

Animals and the Law

By Peggy Sutton

When you have a question about animals and the law, it's important to know at what level of government the law was passed. Laws are passed by three levels of government:

- Local governments, such as boards of supervisors and city councils. These laws generally are called ordinances and are only applicable to the locality.
- State governments, such as houses of delegates and senates. These laws are called laws or statutes and are applicable to the entire state.
- Federal government. Laws passed by Congress are applicable to the entire country.



Sometimes, laws are passed concerning animals on all three levels of government. When this happens, federal laws dominate, or if there is no federal law on the question, then state laws dominate, or if there is neither federal law nor state law, then the local law governs. Some states require permission by the state government in order for the locality to pass an ordinance. This is called enabling legislation.

Generally speaking, state laws and federal laws are more general and local laws are more specific. For example:

- Federal laws might encompass such areas as endangered species protection.
- State laws might encompass such areas as animal cruelty statutes, rabies vaccination requirements, requirements for animal shelters, veterinary license requirements, animal control officer qualifications, and enabling legislation for localities.
- Local governments might encompass such areas as the number of pets an owner might have in the location, licensing fees and regulations, and animal behavior requirements.

When there is a problem with any animal law, it is important to know who the appropriate local, state or national officials are and to contact them for information. Since these officials are elected officials, they are most anxious to be helpful to citizens.

What is due process and how does it apply to animal law?

Due process is a concept protected by the Constitution that requires the government to follow certain processes before it can make decisions that affect the lives of people and animals. For instance, if an animal bites someone, that animal cannot be killed without going through the proper processes (unless the animal is creating an immediate life-

threatening situation). The local law will most likely spell out the steps that animal control officers and police officers must take before the animal may be put down. Generally, a court action is necessary at which evidence is offered before a judge and there is a right to an appeal from the decision of that judge.

When is it necessary to hire an attorney?

It is always a good idea to consult with or hire an attorney when the life of the animal is in danger, or if the guardian is apt to receive a hefty fine or perhaps a jail sentence. An attorney will research the law and also will have the background to recognize the constitutional rights that may be in question. Oftentimes, though, a person cannot afford an attorney. In this case, you could approach an attorney to represent you pro bono, which means free of charge. There are legal aid societies in some states that may be able to help free of charge or on a sliding scale determined by the person's ability to pay.

More and more, attorneys who are animal lovers are willing and happy to represent a person in an animal law situation. At this time, bar associations in several states have animal law sections. If this is true in your state, then a call to the state bar association should help you to find an attorney who is especially knowledgeable in this area of the law. Also, one attorney is generally helpful in the attempt to find another attorney who just might fit the bill.

What other resources are available?

The following websites might be of some help with questions concerning animal law:

- The Animal Legal Defense Fund's (www.aldf.org) mission is to protect the lives and advance the interests of animals through the legal system. There's a lot of valuable information on their website concerning animal law, including a list of contacts for bar association animal-law sections and committees:

<http://www.aldf.org/associations.asp?sect=resources>

- [AnimalLaw.com](http://www.animal-law.com) serves as a resource and clearinghouse for information on law and animals.
- The Society for Animal Protective Legislation (www.saplonline.org) seeks improvement in existing laws on the federal level. There are links to the U.S. Code and Congress.
- The Animal Legal and Historical Center (animallaw.info), currently under development, is sponsored by Detroit College of Law at Michigan State University. When completed, the site will contain a full set of legal materials relating to animals.
- The Tufts Center for Animals and Public Policy aims to promote the welfare of animals and improve human/animal relationships. Their website includes a list of links to animal law resources (<http://tufts.edu/vet/cfa/legislat.html>).

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Disclaimer: This resource is NOT intended to provide legal advice. If you have a legal question or problem, you should seek the advice of an attorney.