

# Vermont Legislative Council

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## MEMORANDUM

To: Senate Committee on Judiciary

From: Marie Horbar

Date: January 30, 2017

Subject: Affirmative Defenses to Animal Cruelty Offenses

At the mark-up of S.12 on January 25, 2017, you requested a copy of the affirmative defenses to animal cruelty offenses. Attached please find 13 V.S.A. § 352b, the statute that sets forth those defenses.

§ 352b. RULES; AFFIRMATIVE DEFENSE

(a) An enforcement officer implementing the provisions of section 352 or 352a of this title shall be guided by rules established by the secretary.

(b) Except as provided in subsection (c) of this section, an affirmative defense to prosecution under section 352 or 352a of this title may be raised when:

(1) except for vivisection or research under subdivision 352(7) of this title, the defendant was a veterinarian whose conduct conformed to accepted veterinary practice for the area, or was a scientist whose conduct was a part of scientific research governed by accepted procedural standards subject to review by an institutional care and use committee;

(2) the defendant's conduct was designed to control or eliminate rodents, ants or other common pests on the defendant's own property;

(3) the defendant was a person appropriately licensed to utilize pesticides under chapter 87 of Title 6;

(4) the defendant humanely euthanized any animal as a representative of a duly organized humane society, animal shelter or town pound according to rules of this subchapter, or as a veterinarian destroying animals under chapter 193 or sections 3511 and 3513 of Title 20; or

(5) a state agency was implementing a rabies control program.

(c) An affirmative defense to a charge of abandonment under section 352 of this title shall not be recognized where a person abandons an animal at or near an animal shelter or veterinary clinic, farm or other place of shelter, without making reasonable arrangements for the care of the animal.

(d) The authority to enforce this chapter shall not be construed in a manner inconsistent with the animal control or disease control eradication programs in Title 6, or chapters 191, 193, 194 and 195 of Title 20 or the provisions of Part 4 of Title 10, or the rules adopted thereunder.