**T.P.I. -- CRIM. 12.01**

***[CAUSING SERIOUS BODILY INJURY TO] [KILLING OF]* AN ANIMAL**

**(for offenses committed on or after 7/1/22)**

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Any person who commits the offense of *[causing serious bodily injury to] [killing]* an animalof another is guilty of a crime.

For you to find the defendant guilty of this offense, the state must have proven beyond a reasonable doubt the existence of the following essential elements:

Part A:

(1) that the defendant unlawfully killed the animal of another;

and

(2) that the defendant acted without the owner's effective consent;

and

(3) that the defendant acted intentionally or knowingly.

Part B:

(1) that the defendant unlawfully *[caused serious bodily injury to] [killed]* the animal of another;

and

(2) that the defendant acted without the owner's effective consent;

and

(3) that the animal was a *[police dog] [fire dog] [search and rescue dog] [service animal] [police horse]*.

(4) that the defendant acted intentionally or knowingly.

"Animal" means a domesticated living creature or a wild creature previously captured.

“Effective consent” means assent in fact, whether express or apparent, including assent by one legally authorized to act for another. Consent is not effective when:

[(a) induced by deception or coercion *[the trial judge should include in the instruction applicable language from the statutory definitions for deception or coercion if fairly raised in the proof]*;] or

[(b) given by a person the defendant knows is not authorized to act as an agent;] or

[(c) given by a person who, by reason of youth, mental disease or defect, or intoxication, is known by the defendant to be unable to make reasonable decisions regarding the subject matter;] or

[(d) given solely to detect the commission of an offense].

"Owner" means a person, other than the defendant, who has possession of or any interest other than a mortgage, deed of trust or security interest in property, even though that possession or interest is unlawful and without whose consent the defendant has no authority to exert control over the property.

["Serious bodily injury" means bodily injury that involves a substantial risk of death; protracted unconsciousness; extreme physical pain; protracted or obvious disfigurement; or protracted loss or substantial impairment of a function of a bodily member, organ or mental faculty.] ["Bodily injury" includes a cut, abrasion, bruise, burn or disfigurement, and physical pain or temporary illness or impairment of the function of a bodily member, organ, or mental faculty.]

"Intentionally" means that a person acts intentionally with respect to the nature of the conduct or to a result of the conduct when it is the person's conscious objective or desire to engage in the conduct or cause the result.

"Knowingly" means that a person acts knowingly with respect to the conduct or to circumstances surrounding the conduct when the person is aware of the nature of the conduct or that the circumstances exist. A person acts knowingly with respect to a result of the person's conduct when the person is aware that the conduct is reasonably certain to cause the result.

[It is a defense to this prosecution that the defendant acted under a reasonable belief that the animal was creating an imminent danger of death or serious bodily injury to the defendant or another or an imminent danger of death to an animal owned by the defendant. [However, the defendant is not justified in killing the animal of another if at the time of the killing, the defendant is trespassing upon the property of the owner of such animal.] [The defendant is not justified in killing an animal if at the time of the killing the defendant is engaging in or attempting to escape from criminal conduct and the animal killed is a police dog that is acting in its official capacity.] If evidence is introduced supporting the defense of a reasonable belief that the animal was creating an imminent danger, the burden is on the state to prove beyond a reasonable doubt that the defendant did not have the reasonable belief [or was trespassing on the property of the owner of the animal at the time of the killing] [or was engaging in or attempting to escape from criminal conduct and the animal killed was a police dog that was acting in its official capacity.] If you find from the evidence that the defendant acted under a reasonable belief that the animal was creating an imminent danger of death or serious bodily injury to the defendant or another or an imminent danger of death to an animal owned by the defendant [and that the defendant was not trespassing on the property of the owner of the animal at the time of the killing] [and that the defendant was not engaging in or attempting to escape from criminal conduct or the animal killed was not a police dog that was acting in its official capacity], or if you have a reasonable doubt thereof, you must find the defendant not guilty.]

[If the defendant is indicted under Part A, the trial judge should now instruct the jury with respect to fixing the value of the animal killed utilizing T.P.I. – Crim. 11.03(a), Fixing Value, using only section (A). A conviction under Part B is always a Class D felony.]