areas;
- certain activities conducted under a valid state license;
- the business of shepherding or herding cattle or livestock;
- the business of cultivating agricultural products;
- a dog left unattended in an open-air truck bed in certain circumstances;
- temporary restraint of a dog in certain circumstances; and
- hunting or field trialing.<sup>19</sup>

## 7. Does this impact whether I can walk my dog with a handheld leash?

No, the law does not prohibit a person from walking a dog with a handheld leash.<sup>20</sup>

## 8. What are the consequences for not complying with the law?

If a person knowingly violates the law, the result may be a criminal charge of a Class C misdemeanor,<sup>21</sup> which can result in a fine of up to \$500. If convicted and subsequently charged, the charge may be enhanced to a Class B misdemeanor.<sup>22</sup>

## 9. What if two or more dogs are being restrained illegally?

A Class C offense can occur for each instance of conduct for each dog being restrained illegally.<sup>23</sup>

## 10. What can I do if I see someone improperly restraining their animal?

Start by referring them to this information so they can learn more about the law and make adjustments for the safety of their pet! If the behavior continues, contact your local animal control authority.

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<sup>19</sup> *Id.* § 821.103(a).

<sup>20</sup> *Id.* § 821.103(c).

<sup>21</sup> *Id.* § 821.102(d).

<sup>22</sup> *Id.*

<sup>23</sup> *Id.* § 821.102(c).