



## Animal Welfare in Agriculture

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The welfare of livestock is addressed under a range of Wisconsin laws, including broader protections under the state's Criminal Code and livestock-specific requirements under programs administered by the Department of Agriculture, Trade and Consumer Protection (DATCP). This issue brief discusses state laws impacting the welfare of livestock, as well as the role of federal and local laws.<sup>1</sup>

### ANIMAL CARE AND SLAUGHTER

In general, Wisconsin's Criminal Code prohibits a person from treating any animal, including livestock, in a cruel manner. The Criminal Code defines "cruel" as "causing unnecessary and excessive pain or suffering or unjustifiable injury or death." Conviction of this crime does not require proof of intent or negligence in a person's conduct.<sup>2</sup> [ss. 951.01 (2) and 951.02, Stats.]

The Criminal Code also includes certain general requirements relating to the care and confinement of animals. For instance, sufficient food must be supplied to maintain all animals in good health, and water must be provided at least daily and in sufficient quantity for the health of the animal. Issues relating to shelter are also addressed, including temperature, ventilation, shelter from sunlight and weather, and space to support freedom of movement. While these care and confinement requirements apply broadly, the Criminal Code also specifies that they are not to be construed as imposing requirements or standards "more stringent than normally accepted husbandry practices in the particular county where the animal or shelter is located." In practice, the Criminal Code may impose less stringent standards in situations where local husbandry practices differ from the standards established in the statutes. [ss. 951.13 and 951.14, Stats.]

Standards for slaughter are established under provisions outside of the Criminal Code.<sup>3</sup> Specifically, state law prohibits any person operating a slaughterhouse licensed by DATCP, as well as certain animal feed manufacturers and fur farm operators, from slaughtering using any method other than a "humane method." "Humane method" is generally defined to include methods that render an animal insensible to pain, as well as certain methods that induce loss of consciousness in an animal and are associated with religious rituals. [s. 95.80 (1), Stats.]

### REGULATION OF ANIMAL MARKETS, DEALERS, AND TRUCKERS

DATCP rules relating to animal markets, dealers, and truckers establish various responsibilities and prohibitions relating to the welfare of livestock. For instance, animal market operators, dealers, and truckers must provide adequate food, water, shelter, and bedding, and pen space must be provided for all animals held for more than 12 hours. Certain animal markets are also subject to construction requirements that generally seek to prevent injury to animals. Finally, animal truckers must transport and handle livestock in a safe and humane manner, with a vehicle maintained for safe transport and containment of the types of animals transported. [ch. ATCP 12, Wis. Adm. Code.]

DATCP rules also establish requirements regarding the handling of "downer animals" (animals that cannot stand on their own due to a variety of causes). A downer animal may not be subjected to any mistreatment or abuse and may not be held for more than 24 hours before being sent for rendering or euthanasia. [s. ATCP 12.07, Wis. Adm. Code.]

## ENFORCEMENT

Similar to other crimes, Wisconsin's crimes against animals are generally enforced at the local level. To aid local enforcement officers in the investigation of animal mistreatment and care violations, a local government may appoint one or more local humane officers. Humane officers are subject to certification by DATCP, which approves a course of training and maintains a registry of appointed humane officers.

Generally, a humane officer's role is to gather evidence on neglect or abuse of animals and to prepare cases that can be prosecuted by a district attorney. A humane officer may execute an inspection warrant and may apply for a search warrant (though such a search warrant is ultimately executed by a law enforcement officer, accompanied by the humane officer).<sup>4</sup> A humane officer may also issue a citation for an ordinance violation and may issue an abatement order describing measures necessary to correct a state law or ordinance violation under certain circumstances. A humane officer may also take custody of an animal if there are reasonable grounds to believe that the animal was used in or is evidence of a mistreatment crime. [ch. 173, Stats.]

Violations of the animal welfare regulations applicable to animal markets, dealers, and truckers can affect DATCP's licensure of these entities. These entities must renew licenses annually, and a violation may result in denial, suspension, or revocation of a license. [s. 93.06 (7), Stats.] A market operator, dealer, or trucker who continues running a business after revocation of a license is subject to a fine or imprisonment or both. [ss. 95.69 (9), 95.71 (9), and 95.99, Stats.]

## FEDERAL AND LOCAL LAWS

Federal laws relating to animal welfare play a narrow role in regulating the welfare of livestock. For instance, the Humane Methods of Slaughter Act, which requires the use of humane treatment and handling of livestock in connection with slaughter, does not regulate the day-to-day treatment of livestock. Additionally, the federal Animal Welfare Act, the primary federal law addressing the humane care and handling of animals, explicitly excludes animals used in the production of food and fiber from its definition of "animal" and therefore generally does not affect the welfare of livestock. [7 U.S.C. ch. 48 and s. 2132 (g).]

While Wisconsin counties and municipalities may enact local ordinances impacting the welfare of livestock, such ordinances may be preempted by state law. Notably, the state's livestock facility siting law generally limits the extent to which a local government may regulate new or expanded livestock facilities. With limited exceptions, local requirements for facilities of 500 or more animal units,<sup>5</sup> located within an agricultural zoning district, may not be more stringent than the livestock facility siting standards promulgated by DATCP. Although the DATCP standards do not directly address animal welfare, a court may interpret certain local requirements as being "more stringent" than these standards, particularly if the local requirements affect the permitting of livestock facilities. In this case, the ordinances may be preempted.<sup>6</sup> [s. 93.90, Stats.; ch. ATCP 51, Wis. Adm. Code.]

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<sup>1</sup> While state laws relating to animal disease control also impact the welfare of livestock, discussion of these laws is beyond the scope of this issue brief.

<sup>2</sup> Violations are punishable with a forfeiture. However, a person who intentionally violates the prohibition may be subject to an enhanced penalty, depending on the circumstances. Specifically, an intentional violation resulting in the mutilation, disfigurement, or death of an animal is punishable as a Class I felony. [s. 951.18 (1), Stats.]

<sup>3</sup> The chapter of statutes addressing crimes against animals specifically provides that the chapter is not to be interpreted as controverting the slaughter of animals by persons acting under state or federal law. [s. 951.015 (1), Stats.]

<sup>4</sup> An inspection warrant requires a lesser showing than probable cause that a violation has occurred; a municipal court must find that the warrant is necessary to determine if the premises comply with state law or ordinances.

<sup>5</sup> The concept of an "animal unit" is used within various laws to establish equivalencies between different types of animals. For example, 1,000 beef cattle, 715 milking cows, or 200,000 broiler chickens are each generally equivalent to 1,000 animal units. [s. NR 243.05, Wis. Adm. Code.]

<sup>6</sup> Local requirements may exceed DATCP's livestock facility siting standards if a local government demonstrates, based on reasonable and scientifically defensible findings of fact, that the requirements are necessary to protect human health or safety. [s. 93.90 (3) (a) 6., Stats.] Any such determination by a local government would be subject to review by the state's Livestock Facility Siting Review Board.