

N.C.P.I.—CRIM. 247.10B. MISDEMEANOR CRUELTY TO ANIMALS BY DEPRIVING OF NECESSARY SUSTENANCE. MISDEMEANOR. G.S. 14-360(a1).

*NOTE WELL: Effective January 1, 1999, G.S. § 14-360(a) makes it a Class 1 misdemeanor "if any person shall intentionally overdrive, overload, wound, injure, torment, kill, or deprive of necessary sustenance, or cause or procure to be overdriven, overloaded, wounded, injured, tormented, killed or deprived of necessary sustenance, any animal."*

*Additionally, it shall be a Class I felony "if any person shall maliciously torture, mutilate, maim, cruelly beat, disfigure, poison, or kill, or cause or procure to be tortured, mutilated, maimed, cruelly beaten, disfigured, poisoned, or killed, any animal." See N.C.P.I.--Crim. 247.10A. G.S. § 14-360(c)(1)-(5) provides for activities to which the prohibitions of this section do not apply.*

The defendant has been charged with misdemeanor cruelty to animals by depriving of necessary sustenance.

For you to find the defendant guilty of this offense, the State must prove two things beyond a reasonable doubt:

First, that the defendant

[(a) killed by intentional<sup>1</sup> deprivation of necessary sustenance]

[(b) caused or procured to be killed by intentional deprivation of necessary sustenance]

(*name animal*).

And Second, that the defendant acted maliciously<sup>2</sup>.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date the defendant

[(a) killed by intentional deprivation of necessary sustenance]

[(b) caused or procured to be killed by intentional deprivation of necessary sustenance]

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<sup>1</sup> G.S. 14-360(c) defines "intentionally" as "an act committed knowingly and with justifiable excuse". The only justification for killing or injuring an animal appears to be an immediate need to prevent the animal from doing substantial damage. Past depredations or general vicious propensities do not appear to suffice. *State v. Smith*, 156 N.C. 628 (1911); *State v. Dickens*, 215 N.C. 303 (1939).

<sup>2</sup> G.S. 14-360(c) defines "maliciously" as "an act committed intentionally and with malice or bad motive."

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*(name animal)*, and the defendant acted maliciously, it would be your duty to return verdict of guilty. If you do not so find or have a reasonable doubt as to one or both of these things, it would be your duty to return a verdict of not guilty.