

STATE ANIMAL USE PROTECTION STATUTES: AN OVERVIEW

By
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Although much attention has been given to the Animal Enterprise Terrorism Act, a federal statute enacted to deter and punish extra-legal animal rights activism, comparatively little attention has been afforded the various state versions of this law. This Article is an attempt to help remedy this deficit. It offers a comprehensive overview of existing state animal use protection statutes and describes legislative trends in this area.

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I. INTRODUCTION

Considerable academic and popular attention has been paid to the federal Animal Enterprise Terrorism Act (AETA),¹ which might fairly be regarded as the crown jewel of animal use protection statutes.² The

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¹ 18 U.S.C. § 43 (2006).

² See generally Dara Lovitz, *Muzzling a Movement: The Effects of Anti-Terrorism Law, Money & Politics on Animal Activism* 87–99 (Lantern Bks. 2010) (discussing AETA’s provisions and potential Constitutional issues); Jared S. Goodman, *Shielding Corporate Interests from Public Dissent: An Examination of the Undesirability and Unconstitutionality of “Eco-Terrorism” Legislation*, 16 J.L. & Policy 823, 836–39, 848–50 (2008) (describing changes AETA made to the Animal Enterprise Protection Act (AEPA)); Kimberly E. McCoy, *Subverting Justice: An Indictment of the Animal Enterprise Terrorism Act*, 14 Animal L. 53, 58–70 (2007) (critiquing enactment of AETA and arguing for its repeal); see also Equal Just. Alliance, *Welcome to Equal Justice Alliance*, <http://noaeta.org/index.htm> (accessed Dec. 19, 2011) (website of organization committed to reversing or amending AETA); H.R. Subcomm. on Crime, Terrorism & Homeland

end product of numerous Congressional hearings and legislative tweaking over the course of two decades,³ the AETA was enacted to deter and punish extra-legal animal rights activism targeting agricultural operations, research laboratories, fur farms, and other “animal enterprises.”⁴ However, less has been written about the numerous animal use protection laws that exist at the state level.⁵ This deficit is noteworthy, given that the majority of states have enacted their own such laws, and that some of these are more inclusive and/or punitive than the better-known federal statute.

For purposes of this Article, an animal use protection statute is a statute designed to shield designated animal uses and industries from the harm that may arise as a result of extra-legal animal rights activities. It is a statute that prohibits an act—or, more likely, specially punishes an already-prohibited act such as vandalism, breaking and entering, or theft—that targets a particular animal use or industry, like animal research and animal agriculture. In short, animal use protection statutes are the criminal and civil laws enacted in response to the threat of the contemporary American animal rights movement.⁶

Sec. of Comm. on Jud., *Over-Criminalization of Conduct/Over-Federalization of Criminal Law*, 111th Cong. 94–100 (July 22, 2009) (available at http://judiciary.house.gov/hearings/printers/111th/111-67_51226.PDF (accessed Nov. 20, 2011)) (letter submitted to the hearing record by the New York City Bar Association, discussing concerns about AETA’s constitutionality).

³ The predecessor of the AETA was the 1992 AEPA (Pub. L. No. 102-346, 106 Stat. 928 (1992) (codified at 18 U.S.C. § 43 (1992), and amended in 1996 (Pub. L. No. 104-294, 110 Stat. 3502 (1996) and 2002 (Pub. L. No. 107-188, 116 Stat. 681 (2002)))).

⁴ 18 U.S.C. § 43; see 152 Cong. Rec. S9254 (2006) (remarks of Senator Feinstein discussing the scope of the act).

⁵ For discussion about already enacted state laws, see Dara Lovitz, *Animal Lovers and Tree Huggers Are the New Cold-Blooded Criminals?: Examining the Flaws of Ecoterrorism Bills*, 3 J. Animal L. 79, 84–87, 90–96 (2007) (describing state animal use protection statutes and arguing that some unconstitutionally forbid acts protected by the First Amendment). With the exception of Lovitz’s article, this conversation tends to center on the American Legislative Exchange Council’s model “Animal and Ecological Terrorism Act” and proposed legislation based on this model bill. See e.g. Ethan Carson Eddy, *Privatizing the Patriot Act: The Criminalization of Environmental and Animal Protectionists as Terrorists*, 22 Pace Env’tl. L. Rev. 261, 263–72 (2005) (describing the Animal and Ecological Terrorism Act and state legislation based on the model act); Andrew N. Ireland Moore, *Caging Animal Advocates’ Political Freedoms: The Unconstitutionality of the Animal and Ecological Terrorism Act*, 11 Animal L. 255, 275–77 (2005) (discussing state legislation incorporating parts of the Animal and Ecological Terrorism Act); Natl. Law. Guild & Andy Parker, *Beyond AETA: How Corporate-Crafted Legislation Brands Activists as Terrorists* 8-13 (available at <http://www.nlg.org/Beyond%20AETA%20White%20Paper.pdf> (accessed Dec. 19, 2011)) (comparing proposed state legislation to the model law).

⁶ Although this definition would likely include the “hunter harassment/interference” laws that have been enacted in all fifty states, separate specialized hunting harassment/interference statutes have been excluded from this analysis. Also omitted from this analysis are statutes that only unintentionally target extra-legal animal activism. For example, Delaware declares that criminal trespass in the first degree occurs when one “enters or remains unlawfully in a dwelling or building used to shelter, house, milk, raise, feed, breed, study or exhibit animals.” Del. Code Ann. tit. 11, § 823 (Lexis 2007).

This Article provides a comprehensive overview of these state animal use protection laws. Although there are clear legislative trends that can be identified, at the same time, there is much variation among these state laws. States differ with respect to how they define key concepts such as “animal” and “animal facility,” the industries and animal uses they protect, the behaviors they proscribe and punish, and the punishments and remedies they permit. While some state statutes are similar to the federal AETA in the sense that they are inclusive in their definitions and expansive in their protective reach, others are more specific, and some are quite limited. Similarly, with respect to criminal punishments and civil remedies, some states promise harsh punishment and large civil awards while others are far more restrained.

II. WHICH STATES HAVE ENACTED THESE STATUTES?

Thirty-eight states currently have on their books one or more animal use protection statutes, for a total of sixty-six such statutes.⁷

Although the behavior this law seeks to prohibit happens to be quintessential animal liberation behavior, this particular statute was enacted in 1953 and was not drafted with animal activists in mind.

⁷ States with animal use protection statutes are: Alabama, Ala. Code §§ 13A-11-150 to 13A-11-158 (Lexis 2005); Arizona, Ariz. Rev. Stat. Ann. § 11-1023 (West 2001), Ariz. Rev. Stat. Ann. §§ 13-2301, 13-2312, 13-2314 (West 2010); Arkansas, Ark. Code Ann. §§ 5-62-201 to 5-62-204 (Lexis 2005); California, Cal. Penal Code §§ 422.4, 602.12 (West 2010); Colorado, Colo. Rev. Stat. § 18-9-206 (Lexis 2011); Florida, Fla. Stat. Ann. §§ 828.40 to 828.43 (West 2006); Georgia, Ga. Code Ann. §§ 4-11-30 to 4-11-35 (1995); Idaho, Idaho Code Ann. §§ 18-7037, 18-7040, 18-7041, 25-1910 (Lexis 2010); Illinois, 720 Ill. Comp. Stat. Ann. 215/1 to 215/9 (West 2010); Indiana, Ind. Code Ann. §§ 35-43-1-2, 35-43-2-2 (Lexis 2009); Iowa, Iowa Code Ann. §§ 717A.1 to 717A.2 (West Supp. 2011); Kansas, Kan. Stat. Ann. §§ 47-1825 to 47-1828 (2010); Kentucky, Ky. Rev. Stat. Ann. §§ 437.410 to 437.429 (Lexis 2010); Louisiana, La. Stat. Ann. § 9:2799.4 (2009), La. Stat. Ann. § 14:102.9, 14:228, 14:228.1 (2004); Maryland, Md. Crim. L. Code Ann. § 6-208 (2002); Massachusetts, Mass. Gen. Laws Ann. ch. 266, § 104B (West 2008); Michigan, Mich. Comp. Laws Serv. § 750.395 (Lexis 2011); Minnesota, Minn. Stat. Ann. § 346.56 (West 2004), Minn. Stat. Ann. § 609.552 (West 2009); Mississippi, Miss. Code Ann. §§ 69-29-301 to 69-29-315 (West 2009); Missouri, Mo. Rev. Stat. Ann. §§ 578.029, 578.405 to 578.412 (West 2011); Montana, Mont. Code Ann. §§ 81-30-101 to 81-30-105 (2011); Nebraska, Neb. Rev. Stat. § 25-21,236 (2008); New Hampshire, N.H. Rev. Stat. Ann. § 644:8-e (Lexis 2007); New Jersey, N.J. Stat. Ann. §§ 2C:17-3, 2C:18-2, 2C:18-3, 2C:20-2, 2C:43-3 (West 2005); New York, N.Y. Agric. & Mkts. Law § 378 (McKinney 2004); North Carolina, N.C. Gen. Stat. § 14-159.2 (Lexis 2009); North Dakota, N.D. Cent. Code §§ 12.1-21.1-01 to 12.1-21.1-05 (2010); Ohio, Ohio Rev. Code Ann. §§ 901.511, 2923.31 to 2923.36 (West Supp. 2011); Oklahoma, Okla. Stat. Ann. tit. 21, §§ 1680 to 1680.2 (West 2010), Okla. Stat. Ann. tit. 2, §§ 5-103 to 5-106 (West 2011); Oregon, Or. Rev. Stat. §§ 164.887 (declared unconstitutional in *St. of Or. v. Borowski*, 220 P.3d 100, 110 (Or. App. 2009)), 164.889, 167.312, 167.387 to 167.388 (2009); Pennsylvania, 18 Pa. Consol. Stat. Ann. § 3311 (West 2000), 42 Pa. Consol. Stat. Ann. § 8319 (West Supp. 2011); South Carolina, S.C. Code Ann. §§ 46-1-75, 47-21-10 to 47-21-80 (2010); South Dakota, S.D. Codified Laws §§ 40-38-1 to 40-38-5 (2004); Tennessee, Tenn. Code Ann. §§ 39-14-801 to 39-14-806 (Lexis 2010); Utah, Utah Code Ann. §§ 76-6-110, 76-6-413, 76-10-2002 (Lexis 2008); Virginia, Va. Code Ann. § 18.2-403.4 (Lexis 2009); Washington, Wash. Rev. Code Ann. §§ 4.24.570, 4.24.575, 4.24.580 (West 2005);

Additionally, in the early 1990s, two other states (Maine and Texas) passed such laws, but these were repealed within two years of their enactment.⁸

III. WHEN WERE THESE LAWS PASSED?

In 1988, Massachusetts and Minnesota became the first states to pass animal use protection laws.⁹ With other states soon following suit, the majority of these statutes were enacted in the late 1980s and early 1990s, and forty-four of the sixty-eight statutes identified in this research were enacted in the five-year period between 1988 and 1993.¹⁰ Between 1994 and 1999, another nine statutes were enacted.¹¹ Fifteen statutes have been passed since the turn of this century—most recently in 2008, when the California legislature enacted a pair of laws

Wash. Rev. Code Ann. §§ 9.08.080 to 9.08.090 (West 2010); and Wisconsin, Wis. Stat. Ann. § 895.57 (West 2006), Wis. Stat. Ann. § 943.75 (West 2005).

Included in this list is Oregon's interference with agricultural operations law. Or. Rev. Stat. § 164.887. In 2009, this statute was struck down by the Oregon Court of Appeals as being a violation of the 14th Amendment's Equal Protection Clause. *Borowski*, 220 P.3d at 110. According to the court, the statute created an impermissible distinction between labor and non-labor protests by imposing criminal penalties on persons who engage in non-labor picketing, but creating exceptions for those involved in labor protests. Three other statutes in the above list have statutes with similar labor/non-labor distinctions. Cal. Penal Code §§ 422.4(d), 602.12(c); Utah Code Ann. § 76-6-110(2)(b) (Lexis 2010). It remains to be seen whether these statutes can survive judicial review.

⁸ 17-A Me. Rev. Stat. Ann. § 807 (enacted 1993; repealed 1995); Tex. Penal Code Ann. § 28.08 (enacted 1991; repealed 1993).

⁹ Mass. Gen. Laws Ann. ch. 266, § 104B; Minn. Stat. Ann. § 346.56.

¹⁰ 1988: Mass. Gen. Laws Ann. ch. 266, § 104B; Minn. Stat. Ann. § 346.56. 1989: Ind. Code Ann. §§ 35-43-1-2, 35-43-2-2; La. Stat. Ann. §§ 14:102.9, 14:228; Minn. Stat. Ann. § 609.552; Utah Code Ann. § 76-10-2002. 1990: Ariz. Rev. Stat. Ann. § 11-1023; Ga. Code Ann. §§ 4-11-30 to 4-11-35; Idaho Code Ann. § 18-7037; 720 Ill. Comp. Stat. Ann. 215/1 to 215/9; Kan. Stat. Ann. §§ 47-1825 to 47-1828; Ky. Rev. Stat. Ann. §§ 437.410 to 437.429; La. Stat. Ann. §§ 9:2799.4, 14:228.1; Md. Crim. Law Code Ann. § 6-208. 1991: Ark. Code Ann. §§ 5-62-201 to 5-62-204; Iowa Code Ann. §§ 717A.1 to 717A.2; Mont. Code Ann. §§ 81-30-101 to 81-30-105; N.Y. Agric. & Mkts. Law § 378; N.C. Gen. Stat. § 14-159.2; N.D. Cent. Code §§ 12.1-21.1-01 to 12.1-21.1-05; Okla. Stat. Ann. tit. 21, §§ 1680 to 1680.2; Or. Rev. Stat. § 167.312; Tex. Penal Code Ann. § 28.08 (repealed 1993); Wash. Rev. Code Ann. §§ 4.24.570, 4.24.575, 4.24.580, 9.08.080 to 9.08.090; Wis. Stat. Ann. §§ 895.57, 943.75. 1992: Colo. Rev. Stat. § 18-9-206; Mo. Rev. Stat. Ann. §§ 578.405 to 578.412; Neb. Rev. Stat. § 25-21,236; Or. Rev. Stat. §§ 167.387 to 167.388; S.C. Code Ann. §§ 47-21-10 to 47-21-80; S.D. Codified Laws §§ 40-38-1 to 40-38-5; Tenn. Code Ann. §§ 39-14-801 to 39-14-806; Va. Code Ann. § 18.2-403.4. 1993: Ala. Code §§ 13A-11-150 to 13A-11-158; Fla. Stat. Ann. §§ 828.40 to 828.43; 17-A Me. Rev. Stat. Ann. § 807 (repealed 1995); N.H. Rev. Stat. Ann. § 644:8-e.

¹¹ 1995: N.J. Stat. Ann. §§ 2C:17-3, 2C:18-2, 2C:18-3, 2C:20-2(b)(2)(i), 2C:43-3. 1996: Miss. Code Ann. §§ 69-29-301 to 69-29-315. 1997: Utah Code Ann. § 76-6-413. 1999: Idaho Code Ann. § 25-1910; Or. Rev. Stat. § 164.887 (declared unconstitutional in *Borowski*, 220 P.3d at 110).

in response to anti-animal research protest activities occurring at universities across the state.¹²

IV. WHY WERE THESE LAWS ENACTED?

Six of these statutes include legislative declarations offering insight as to why these laws were enacted.¹³ Most commonly, stated rationales include desires to control unlawful activities,¹⁴ to protect economic interests and private property rights,¹⁵ and—perhaps ironically, given the fact that animal liberationists see themselves as saving animals from those who do them harm—to protect the animals themselves.¹⁶ Additional justifications include wishes to protect crucial research and/or production,¹⁷ to ensure the public’s safety (e.g., by limiting communities’ exposure to contagious diseases),¹⁸ and to protect the productive use of public funds.¹⁹

V. WHICH ANIMAL USES AND INDUSTRIES DO THESE LAWS PROTECT?

The answer to the question of which animal uses and industries animal use laws protect depends upon how the respective states have defined certain key terms like “animal,” “animal activity,” “animal enterprise,” and “animal facility.” While some statutes define these terms narrowly (thereby limiting the animal uses and industries afforded

¹² 2001: Mo. Rev. Stat. Ann. § 578.029; Or. Rev. Stat. § 164.889; Utah Code Ann. § 76-6-110. 2002: Idaho Code Ann. § 18-7040; S.C. Code Ann. § 46-1-75. 2003: Okla. Stat. Ann. tit. 2, §§ 5-103 to 5-106. 2004: Idaho Code Ann. § 18-7041; Ohio Rev. Code Ann. § 901.511. 2005: Ariz. Rev. Stat. Ann. §§ 13-2301, 13-2312, 13-2314; Mich. Comp. Laws Serv. § 750.395. 2006: Ohio Rev. Code Ann. §§ 2923.31 to 2923.36; 18 Pa. Consol. Stat. Ann. § 3311; 42 Pa. Consol. Stat. Ann. § 8319. 2008: Cal. Penal Code §§ 422.4, 602.12.

¹³ Legislative declarations are found in Ala. Code § 13A-11-150; Ark. Code Ann. § 5-62-201; 720 Ill. Comp. Stat. Ann. 215/2; Ky. Rev. Stat. Ann. § 437.415; Utah Code Ann. § 76-6-413(2); Wash. Rev. Code Ann. § 9.08.080.

¹⁴ Ala. Code § 13A-11-150; Ark. Code Ann. § 5-62-201; 720 Ill. Comp. Stat. Ann. 215/2; Ky. Rev. Stat. Ann. § 437.415; Wash. Rev. Code Ann. § 9.08.080.

¹⁵ Ala. Code § 13A-11-150; Ark. Code Ann. § 5-62-201(a)(1)–(2); 720 Ill. Comp. Stat. Ann. 215/2; Ky. Rev. Stat. Ann. § 437.415; Utah Code Ann. § 76-6-413(2); Wash. Rev. Code Ann. § 9.08.080.

¹⁶ Ala. Code § 13A-11-150; Ark. Code Ann. § 5-62-201(a)(2); 720 Ill. Comp. Stat. Ann. 215/2; Ky. Rev. Stat. Ann. § 437.415; Utah Code Ann. § 76-6-413(2); Wash. Rev. Code Ann. § 9.08.080.

For example, in the Utah statute, as partial justification for making the release of animals raised for fur a felony offense, the Utah legislature explained that “the release of fur-bearing animals raised for commercial purposes subjects the animals to unnecessary suffering through deprivation of food and shelter.” Utah Code Ann. § 76-6-413(2).

¹⁷ Ala. Code § 13A-11-150; Ark. Code Ann. § 5-62-201(b); 720 Ill. Comp. Stat. Ann. 215/2; Ky. Rev. Stat. Ann. § 437.415; Wash. Rev. Code Ann. § 9.08.080.

¹⁸ Ala. Code § 13A-11-150; Ark. Code Ann. § 5-62-201(c); 720 Ill. Comp. Stat. Ann. 215/2; Ky. Rev. Stat. Ann. § 437.415; Wash. Rev. Code Ann. § 9.08.080.

¹⁹ Ala. Code § 13A-11-150; 720 Ill. Comp. Stat. Ann. 215/2; Wash. Rev. Code Ann. § 9.08.080.

protection), others either fail to define them (possibly leading to issues with uncertainty and vagueness), or define them very broadly.²⁰ An illustration of the latter, expansive definition is found in South Dakota's law protecting animal facilities.²¹ Here, the term "animal facility" is defined as "any vehicle, building, structure, research facility, premises or area where an animal is kept, handled, housed, transported, exhibited, bred or offered for sale."²² Similarly, "animal" is defined expansively as "any living vertebrate except human beings."²³ Consequently, virtually all uses of animals are protected by this law—arguably even those uses that are not themselves lawful (e.g., dog fighting).

Generally speaking, animal use protection laws may be characterized as being either "industry inclusive" or "industry limited." As the name suggests, an "industry inclusive" law safeguards more than one type of animal use. For example, Arkansas's farm animal and research facilities statute protects entities using animals in food or fiber production, agriculture, research, testing, and education.²⁴ At present, thirty-two states have industry inclusive laws, and because several states have enacted more than one such law, nationwide, there are a total of forty-eight such statutes.²⁵

²⁰ To illustrate, Alabama defines "animal" broadly as "every living creature, domestic or wild, with the exception of man and animals used for illegal gaming purposes." Ala. Code § 13A-11-152(1). Arkansas defines the term more narrowly as "any warm or cold blooded animal used in food or fiber production, agriculture, research, testing, or education, including poultry, fish and insects." Ark. Code Ann. § 5-62-202(1). Louisiana does not define "animal" anywhere in its animal use protection statutes, even though these laws discuss offenses against animal users. La. Stat. Ann. §§ 9:2799.4, 14:102.9, 14:228, 14:228.1.

²¹ S.D. Codified Laws §§ 40-38-1 to 40-38-5.

²² *Id.* at § 40-38-1(2).

²³ *Id.* at § 40-38-1(1).

²⁴ Ark. Code Ann. § 5-62-202(1).

²⁵ States with industry inclusive laws are: Alabama, Ala. Code §§ 13A-11-150 to 13A-11-158; Arizona, Ariz. Rev. Stat. Ann. §§ 11-1023, 13-2301(C)(1), (2), (11), 13-2312, 13-2314; Arkansas, Ark. Code Ann. § 5-62-202(1); Colorado, Colo. Rev. Stat. § 18-9-206(1); Florida, Fla. Stat. Ann. § 828.41(1); Georgia, Ga. Code Ann. § 4-11-31(2)–(3); Idaho, Idaho Code Ann. §§ 18-7037, 25-1910; Illinois, 720 Ill. Comp. Stat. Ann. 215/3(c); Indiana, Ind. Code Ann. § 35-43-1-2; Iowa, Iowa Code Ann. § 717A.1(4); Kansas, Kan. Stat. Ann. § 47-1826(a)–(b); Kentucky, Ky. Rev. Stat. Ann. § 437.410(1)–(2); Louisiana, La. Stat. Ann. §§ 14:228.1(A), 14:228(B)(1)–(2), 9:2799.4(A); Minnesota, Minn. Stat. Ann. §§ 609.552, 346.56(2); Mississippi, Miss. Code Ann. § 69-29-303(b)–(c); Missouri, Mo. Rev. Stat. Ann. §§ 578.029, 578.405(2); Montana, Mont. Code Ann. § 81-30-102(1)–(2); Nebraska, Neb. Rev. Stat. § 25-21,236; New Hampshire, N.H. Rev. Stat. Ann. § 644:8-e(III)(a)–(b); New Jersey, N.J. Stat. Ann. §§ 2C:17-3(b)(3), 2C:18-2(a)(1)–(2), 2C:18-3(a), 2C:43-3(e); North Dakota, N.D. Cent. Code § 12.1-21.1-01(1)–(2); Ohio, Ohio Rev. Code Ann. §§ 901.511(A)(1)–(2), 2923.31(M)–(P); Oklahoma, Okla. Stat. Ann. tit. 21, § 1680.1(1)–(2), tit. 2, § 5-104(2)–(3); Oregon, Or. Rev. Stat. § 167.312(2); Pennsylvania, 18 Pa. Consol. Stat. Ann. § 3311(a), (d), 42 Pa. Consol. Stat. Ann. § 8319; South Carolina, S.C. Code Ann. § 47-21-20(2)–(3); South Dakota, S.D. Codified Laws § 40-38-1(2); Tennessee, Tenn. Code Ann. § 39-14-802(2)–(3); Utah, Utah Code Ann. § 76-6-110(1)(a); Virginia, Va. Code Ann. § 18.2-403.4; Washington, Wash. Rev. Code

However, some states' statutes are not as comprehensive with respect to the uses and industries they defend, and their "industry limited" laws protect only a specific animal activity. An illustration of an industry limited law is North Carolina's statute prohibiting interference with animal research.²⁶ This statute is industry limited because although it proscribes a range of behaviors (and thus is "behavior inclusive," a concept described below), it protects only a specific animal use industry (animal research).²⁷ Currently, thirteen states have at least one industry limited law; however, some states have more than one, and consequently, there are a total of eighteen such statutes in existence.²⁸

The sixty-six animal use protection laws explicitly protect a very wide range of animal activities and industries. In particular,

- fifty-eight (87.9%) protect those using animals in research, testing, science, and/or biotechnology²⁹

Ann. §§ 9.08.090, 4.24.570, 4.24.575, 4.24.580; and Wisconsin, Wis. Stat. Ann. §§ 943.75(2), (2m), 895.57(2).

²⁶ N.C. Gen. Stat. § 14-159.2.

²⁷ This statute prohibits (1) unauthorized entry into a research facility with intent to disrupt operations, damage the facility or property, release an animal, or interfere with the care of an animal; (2) damaging a research facility or property; (3) releasing an animal kept in a research facility; and (4) interfering with the care of an animal kept in a research facility. *Id.* at § 14-159.2(a).

²⁸ The following states have one or more industry limited laws: California, Cal. Penal Code §§ 422.4, 602.12; Idaho, Idaho Code Ann. §§ 18-7040, 18-7041; Indiana, Ind. Code Ann. § 35-43-2-2(a)(8)(B); Louisiana, La. Stat. Ann. § 14:102.9; Maryland, Md. Crim. Law Code Ann. § 6-208; Massachusetts, Mass. Gen. Laws Ann. ch. 266, § 104B; Michigan, Mich. Comp. Laws Serv. § 750.395; New Jersey, N.J. Stat. Ann. § 2C:20-2(b)(2)(i); New York, N.Y. Agric. & Mkts. Law § 378; North Carolina, N.C. Gen. Stat. § 14-159.2; Oregon, Or. Rev. Stat. §§ 164.887 (declared unconstitutional in *Borowski*, 231 P.3d at 110), 164.889, 167.387 to 167.388; South Carolina, S.C. Code Ann. § 46-1-75; and Utah, Utah Code Ann. §§ 76-6-413, 76-10-2002.

²⁹ Ala. Code § 13A-11-152(2); Ariz. Rev. Stat. Ann. §§ 11-1023, 13-2301(C)(1), (11); Ark. Code Ann. § 5-62-202(1); Cal. Penal Code §§ 422.4(a), (b)(2), 602.12(a)-(b)(1); Colo. Rev. Stat. § 18-9-206(1); Fla. Stat. Ann. § 828.41(1)(a); Ga. Code Ann. § 4-11-31(2); Idaho Code Ann. §§ 18-7037, 18-7040(3); 720 Ill. Comp. Stat. Ann. 215/3(c); Ind. Code Ann. §§ 35-43-1-2(a)(2)(B)(v), 35-43-2-2(a)(8)(B); Iowa Code Ann. § 717A.1(4)(b); Kan. Stat. Ann. § 47-1826(a); Ky. Rev. Stat. Ann. § 437.410(1); La. Stat. Ann. §§ 9:2799.4(A), 14:102.9(A), 14:228(B)(1), 14:228.1(A); Md. Crim. Law Code Ann. § 6-208(a)(4); Mass. Gen. Laws Ann. ch. 266, § 104B; Mich. Comp. Laws § 750.395(8)(c); Minn. Stat. Ann. §§ 346.56, 609.552; Miss. Code Ann. § 69-29-303(c); Mo. Rev. Stat. Ann. § 578.405(2)(2); Mont. Code Ann. § 81-30-102(1); Neb. Rev. Stat. § 25-21,236(1); N.H. Rev. Stat. Ann. § 644:8-e(III)(a); N.J. Stat. Ann. §§ 2C:17-3(b)(3), 2C:18-2(a), 2C:18-3(a), 2C:20-2(b)(2)(i), 2C:43-3(e); N.Y. Agric. & Mkts. Law § 378(1)(b); N.C. Gen. Stat. § 14-159.2(a); N.D. Cent. Code § 12.1-21.1-01(1); Ohio Rev. Code Ann. §§ 901.511(A)(1), 2923.31(O); Okla. Stat. Ann. tit. 2, § 5-104(3), tit. 21, § 1680.1(2); Or. Rev. Stat. §§ 164.889(3), 167.312(2); 18 Pa. Consol. Stat. Ann. § 3311(a), (d) (including "research" and "testing" in the definition of "activity involving animals"); 42 Pa. Consol. Stat. Ann. § 8319(a); S.C. Code Ann. §§ 46-1-75(A), 47-21-20(2); S.D. Codified Laws § 40-38-1(2); Tenn. Code Ann. § 39-14-802(2); Utah Code Ann. § 76-10-2002(1); Va. Code Ann. § 18.2-403.4; Wash. Rev. Code Ann. §§ 4.24.570, 4.24.580, 9.08.090; Wis. Stat. Ann. §§ 895.57(2), 943.75(2m).

- forty-four (66.7%) apply to the use of animals in agriculture, food production, food processing, and/or food preparation³⁰
- forty (60.6%) protect the use of animals in education³¹
- thirty (45.5%) defend those using animals for fur, fiber, and/or clothing production³²—this category includes those raising animals for their fur

³⁰ Ala. Code § 13A-11-152(2); Ariz. Rev. Stat. Ann. § 13-2301(C)(1); Ark. Code Ann. § 5-62-202(1); Fla. Stat. Ann. § 828.41(1)(a); Ga. Code Ann. § 4-11-31(2); Idaho Code Ann. §§ 18-7037, 18-7040(3), 18-7041(1), 25-1910(1); 720 Ill. Comp. Stat. Ann. 215/3(c); Ind. Code Ann. § 35-43-1-2(a)(2)(B)(vii); Iowa Code Ann. § 717A.1(4)(a); Kan. Stat. Ann. § 47-1826(a); Ky. Rev. Stat. Ann. § 437.410(1); La. Stat. Ann. §§ 9:2799.4(A), 14:228(B)(2), 14:228.1(A); Miss. Code Ann. § 69-29-303(c); Mo. Rev. Stat. Ann. § 578.405(2)(2); Mont. Code Ann. § 81-30-102(1); Neb. Rev. Stat. § 25-21,236(1); N.H. Rev. Stat. Ann. § 644:8-e(III)(a)(1); N.J. Stat. Ann. §§ 2C:17-3(b)(3), 2C:18-2(a), 2C:18-3(a), 2C:43-3(e) (While these statutes refer simply to a “research facility,” in the broader statutory scheme that term is defined as “any building, laboratory, institution, organization, school, or person engaged in research, testing, educational or experimental activities, or any commercial or academic enterprise that uses warm-blooded or cold-blooded animals for food or fiber production, agriculture, research, testing, experimentation or education.” N.J. Stat. Ann. § 2C: 1-14(p).); N.D. Cent. Code § 12.1-21.1-01(1); Ohio Rev. Code Ann. §§ 901.511(A)(1), 2923.31(M); Okla. Stat. Ann. tit. 2, § 5-104(2); Or. Rev. Stat. §§ 164.887 (declared unconstitutional in *Borowski*, 231 P.3d at 110), 164.889, 167.387; 18 Pa. Consol. Stat. Ann. § 3311(a), (d) (including “food production, processing, and preparation” and “agricultural activity and farming” in “activity involving animals”); 42 Pa. Consol. Stat. Ann. § 8319(a); S.C. Code Ann. §§ 46-1-75(E), 47-21-20(2); Tenn. Code Ann. § 39-14-802(2); Utah Code Ann. § 76-6-110(1)(a)(i)–(ii); Va. Code Ann. § 18.2-403.4; Wash. Rev. Code Ann. §§ 4.24.575(1), (4), 4.24.580; Wis. Stat. Ann. §§ 895.57(2), 943.75(2m).

³¹ Ala. Code § 13A-11-152(2); Ariz. Rev. Stat. Ann. §§ 13-2301(C)(11), 11-1023; Ark. Code Ann. § 5-62-202(1); Cal. Penal Code §§ 422.4(a), (b)(2), 602.12(a)–(b)(1); Colo. Rev. Stat. § 18-9-206(1); Ga. Code Ann. § 4-11-31(2), (3); Idaho Code Ann. § 18-7037; Iowa Code Ann. § 717A.1(4)(b); Kan. Stat. Ann. § 47-1826(a); Ky. Rev. Stat. Ann. § 437.410(1); La. Stat. Ann. §§ 9:2799.4(A), 14:228.1(A); Minn. Stat. Ann. §§ 346.56(2), 609.552; Miss. Code Ann. § 69-29-303(c); Mo. Rev. Stat. Ann. § 578.029(1); Mont. Code Ann. § 81-30-102(1); Neb. Rev. Stat. Ann. § 25-21,236(1); N.H. Rev. Stat. Ann. § 644:8-e(III)(a); N.J. Stat. Ann. §§ 2C:17-3(b)(3), 2C:18-2(a), 2C:18-3(a), 2C:43-3(e); N.D. Cent. Code § 12.1-21.1-01(1); Ohio Rev. Code Ann. § 901.511(A)(1); Okla. Stat. Ann. tit. 2, § 5-104(3), tit. 21, § 1680.1(2); Or. Rev. Stat. § 167.312(2); 18 Pa. Consol. Stat. Ann. § 3311(a), (d) (including “teaching” in “activity involving animals”); 42 Pa. Consol. Stat. Ann. § 8319(a); S.C. Code Ann. § 47-21-20(2); Tenn. Code Ann. § 39-14-802(2); Va. Code Ann. § 18.2-403.4; Wash. Rev. Code Ann. §§ 9.08.090, 4.24.570(1), 4.24.580; Wis. Stat. Ann. §§ 895.57(2), 943.75(2).

³² Ariz. Rev. Stat. Ann. § 13-2301(C)(1); Ark. Code Ann. § 5-62-202(1) (Lexis 2010); Fla. Stat. Ann. § 828.41(1)(a); Ga. Code Ann. § 4-11-31(2); Idaho Code Ann. § 25-1910; Iowa Code Ann. § 717A.1(1)(a); Kan. Stat. Ann. § 47-1826(a); Ky. Rev. Stat. Ann. § 437.410(1); Miss. Code Ann. § 69-29-303(c); Mont. Code Ann. § 81-30-102(1); Neb. Rev. Stat. § 25-21,236(2); N.H. Rev. Stat. Ann. § 644:8-e(III)(a)(1); N.J. Stat. Ann. §§ 2C:17-3(b)(3), 2C:18-2(a), 2C:18-3(a), 2C:43-3(e); N.D. Cent. Code § 12.1-21.1-01(1); Ohio Rev. Code Ann. §§ 901.511(A)(1), 2923.31(M); Okla. Stat. Ann. tit. 2, § 5-104(2); 18 Pa. Consol. Stat. Ann. § 3311(a), (d) (including “clothing manufacturing and distribution” in “activity involving animals”); 42 Pa. Consol. Stat. Ann. § 8319(a); S.C. Code Ann. § 47-21-20(2); Tenn. Code Ann. § 39-14-802(2); Utah Code Ann. §§ 76-6-110(1)(a), 76-6-413(1); Wash. Rev. Code Ann. §§ 4.24.575(4), 4.24.580(1); Wis. Stat. Ann. §§ 895.57(2), 943.75(2m).

- eighteen (27.3%) protect those selling animals or using them for a commercial purpose³³
- twelve (18.2%) safeguard exhibitions, displays, and/or fairs using animals³⁴
- eight (12.1%) shield the breeding, propagation, and/or restocking of animals³⁵
- six (9.1%) protect hunting, fishing, trapping, and/or wildlife management.³⁶ (This figure does not include any separate “hunter harassment/interference” laws which may also have been enacted in a given state. All fifty states have some version of a hunter harassment/interference law.³⁷)
- six (9.1%) protect the use of animals for “recreation” or “entertainment”³⁸

³³ In the interest of maintaining mutually exclusive animal use categories, for this project, a statute was counted as protecting a commercial use only if that commercial use could be considered independent of the other uses listed here.

Ariz. Rev. Stat. Ann. §§ 11-1023, 13-2301(C)(2); Colo. Rev. Stat. § 18-9-206(1); Idaho Code Ann. § 18-7037; La. Stat. Ann. §§ 9:2799.4, 14:228, 14:228.1; Minn. Stat. Ann. §§ 346.56(2), 609.552; Neb. Rev. Stat. Ann. § 25-21,236(1); N.H. Rev. Stat. Ann. § 644:8-e(III)(a)(1); Ohio Rev. Code Ann. §§ 901.511(A)(1), 2923.31(N); 18 Pa. Consol. Stat. Ann. § 3311(a), (d) (defining “animal . . . facility” as “a vehicle, building, or other premises: where an animal . . . is lawfully False . . . offered for sale”); 42 Pa. Consol. Stat. Ann. § 8319(a); Va. Code Ann. § 18.2-403.4; Wis. Stat. Ann. §§ 895.57(2), 943.75(2m).

³⁴ Again, a statute was counted as protecting the exhibition or display of animals only if that exhibition or display was found to be independent of the other named uses.

Ariz. Rev. Stat. Ann. § 11-1023; Fla. Stat. Ann. § 828.41(1)(c); La. Stat. Ann. § 14:228(B)(2); Miss. Code Ann. § 69-29-303(b), (c); Mo. Rev. Stat. Ann. § 578.029(1); N.H. Rev. Stat. Ann. § 644:8-e(III)(a)(3); Ohio Rev. Code Ann. § 2923.31(N); 18 Pa. Consol. Stat. Ann. § 3311(a), (d) (defining “animal . . . facility” as “a vehicle, building, or other premises: where an animal False . . . is lawfully False . . . exhibited”); 42 Pa. Consol. Stat. Ann. § 8319(a); Utah Code Ann. § 76-6-110(1)(a)(iv); Wis. Stat. Ann. §§ 895.57(2), 943.75(2).

³⁵ Once again, a statute was characterized as protecting the breeding, propagation, and/or restocking of animals only if that statute treats the breeding, propagation, and/or restocking as independent of the other named uses.

Idaho Code Ann. § 18-7037; La. Stat. Ann. §§ 9:2799.4(A), 14:228(B)(2), 14:228.1(A); N.H. Rev. Stat. Ann. § 644:8-e(III)(b); Ohio Rev. Code Ann. § 2923.31(N); Wis. Stat. Ann. §§ 895.57(2), 943.75(2m).

³⁶ Ariz. Rev. Stat. Ann. § 13-2301(C)(2); La. Stat. Ann. § 14:228(B)(2); N.H. Rev. Stat. Ann. § 644:8-e(III)(a)(2); Ohio Rev. Code Ann. § 2923.31(O); 18 Pa. Consol. Stat. Ann. § 3311(a), (d) (including “activities authorized under 30 Pa.C.S. (relating to fish) and 34 Pa.C.S. (relating to game)” in “activity involving animals”); 42 Pa. Consol. Stat. Ann. § 8319(a).

³⁷ Katy Steinmetz, *Wolf Wars: A New Move to Ban Hunter Harassment*, Time, <http://www.time.com/time/nation/article/0,8599,1978911,00.html> (last updated Apr. 12, 2010) (accessed Dec. 19, 2011); see also Katherine Hessler, *Where Do We Draw the Line Between Harassment and Free Speech?: An Analysis of Hunter Harassment Law*, 3 Animal L. 129, 135 n.21 (1997) (examining the constitutionality of hunter harassment laws).

³⁸ Mo. Rev. Stat. Ann. § 578.029(1); Ohio Rev. Code Ann. § 2923.31(M); 18 Pa. Consol. Stat. Ann. § 3311(a), (d) (including “entertainment and recreation” in “activity involving animals”); 42 Pa. Consol. Stat. Ann. § 8319(a); Wis. Stat. Ann. §§ 895.57(2), 943.75(2).

- five (7.6%) defend rodeos, horse and dog events, and/or other competitive animal events³⁹
- five (7.6%) shield the use of animals for public safety and “protective custody” purposes⁴⁰
- four (6.1%) protect zoos, aquariums, amusement parks, and/or circuses using animals⁴¹
- and, finally, but to a lesser extent, some statutes safeguard the use of animals for “personal” purposes,⁴² companionship,⁴³ protection of persons or property,⁴⁴ and veterinary purposes,⁴⁵ and some protect the keeping of animals in shelters, pounds, pet stores, and/or kennel facilities.⁴⁶

Importantly, as suggested earlier, some statutes define key terms so broadly that they seem to protect virtually *any* use of an animal by *anyone*. For example, Louisiana’s statute prohibiting interference with animal research facilities or animal management facilities⁴⁷ defines “animal management facility” as “that portion of any vehicle, building, structure, or premises, where an animal [not defined] is kept, handled, housed, exhibited, bred, or offered for sale, and any agricultural trade association properties.”⁴⁸ This definition is so all-encompassing that it would seem to include all persons keeping any animal for any purpose whatsoever—perhaps even for a purpose that is itself unlawful. Several other statutes also have such sweeping provisions.⁴⁹

³⁹ Ariz. Rev. Stat. Ann. § 13-2301(C)(2); Fla. Stat. Ann. § 828.41(1)(b); N.H. Rev. Stat. Ann. § 644:8-e(III)(a)(2); Ohio Rev. Code Ann. § 2923.31(O); Utah Code Ann. § 76-6-110(1)(a)(iii). Some statutes are not clear as to precisely which animal uses are and are not covered by that statute. For example, a Colorado law protects those using animals for “legal sporting” purposes. Colo. Rev. Stat. § 18-9-206(1). But what is meant by this undefined term? Does it include hunting? Rodeo? Dog and horse racing? None of these pursuits? All of them and more? The statute is simply not clear on this matter.

⁴⁰ Colo. Rev. Stat. § 18-9-206(1); Idaho Code Ann. § 18-7037; La. Stat. Ann. §§ 9:2799.4(A), 14:228.1(A); Or. Rev. Stat. § 167.387(2)(b).

⁴¹ Ariz. Rev. Stat. Ann. § 13-2301(C)(2); Fla. Stat. Ann. § 828.41(1)(b); Ohio Rev. Code Ann. § 2923.31(N); Utah Code Ann. § 76-6-110(1)(a)(iii).

⁴² Ohio Rev. Code Ann. § 901.511(A)(1).

⁴³ Mo. Rev. Stat. Ann. § 578.029(1); Wis. Stat. Ann. §§ 943.75(2), 895.57(2).

⁴⁴ Mo. Rev. Stat. Ann. § 578.029(1); Wis. Stat. Ann. §§ 943.75(2), 895.57(2).

⁴⁵ Iowa Code Ann. § 717A.1(4)(c); Wash. Rev. Code Ann. §§ 4.24.575(1), 4.24.580.

⁴⁶ Iowa Code Ann. § 717A.1(4)(d)–(h); 18 Pa. Consol. Stat. Ann. § 3311(a), (d) (defining “animal . . . facility” as a “building, structure, or other premises: where an animal . . . is lawfully housed, exhibited, or offered for sale”); 42 Pa. Consol. Stat. Ann. § 8319(a).

⁴⁷ La. Stat. Ann. § 14:228.

⁴⁸ *Id.* at 14:228(B)(2).

⁴⁹ See e.g. S.D. Codified Laws § 40-38-1(2) (broadly defining “animal facility” as “any vehicle, building, structure, research facility, premises or area where an animal [defined as “any living vertebrate except human beings” (S.D. Codified Laws § 40-38-1(1))] is kept, handled, housed, transported, exhibited, bred or offered for sale”); Ariz. Rev. Stat. Ann. § 13-2301(C)(2) (defining “animal facility” as “a building or premises where a commercial activity in which the use of animals [not defined] is essential takes place”; however, this statute does limit its protection to lawful enterprises (Ariz. Rev. Stat. Ann. § 13-2301(C)(3))); Ohio Rev. Code Ann. § 2923.31(M) (broadly protecting “any activity that involves the use of animals or animal parts,” but, again, requiring that such activity be lawful (Ohio Rev. Code Ann. § 2923.31(O))).

Finally, in addition to protecting the above-mentioned animal uses and industries, fifteen of these statutes extend their aegis to would-be targets of extra-legal environmentalism.⁵⁰ For example, these laws safeguard things like crops or plants, and/or activities such as mining and logging.⁵¹

VI. WHAT TYPES OF BEHAVIORS DO THESE LAWS PENALIZE?

In addition to being “industry inclusive” or “industry limited,” these laws may be either “behavior inclusive” or “behavior limited.” Statutes that are “behavior inclusive” proscribe more than one behavior. This Article discussed Arkansas’s Farm Animal and Research Facilities statute earlier as an illustration of an industry inclusive statute.⁵² In addition, this particular law serves as an example of a behavior inclusive statute, as it prohibits a range of activities if committed with the intent to disrupt or damage the enterprise conducted at an animal facility.⁵³ Twenty-nine states currently have at least one behavior inclusive law; however, because some states have multiple statutes, a total of thirty-eight behavior inclusive laws were identified in this project.⁵⁴

⁵⁰ Ala. Code § 13A-11-153; Ga. Code Ann. § 4-11-32(a)(2), (b)(2), (c.1); Idaho Code Ann. §§ 18-7040, 18-7041; Iowa Code Ann. §§ 717A.1, 717A.3; Kan. Stat. Ann. § 47-1827(e)–(f); Ohio Rev. Code Ann. §§ 901.511(A)(1), 2923.31(O); Okla. Stat. Ann. tit. 2, §§ 5-103 to 5-106; Or. Rev. Stat. §§ 164.887 (declared unconstitutional in *Borowski*, 220 P.3d at 110), 164.889; 18 Pa. Consol. Stat. Ann. § 3311(a), (d); 42 Pa. Consol. Stat. Ann. § 8319(a); S.C. Code Ann. § 46-1-75; Utah Code Ann. § 76-6-110.

⁵¹ See e.g. 18 Pa. Consol. Stat. Ann. § 3311(a), (d); 42 Pa. Consol. Stat. Ann. § 8319(d) (protecting activities involving natural resources, such as mining or foresting, and facilities where a plant or natural resource is lawfully housed, exhibited, sold, or used in scientific research, teaching, or testing).

⁵² Ark. Code Ann. § 5-62-202(1).

⁵³ Specifically, this statute prohibits (a) exercising control over the facility or an animal or property with the intent to deprive the owner; (b) damaging or destroying the facility or an animal or property; (c) entering or remaining concealed in the facility with an intent to commit a prohibited act, or entering the facility and committing or attempting to commit a prohibited act; and (d) entering or remaining in the facility when one has notice that entry is forbidden or receives notice to depart but fails to depart. *Id.* at § 5-62-203.

⁵⁴ The states with one or more behavior inclusive laws are: Alabama, Ala. Code § 13A-11-153; Arkansas, Ark. Code Ann. § 5-62-203; Florida, Fla. Stat. Ann. § 828.42; Georgia, Ga. Code Ann. § 4-11-32; Idaho, Idaho Code Ann. § 18-7040; Illinois, 720 Ill. Comp. Stat. Ann. 215/4; Indiana, Ind. Code Ann. §§ 35-43-1-2(a)(1)–(2), 35-43-2-2(a); Iowa, Iowa Code Ann. § 717A.2(1); Kansas, Kan. Stat. Ann. § 47-1827(a)–(d); Kentucky, Ky. Rev. Stat. Ann. § 437.420; Louisiana, La. Stat. Ann. §§ 14:102.9, 14:228(A); Massachusetts, Mass. Gen. Laws Ann. ch. 266, § 104B; Michigan, Mich. Comp. Laws Serv. § 750.395(1); Mississippi, Miss. Code Ann. §§ 69-29-305 to 69-29-311; Missouri, Mo. Rev. Stat. Ann. § 578.407; Montana, Mont. Code Ann. § 81-30-103; New Hampshire, N.H. Rev. Stat. Ann. § 644:8-e(I)–(II); New Jersey, N.J. Stat. Ann. § 2C:17-3(b)(3); North Carolina, N.C. Gen. Stat. § 14-159.2; North Dakota, N.D. Cent. Code §§ 12.1-21.1-02 to 12.1-21.1-03; Ohio, Ohio Rev. Code Ann. §§ 901.511, 2923.31(O); Oklahoma, Okla. Stat. Ann. tit. 2, § 5-105, tit. 21, § 1680.2(A); Oregon, Or. Rev. Stat. §§ 164.889,

Not all animal use protection laws are as broad with respect to what they proscribe. These “behavior limited” statutes prohibit only a particular type of behavior. For example, while Colorado’s unauthorized release of an animal statute is industry inclusive (in the sense that it includes within its scope of protection a range of animal users—specifically, all those keeping animals confined for scientific, research, commercial, sporting, educational, or public safety purposes), it is also behavior limited because it addresses only one particular type of behavior—the unauthorized release of animals kept for any of these purposes.⁵⁵ Currently, seventeen states have at least one behavior limited law, and there are twenty-seven such statutes nationwide.⁵⁶

The animal use protection statutes explicitly prohibit a variety of behaviors affecting property and—to a much lesser extent—persons. Of the statutes identified in this research, fifty-five (83.3%) expressly prohibit damaging or causing the loss of real or personal property (including animals⁵⁷), for example, by theft, vandalism, or release of an animal.⁵⁸ Thirty-three (50%) of the statutes prohibit wrongfully enter-

167.312, 167.388; Pennsylvania, 18 Pa. Consol. Stat. Ann. § 3311(a), (d), 42 Pa. Consol. Stat. Ann. § 8319(a); South Carolina, S.C. Code Ann. §§ 47-21-30 to 47-21-60; South Dakota, S.D. Codified Laws §§ 40-38-2 to 40-38-3; Tennessee, Tenn. Code Ann. § 39-14-803; Utah, Utah Code Ann. § 76-6-110(2); and Washington, Wash. Rev. Code Ann. §§ 4.24.570, 4.24.575, 4.24.580.

⁵⁵ Colo. Rev. Stat. § 18-9-206(1).

⁵⁶ States with behavior limited laws are: Arizona, Ariz. Rev. Stat. Ann. §§ 11-1023, 13-2301(C)(3); California, Cal. Penal Code §§ 422.4, 602.12; Colorado, Colo. Rev. Stat. § 18-9-206(1); Idaho, Idaho Code Ann. §§ 18-7037, 18-7041, 25-1910; Louisiana, La. Stat. Ann. §§ 9:2799.4, 14:228.1; Maryland, Md. Crim. Law Code Ann. § 6-208; Minnesota, Minn. Stat. Ann. §§ 346.56, 609.552; Missouri, Mo. Rev. Stat. Ann. § 578.029; Nebraska, Neb. Rev. Stat. § 25-21,236; New Jersey, N.J. Stat. Ann. §§ 2C:18-2, 2C:18-3, 2C:20-2(b)(2)(i); New York, N.Y. Agric. & Mkts. Law § 378; Oregon, Or. Rev. Stat. § 164.887 (declared unconstitutional in *Borowski*, 220 P.3d at 110); South Carolina, S.C. Code Ann. § 46-1-75; Utah, Utah Code Ann. §§ 76-6-413, 76-10-2002; Virginia, Va. Code Ann. § 18.2-403.4; Washington, Wash. Rev. Code Ann. §§ 9.08.080 to 9.08.090; and Wisconsin, Wis. Stat. Ann. §§ 895.57, 943.75.

⁵⁷ These statutes—consistent with a deeply entrenched tradition in American law—characterize animals as “property.” See generally Gary L. Francione, *Animals, Property, and the Law* (Temple U. Press 1995) (arguing that by relegating animals to the status of personal property, our humanocentric laws afford animals very little protection and sanction their exploitation); Elizabeth L. DeCoux, *Pretenders to the Throne: A First Amendment Analysis of the Property Status of Animals*, 18 Fordham Envtl. L. Rev. 185, 188–206, 214–20 (2007) (arguing that the law’s treatment of animals as property is the product of the religious doctrine of human dominion, and as such, violates the First Amendment’s Establishment Clause); Diane Sullivan & Holly Vietzke, *An Animal Is Not an iPod*, 4 J. Animal L. 41, 44–58 (2008) (discussing recent developments and enduring concerns relating to animals’ property status).

⁵⁸ Ala. Code § 13A-11-153(1), (2); Ariz. Rev. Stat. Ann. §§ 11-1023, 13-2301(C)(3); Ark. Code Ann. § 5-62-203(b); Colo. Rev. Stat. § 18-9-206(1); Fla. Stat. Ann. § 828.42(1); Ga. Code Ann. § 4-11-32(b)(1), (c)(1); Idaho Code Ann. §§ 18-7037, 18-7040(1)(a), (1)(f), 18-7041(1), 25-1910; 720 Ill. Comp. Stat. Ann. 215/4(1), (2); Ind. Code Ann. § 35-43-1-2(a)(1); Iowa Code Ann. § 717A.2(1)(a); Kan. Stat. Ann. § 47-1827(a); Ky. Rev. Stat. Ann. § 437.420(2); La. Stat. Ann. §§ 9:2799.4, 14:102.9(A)(2), (A)(3), 14:228(A)(1), (A)(2), 14:228.1(A); Mass. Gen. Laws Ann. ch. 266, § 104B; Mich. Comp. Laws Serv. § 750.395(1)(a); Minn. Stat. Ann. §§ 346.56, 609.552; Miss. Code Ann. § 69-29-307; Mo.

ing, accessing, exercising control over, or remaining in an animal facility or other protected location; this category includes behaviors such as breaking and entering, entering by false pretense, trespassing, and entering with unlawful intent.⁵⁹ Twenty-five (37.9%) statutes forbid wrongfully possessing, exercising control over, or using animals, records, data, material, equipment, and other property.⁶⁰ And thirteen (19.7%) prohibit otherwise obstructing, interfering with, disrupting, damaging, or destroying an animal facility, property, enterprise, or animal activity.⁶¹ Other, albeit less common, property-specific provisions include prohibitions against “endangering” or causing “substan-

Rev. Stat. Ann. §§ 578.029(1), 578.407(1)–(2); Mont. Code Ann. § 81-30-103(2)(a); Neb. Rev. Stat. § 25-21,236(1); N.J. Stat. Ann. §§ 2C:17-3(a), 2C:20-2(b)(2)(i); N.Y. Agric. & Mkts. Law § 378(2); N.C. Gen. Stat. § 14-159.2(a)(2)–(3); N.D. Cent. Code § 12.1-21.1-02(1), (7); Ohio Rev. Code Ann. §§ 901.511(A)(5) (referencing §§ 2909.05, 2913.02), (B), 2923.31(O); Okla. Stat. Ann. tit. 2, § 5-105(B)(1), (C)(1), tit. 21, § 1680.2(A)(1), (7); Or. Rev. Stat. §§ 164.889(1)(a), (f), 167.312(1)(a)–(b), 167.388(1)(a)–(b); 18 Pa. Consol. Stat. Ann. § 3311(a), (d) (referencing §§ 3307, 3309, 3921, 3922); 42 Pa. Consol. Stat. Ann. § 8319(a); S.C. Code Ann. §§ 46-1-75(A), 47-21-40; S.D. Codified Laws § 40-38-2(1), (6); Tenn. Code Ann. § 39-14-803(b)–(c)(1); Utah Code Ann. § 76-6-413(1); Va. Code Ann. § 18.2-403.4; Wash. Rev. Code Ann. §§ 4.24.570(1), 4.24.575(1), 4.24.580, 9.08.090; Wis. Stat. Ann. §§ 895.57(2), 943.75(2).

⁵⁹ Ala. Code § 13A-11-153(3), (4), (7); Ark. Code Ann. § 5-62-203(a), (c), (d); Cal. Penal Code § 602.12(a); Ga. Code Ann. § 4-11-32(a)(1), (c)(1); Idaho Code Ann. § 18-7040(1)(c), (d); 720 Ill. Comp. Stat. Ann. 215/4(3), (4), (6); Ind. Code Ann. § 35-43-2-2(a)(1)–(3), (5), (7)–(8); Iowa Code Ann. § 717A.2(1)(b)–(c); Kan. Stat. Ann. § 47-1827(b)–(d); Ky. Rev. Stat. Ann. § 437.420(1), (3)–(4); La. Stat. Ann. §§ 14:102.9(A)(1), 14:228(A)(3)–(5); Md. Crim. Law Code Ann. § 6-208(b); Mass. Gen. Laws Ann. ch. 266, § 104B; Miss. Code Ann. §§ 69-29-305, 69-29-309 to 69-29-311; Mo. Rev. Stat. Ann. § 578.407(3)–(4), (6); Mont. Code Ann. § 81-30-103(1), (2)(b)–(f); N.J. Stat. Ann. §§ 2C:18-2(a), 2C:18-3(a); N.C. Gen. Stat. § 14-159.2(a)(1); N.D. Cent. Code §§ 12.1-21.1-02(2)–(6), 12.1-21.1-03; Ohio Rev. Code Ann. § 901.511(A)(5) (referencing §§ 2911.13, 2911.21), (B); Okla. Stat. Ann. tit. 2, § 5-105(A)(1), tit. 21, § 1680.2(A)(2)–(6); Or. Rev. Stat. §§ 164.889(1)(c)–(d), 167.312(1)(c), 167.388(1)(c); 18 Pa. Consol. Stat. Ann. § 3311(a), (d) (referencing §§ 3502, 3503); 42 Pa. Consol. Stat. Ann. § 8319(a); S.C. Code Ann. §§ 47-21-30, 47-21-50 to 47-21-60; S.D. Codified Laws § 40-38-2(2)–(5), 40-38-3; Tenn. Code Ann. § 39-14-803(a), (c)(1); Utah Code Ann. § 76-10-2002(1).

⁶⁰ Ala. Code § 13A-11-153(5)–(6); Ark. Code Ann. § 5-62-203(a); Ga. Code Ann. § 4-11-32(a)(1); Idaho Code Ann. § 18-7040(1)(b), (e); 720 Ill. Comp. Stat. Ann. 215/4(5); Ind. Code Ann. § 35-43-2-2(a)(3); Iowa Code Ann. § 717A.2(1)(b); Kan. Stat. Ann. § 47-1827(b); Ky. Rev. Stat. Ann. § 437.420(1); La. Stat. Ann. § 14:228(A)(6)–(7); Miss. Code Ann. § 69-29-305; Mo. Rev. Stat. Ann. § 578.407(5); Mont. Code Ann. § 81-30-103(1); N.J. Stat. Ann. § 2C:17-3(b)(3); N.D. Cent. Code § 12.1-21.1-02(2); Ohio Rev. Code Ann. § 901.511(A)(5) (referencing § 2913.04), (B); Okla. Stat. Ann. tit. 2, § 5-105(A)(1), tit. 21, § 1680.2(A)(2); Or. Rev. Stat. §§ 164.889(1)(b), (e), 167.312(1)(d)–(e); 18 Pa. Consol. Stat. Ann. § 3311(a), (d) (referencing § 3921); 42 Pa. Consol. Stat. Ann. § 8319(a); S.C. Code Ann. § 47-21-30; S.D. Codified Laws § 40-38-2(2); Tenn. Code Ann. § 39-14-803(a).

⁶¹ Ind. Code Ann. § 35-43-2-2(a)(4); Mich. Comp. Laws Serv. § 750.395(1)(b); Mo. Rev. Stat. Ann. § 578.407(4); N.H. Rev. Stat. Ann. § 644:8-e(I); N.J. Stat. Ann. § 2C:17-3(a)(2), (b)(3); N.C. Gen. Stat. § 14-159.2(a)(4); N.D. Cent. Code § 12.1-21.1-02(1); Ohio Rev. Code Ann. § 901.511(A)(5), (B)(4); Or. Rev. Stat. § 164.887(1) (declared unconstitutional in *Borowski*, 220 P.3d at 110); 18 Pa. Consol. Stat. Ann. § 3311(a)(2), (d); 42 Pa. Consol. Stat. Ann. § 8319(a); S.D. Codified Laws § 40-38-2(1); Wash. Rev. Code Ann. § 4.24.580.

tial risk of physical harm” to property (four (6.1%) statutes),⁶² entering an animal facility to take (or attempt to take) photographs, videos, or audio recordings (three (4.5%) statutes),⁶³ and causing one to suffer pecuniary loss some other way (e.g., by deception) (three (4.5%) statutes).⁶⁴

Notwithstanding the historical lack of incidents involving animal activists causing physical injury to others,⁶⁵ several statutes do proscribe this particular harm. New Hampshire’s statute expressly prohibits causing bodily injury.⁶⁶ Three (4.5%) statutes prohibit “endangering” or causing the “substantial risk of physical harm” to a person.⁶⁷ Ohio forbids the use of a deadly weapon or dangerous ordinance,⁶⁸ and Pennsylvania prohibits possessing, manufacturing, or transporting incendiary or explosive material,⁶⁹ as well as causing or risking a catastrophe.⁷⁰ And, finally, a 2008 California statute prohibits inciting harm by publishing personal information about an animal researcher or his or her family.⁷¹

Furthermore, a few states’ statutes expressly penalize those who conspire to commit, or those who aid and abet one who commits, a prohibited offense. Ohio’s statute expressly prohibits conspiracy to commit a prohibited act,⁷² and statutes in both Ohio and Washington punish those raising, soliciting, collecting, donating, or providing material support or resources to be used to help plan, prepare, carry out, or aid in a violation or concealment of or escape from a violation.⁷³

Finally, one statute is so sweeping in its prohibitions that it warrants separate mention. A Utah law permits enhanced penalties for “any criminal offense” that is committed “with the intent to halt, im-

⁶² Ohio Rev. Code Ann. §§ 901.511(A)(5) (referencing § 2909.06(A)), (B), 2923.31(O); 18 Pa. Consol. Stat. Ann. § 3311(a), (d) (referencing § 3301(c)); 42 Pa. Consol. Stat. Ann. § 8319(a).

⁶³ Kan. Stat. Ann. § 47-1827(c)(4); Mont. Code Ann. § 81-30-103(2)(e); N.D. Cent. Code § 12.1-21.1-02(6).

⁶⁴ Ind. Code Ann. § 35-43-1-2(a)(2); 18 Pa. Consol. Stat. Ann. § 3311(a), (d) (referencing § 3304(a)(3)); 42 Pa. Consol. Stat. Ann. § 8319(a).

⁶⁵ Although animal activists abroad have been charged with several violent incidents resulting in non-life-threatening injuries (see e.g. Chris Gray, *Animal Rights Activist Jailed for Attack with Pickaxe Handle*, *The Independent*, 4 (Aug. 17, 2001)), according to the FBI, no serious injuries or deaths have been attributed to U.S. activists (Thomas Walkom, *U.S. Terror Hunt Targets Animal Activists*, *Toronto Star*, A6 (Mar. 13, 2006)).

⁶⁶ N.H. Rev. Stat. Ann. § 644:8-e(II).

⁶⁷ Ohio Rev. Code Ann. § 901.511(A)(5) (referencing § 2909.06(B)), (B); 18 Pa. Consol. Stat. Ann. § 3311(a), (d), (referencing § 3301(a)(1)(i)); 42 Pa. Consol. Stat. Ann. § 8319(a).

⁶⁸ Ohio Rev. Code Ann. § 2923.31(O).

⁶⁹ 18 Pa. Consol. Stat. Ann. § 3311(a), (d) (referencing § 3301(f)); 42 Pa. Consol. Stat. Ann. § 8319(a).

⁷⁰ 18 Pa. Consol. Stat. Ann. § 3311(a), (d) (referencing § 3302); 42 Pa. Consol. Stat. Ann. § 8319(a).

⁷¹ Cal. Penal Code § 422.4(a).

⁷² Ohio Rev. Code Ann. § 901.511(A)(5)(b), (B).

⁷³ *Id.* at § 901.511(C); Wash. Rev. Code Ann. §§ 4.24.570(2), 4.24.575(2), 4.24.580.

pede, obstruct, or interfere with the lawful operation of an animal enterprise or to damage, take, or cause the loss of any property owned by, used by, or in the possession of a lawful animal enterprise.”⁷⁴ Thus, because of its inclusive language, this particular statute would likely be interpreted as punishing all of the above-mentioned activities (and then some), provided they were committed with the requisite *mens rea*.

VII. WHAT PENALTIES AND REMEDIES DO THESE LAWS PROVIDE FOR?

Of the sixty-six statutes, fifty-eight are criminal laws.⁷⁵ Twelve of these statutes treat the prohibited act as a misdemeanor,⁷⁶ twenty-one as a felony,⁷⁷ and twenty-four as either a misdemeanor or felony, de-

⁷⁴ Utah Code Ann. § 76-6-110(2).

⁷⁵ Ala. Code § 13A-11-154; Ariz. Rev. Stat. Ann. §§ 11-1023, 13-2301(C)(3) (punishable via § 13-2312(B), (D)); Ark. Code Ann. § 5-62-204; Cal. Penal Code §§ 422.4, 602.12(a); Colo. Rev. Stat. § 18-9-206(2); Fla. Stat. Ann. § 828.42; Ga. Code Ann. §§ 4-11-32 to 4-11-33; Idaho Code Ann. §§ 18-7037(2), 18-7040, 18-7041, 25-1910; 720 Ill. Comp. Stat. Ann. 215/4, 215/5; Ind. Code Ann. §§ 35-43-1-2, 35-43-2-2; Iowa Code Ann. § 717A.2(3); Kan. Stat. Ann. § 47-1827; Ky. Rev. Stat. Ann. §§ 437.420 to 437.429; La. Stat. Ann. §§ 14:102.9, 14:228, 14:228.1; Md. Crim. Law Code Ann. § 6-208(c); Mass. Gen. Laws Ann. ch. 266, § 104B; Mich. Comp. Laws Serv. § 750.395(2); Minn. Stat. Ann. § 609.552; Miss. Code Ann. § 69-29-315; Mo. Rev. Stat. Ann. §§ 578.029, 578.409; Mont. Code Ann. § 81-30-105; N.H. Rev. Stat. Ann. § 644:8-e(I)-(II); N.J. Stat. Ann. §§ 2C:17-3, 2C:18-2, 2C:18-3, 2C:20-2, 2C:43-3; N.Y. Agric. & Mkts. Law § 378; N.C. Gen. Stat. § 14-159.2(a)-(c); N.D. Cent. Code § 12.1-21.1-04; Ohio Rev. Code Ann. §§ 2923.31 to 2923.36, 901.511(D)(1) (punishable via § 901.99); Okla. Stat. Ann. tit. 2, § 5-106, tit. 21, § 1680.2(B); Or. Rev. Stat. §§ 167.312(3), 167.388(2), 164.887(2) (declared unconstitutional in *Borowski*, 220 P.3d at 110), 164.889(2); 18 Pa. Consol. Stat. Ann. § 3311(b); S.C. Code Ann. §§ 46-1-75, 47-21-10 to 47-21-80; S.D. Codified Laws § 40-38-4; Tenn. Code Ann. § 39-14-804; Utah Code Ann. §§ 76-6-110(2)-(3), 76-6-413, 76-10-2002(2); Va. Code Ann. § 18.2-403.4; Wash. Rev. Code Ann. § 9.08.090; Wis. Stat. Ann. § 943.75(2)-(2m).

⁷⁶ Cal. Penal Code §§ 422.4(a), 602.12(a); Colo. Rev. Stat. § 18-9-206(2); Idaho Code Ann. § 18-7037(2); Ky. Rev. Stat. Ann. § 437.429(1); La. Stat. Ann. § 14:228.1(B); Minn. Stat. Ann. § 609.552; N.J. Stat. Ann. § 2C:18-3(a) (In New Jersey, criminal charges are classified by degree, rather than as felony or misdemeanor crimes; a violation of this statute is graded as a “crime of the fourth degree,” which is comparable to a misdemeanor.); Okla. Stat. Ann. tit. 21, § 1680.2(B); Or. Rev. Stat. § 164.887(2) (declared unconstitutional in *Borowski*, 220 P.3d at 110); S.C. Code Ann. § 47-21-80; Va. Code Ann. § 18.2-403.4.

⁷⁷ Ariz. Rev. Stat. Ann. §§ 11-1023, 13-2312(D); Ark. Code Ann. § 5-62-204(a); Fla. Stat. Ann. § 828.42; Idaho Code Ann. §§ 18-7040(2), 25-1910(2); 720 Ill. Comp. Stat. Ann. 215/5(a); Ind. Code Ann. §§ 35-43-1-2(a)(2)(B)(v), (vii), 35-43-2-2(a)(8)(B); La. Stat. Ann. §§ 14:102.9(B), 14:228(C) (per section 14.2(A)(4), in Louisiana, a felony is “any crime for which an offender may be sentenced to death or imprisonment at hard labor”); Md. Crim. Law Code Ann. § 6-208(c); Mass. Gen. Laws Ann. ch. 266, § 104B; N.J. Stat. Ann. §§ 2C:17-3(b) (violations are graded a “crime of the third degree,” which is comparable to a felony), 2C:18-2(b) (violations are graded as either a “crime of the second degree” or a “crime of the third degree,” either of which are comparable to a felony), 2C:20-2(b)(2)(i) (violations are graded a “crime of the third degree,” which is comparable to a felony); N.Y. Agric. & Mkts. Law § 378(2); Ohio Rev. Code Ann. § 2923.32(B)(1); Or. Rev. Stat. § 164.889(2); Utah Code Ann. § 76-6-413(1); Wash. Rev. Code Ann. § 9.08.090.

pending upon the act and/or harm caused.⁷⁸ Rather than categorizing violations as misdemeanors or felonies, a final statute from New Jersey specifies that offenses committed against a research facility are eligible for double restitution.⁷⁹

These laws make available a variety of penalties and remedies. All of the criminal laws (with the exception of the just-mentioned New Jersey statute) punish the offender with incarceration and fines.⁸⁰ Forty (60.6%) of the sixty-six statutes allow courts to award restitution and/or damages (e.g., for loss of profit or income, costs of repeating an interrupted or invalidated experiment, costs of restoring a released animal to confinement, and/or punitive damages).⁸¹ Sixteen (24.2%)

⁷⁸ Ala. Code § 13A-11-154; Ga. Code Ann. § 4-11-33; Idaho Code Ann. § 18-7041(2); Iowa Code Ann. § 717A.2(3); Kan. Stat. Ann. § 47-1827(g); Mich. Comp. Laws Serv. § 750.395(2); Miss. Code Ann. § 69-29-315; Mo. Rev. Stat. Ann. §§ 578.029(4), 578.409(1); Mont. Code Ann. § 81-30-105; N.H. Rev. Stat. Ann. § 644:8-e(I)-(II); N.C. Gen. Stat. § 14-159.2(b)-(c); N.D. Cent. Code § 12.1-21.1-04; Ohio Rev. Code Ann. § 901.511(D); Okla. Stat. Ann. tit. 2, § 5-106; Or. Rev. Stat. §§ 167.312(3), 167.388(2); 18 Pa. Cons. Stat. Ann. § 3311(b); S.C. Code Ann. § 46-1-75(B); S.D. Codified Laws § 40-38-4; Tenn. Code Ann. § 39-14-804; Utah Code Ann. §§ 76-6-110(3), 76-10-2002(2); Wis. Stat. Ann. § 943.75(2)-(2m).

⁷⁹ N.J. Stat. Ann. § 2C:43-3(e).

⁸⁰ Ala. Code §§ 13A-11-154, 13A-5-6(a)(3), 13A-5-11(a)(3)-(4), 13A-5-7(a)(1), 13A-5-12(a)(1), (4); Ariz. Rev. Stat. Ann. §§ 11-1023, 13-2301(C)(3) (punishable via § 13-2312(B), (D)), 13-701(A), 13-801(A); Ark. Code Ann. §§ 5-4-201(a)(2), 5-4-401(a)(5), 5-62-204(a); Cal. Penal Code §§ 422.4(a), 602.12(a), 19; Colo. Rev. Stat. §§ 18-1.3-501(1)(a), 18-9-206(2); Fla. Stat. Ann. § 828.42(1)-(3); Ga. Code Ann. § 4-11-33; Idaho Code Ann. §§ 18-7037(2), 18-7040(2), 25-1910(2), 18-112, 18-113 (Lexis 2004); 720 Ill. Comp. Stat. Ann. 215/5(a); 730 Ill. Comp. Stat. Ann. 5/5-4.5-30, 5/5-4.5-35, 5/5-4.5-40, 5/5-4.5-45; Ind. Code Ann. §§ 35-43-1-2(a)(2)(B)(v), (vii), 35-43-2-2(a)(8)(B), 35-50-2-7(a); Iowa Code Ann. §§ 717A.2(3), 902.9(4)-(5), 903.1(2); Kan. Stat. Ann. §§ 47-1827(g), 21-4502(1)(a)-(b), 21-4503a(a)(3), (b)(1)-(2), 21-4704; Ky. Rev. Stat. Ann. § 437.429(1); La. Stat. Ann. §§ 14:102.9(B), 14:228(C), 14:228.1(B); Md. Crim. Law Code Ann. § 6-208(c); Mass. Gen. Laws Ann. ch. 266, § 104B; Mich. Comp. Laws Serv. § 750.395(2); Minn. Stat. Ann. §§ 609.552, 609.03; Miss. Code Ann. § 69-29-315; Mo. Rev. Stat. Ann. §§ 558.011, 560.011, 560.016, 578.029(4), 578.409(1); Mont. Code Ann. § 81-30-105; N.H. Rev. Stat. Ann. §§ 644:8-e(I)-(II), 651:2(I); N.J. Stat. Ann. §§ 2C:17-3(b)(3), 2C:18-2(b), 2C:18-3(a), 2C:20-2(b)(2)(i), 2C:43-3, 2C:43-6; N.Y. Agric. & Mkts. Law § 378(2); N.Y. Penal Law §§ 70.00, 80.00; N.C. Gen. Stat. §§ 14-159.2(b)-(c), 15A-1340.17, 15A-1340.23; N.D. Cent. Code §§ 12.1-21.1-04, 12.1-32-01(3)-(6) (1997); Ohio Rev. Code Ann. §§ 901.511(D), 901.99, 2923.32(B)(1)-(2), 2929.14, 2929.18, 2929.24, 2929.28; Okla. Stat. Ann. tit. 2, § 5-106, tit. 21, § 1680.2(B); Or. Rev. Stat. §§ 161.605(3), 161.615(1), 164.887(2) (declared unconstitutional in *Borowski*, 220 P.3d at 110, 164.889(2), 167.312(3), 167.388(2); 18 Pa. Consol. Stat. Ann. §§ 3311(b), 1101, 1103, 1104; S.C. Code Ann. §§ 46-1-75(B), 47-21-80; S.D. Codified Laws §§ 22-6-1(7), 22-6-2, 40-38-4; Tenn. Code Ann. §§ 39-14-804, 40-35-111(b)(3), (e)(2); Utah Code Ann. §§ 76-6-110(3), 76-3-203(2)-(3), 76-3-204(1), 76-3-301(1)(a)-(c), (f), 76-6-413(1), 76-10-2002(2); Va. Code Ann. §§ 18.2-403.4, 18.2-11(a); Wash. Rev. Code Ann. §§ 9.08.090, 9A.20.021(1)(c) (West 2009); Wis. Stat. Ann. §§ 939.50(3)(i), 939.51(3)(a), (c), 943.75(2)-(2m).

⁸¹ Ala. Code § 13A-11-155; Ariz. Rev. Stat. Ann. §§ 11-1023, 13-2301(C)(3) (damages awarded via § 13-2314(A), (D)(4)); Ark. Code Ann. § 5-62-204(b); Colo. Rev. Stat. § 18-9-206(3); Fla. Stat. Ann. § 828.42(4); Ga. Code Ann. § 4-11-35(a); Idaho Code Ann. §§ 18-7037(1), 18-7040(4), 18-7041(3), 25-1910; 720 Ill. Comp. Stat. Ann. 215/5(c); Iowa Code Ann. § 717A.2(2)(a); Kan. Stat. Ann. § 47-1828(a)(1); Ky. Rev. Stat. Ann. § 437.429(2); La. Stat. Ann. § 9:2799.4; Mich. Comp. Laws Serv. § 750.395(7); Minn. Stat. Ann.

statutes permit the recovery of expenses incurred in prosecution or litigation (e.g., reasonable attorneys' fees, investigation costs, and/or court costs).⁸² Finally, twelve (18.2%) provide for the issuance of an injunction or restraining order,⁸³ and four (6.1%) allow some other penalty or remedy such as forfeiture of property, dissolution of an offending organization, or payment of interest on any damages awarded.⁸⁴

VIII. CONCLUSION

Like their better-known federal counterpart, the Animal Enterprise Terrorism Act, the state animal use protection statutes are designed to shield particular animal uses and industries from extra-legal animal rights activities. Although supporters of these laws have applauded their presumed deterrent and retributive benefits,⁸⁵ detractors have questioned their wisdom, their necessity, and also, in some

§ 346.56(2); Mo. Rev. Stat. Ann. § 578.409(4), (5); Mont. Code Ann. § 81-30-104(1)(a); Neb. Rev. Stat. § 25-21,236(1); N.H. Rev. Stat. Ann. § 644:8-e(II); N.J. Stat. Ann. § 2C:43-3(e); N.Y. Agric. & Mkts. Law § 378(3)(a)–(b), (d); N.C. Gen. Stat. § 14-159.2(d); N.D. Cent. Code § 12.1-21.1-05; Ohio Rev. Code Ann. §§ 901.511(D), 2923.32(B)(2)(a); Okla. Stat. Ann. tit. 21, § 1680.2(B); Or. Rev. Stat. §§ 164.889(4), 167.312(5), 167.388(3), (4); 18 Pa. Consol. Stat. Ann. § 3311(c); 42 Pa. Consol. Stat. Ann. § 8319(a); S.C. Code Ann. § 46-1-75(C); S.D. Codified Laws § 40-38-5; Tenn. Code Ann. § 39-14-806(a); Wash. Rev. Code Ann. §§ 4.24.570(1), 4.24.575(1); Wis. Stat. Ann. § 895.57(2).

⁸² Ariz. Rev. Stat. Ann. § 13-2301(C)(3) (costs awarded via § 13-2314(A), (D)(5)); Ga. Code Ann. § 4-11-35(a); Iowa Code Ann. § 717A.2(2)(b); Kan. Stat. Ann. § 47-1828(a)(2); Minn. Stat. Ann. § 346.56(3); Mo. Rev. Stat. Ann. § 578.409(5); Mont. Code Ann. § 81-30-104(1)(b); N.Y. Agric. & Mkts. Law § 378(3)(c); N.D. Cent. Code § 12.1-21.1-05; Ohio Rev. Code Ann. § 2923.32(B)(2)(b); 42 Pa. Consol. Stat. Ann. § 8319(a); S.D. Codified Laws § 40-38-5; Tenn. Code Ann. § 39-14-806(a); Wash. Rev. Code Ann. §§ 4.24.570(3), 4.24.575(3); Wis. Stat. Ann. § 895.57(2).

⁸³ Ala. Code § 13A-11-156; Ariz. Rev. Stat. Ann. § 13-2301(C)(3) (order available via § 13-2314(A), (B), (C), (D)(2)); Cal. Penal Code § 422.4(c); Fla. Stat. Ann. § 828.43; Ga. Code Ann. § 4-11-35(b); 720 Ill. Comp. Stat. Ann. 215/6; Mo. Rev. Stat. Ann. § 578.409(6); N.Y. Agric. & Mkts. Law § 378(3); Ohio Rev. Code Ann. § 2923.34(B)(2); 42 Pa. Consol. Stat. Ann. § 8319(a); Tenn. Code Ann. § 39-14-806(b); Wash. Rev. Code Ann. § 4.24.580.

⁸⁴ Ariz. Rev. Stat. Ann. § 13-2301(C)(3) (remedies available via § 13-2314(A), (B), (D)(1), (3), (6) (divestiture, dissolution of an enterprise, forfeiture)); Ind. Code Ann. § 35-43-1-2(c) (court may suspend driver's license if offense involves use of graffiti); Ohio Rev. Code Ann. §§ 2923.32(B)(3), 2923.34(B)(3) (court may order forfeiture, dissolution of enterprise); Wis. Stat. Ann. § 895.57(2) (provides for 12% interest on damages incurred).

⁸⁵ See generally e.g. Sen. Comm. on Env. & Pub. Works, *Eco-Terrorism Specifically Examining Stop Huntingdon Animal Cruelty ("SHAC")*, 109th Cong. 30–33 (Oct. 26, 2005) (written statement of John Lewis, Deputy Assistant Director, Counterterrorism Division, FBI) (available at <http://www.gpo.gov/fdsys/pkg/CHRG-109shrg39521/pdf/CHRG-109shrg39521.pdf> (accessed Dec. 18, 2011)); Sen. Comm. on Jud., *Animal Rights: Activism vs. Criminality*, 108th Cong. 39, 51–54 (May 18, 2004) (written statement of William Green, Senior Vice President and General Counsel, Chiron Corporation) (available at <http://www.access.gpo.gov/congress/senate/pdf/108hr/98179.pdf> (accessed Dec. 19, 2011)).

instances, their constitutionality.⁸⁶ The purpose of this Article is not to assess the validity of either side's arguments. Rather, it is the author's hope that the preceding overview will serve as a resource for all persons interested in better understanding state-level legislative responses to extra-legal animal activism.

⁸⁶ See generally Lovitz, *supra* n. 5, at 84–87, 90–96 (alleging that many ecoterrorism laws are unconstitutionally vague and overbroad and constitute viewpoint discrimination); Andrew N. Ireland Moore, *Caging Animal Advocates' Political Freedoms: The Unconstitutionality of the Animal and Ecological Terrorism Act*, 11 *Animal L.* 255, 270–72 (2005) (asserting that the model Animal and Ecological Terrorism Act is unconstitutional, in part, because its purpose is to disrupt politically motivated activity); Will Potter, *Green Is the New Red Blog*, <http://www.greenisthenewred.com/blog/> (accessed Nov. 20, 2011) (discussing the different issues surrounding criminal prosecution of activities labeled as ecoterrorism).