

CRUELTY TO ANIMALS

G.L. c. 272, § 77

The defendant is accused of cruelty to animals.

In order to prove the defendant guilty of this charge, the Commonwealth must prove beyond a reasonable doubt any of the following:

(A) that the defendant (overdrove) (overloaded) (drove when overloaded) (overworked) (tortured) (tormented) (deprived of necessary sustenance) (cruelly beat) (cruelly mutilated) or (cruelly killed) an animal; or

(B) that the defendant caused or procured an animal to be (overdriven) (overloaded) (driven when overloaded) (overworked) (tortured) (tormented) (deprived of necessary sustenance) (cruelly beaten) (cruelly mutilated) or (cruelly killed); or

(C) that the defendant used a live animal in a cruel or inhuman manner in a race, game, or contest, or in training therefor, as lure or bait (except an animal if used as lure or bait in fishing); or

(D) that the defendant had the charge or custody of an animal, either

as owner or otherwise, and (inflicted unnecessary cruelty upon it) or (unnecessarily failed to provide it with proper food, drink, shelter, sanitary environment, or protection from the weather); or

(E) that the defendant was the owner, possessor, or person having the charge or custody of an animal, and (cruelly drove or worked it when unfit for labor) or (willfully abandoned it) or (carried it or caused it to be carried in or upon a vehicle, or otherwise, in an unnecessarily cruel or inhuman manner or in a way and manner which might endanger the animal carried thereon); or

(F) that the defendant knowingly and willfully authorized or permitted an animal to be subjected to unnecessary torture, suffering, or cruelty of any kind.

The term “cruelty” means inflicting severe or unnecessary pain upon an animal without any justifiable cause.

Commonwealth v. Daly, 90 Mass. App. Ct. 48, 54-55 (2016).

The Commonwealth does not have to prove that the defendant knew (he) (she) was violating the statute or that (he) (she) specifically intended

the harm that it forbids; but the Commonwealth must prove beyond a reasonable doubt that the defendant intentionally and knowingly did acts that were plainly of a nature as would violate the statute.

“Specific intent to cause harm is not required; decisional law makes clear that in circumstances involving the direct infliction of pain on an animal all that must be proved is that the defendant intentionally and knowingly did acts which were plainly of a nature to inflict unnecessary pain. The defendant’s guilt did not depend upon whether he thought he was unnecessarily cruel, but upon whether he was so in fact.” *Commonwealth v. Szewczyk*, 89 Mass. App. Ct. 711, 716 (2016), quoting *Commonwealth v. Magoon*, 172 Mass. 214, 216 (1898).