

CORRECTED COPY

LEGISLATIVE BILL 50

Approved by the Governor February 20, 1990

Introduced by Dierks, 40; Wehrbein, 2

AN ACT relating to animals; to amend sections 28-101, 28-1003, 54-160, and 54-605, Reissue Revised Statutes of Nebraska, 1943; to define terms; to prohibit certain acts involving animals; to provide penalties; to transfer provisions relating to indecency with an animal; to provide for a warrant for entry on property by law enforcement officers as prescribed; to authorize issuance of citations; to limit the liability of law enforcement officers as prescribed; to provide liability for the expenses of care, impoundment, or disposal of certain animals; to provide for the applicability of provisions; to authorize regulation by cities, villages, and counties; to provide for the applicability of penalties to parents and legal guardians as prescribed; to eliminate provisions prohibiting cruelty to animals; to change a provision relating to dogs running at large; to harmonize provisions; and to repeal the original sections, and also sections 28-1001 and 28-1002, Reissue Revised Statutes of Nebraska, 1943.

Be it enacted by the people of the State of Nebraska,

Section 1. For purposes of sections 1 to 9 of this act:

(1) Abandon shall mean to leave any animal for any length of time without making effective provision for its food, water, or other care as is reasonably necessary for the animal's health;

(2) Animal shall mean any vertebrate member of the animal kingdom except man. The term shall not include an uncaptured wild creature;

(3) Cruelly mistreat shall mean to knowingly and intentionally kill, maim, disfigure, torture, beat, mutilate, burn, scald, or otherwise set upon any animal;

(4) Cruelly neglect shall mean to fail to provide any animal in one's care, whether as owner or custodian, with food, water, or other care as is reasonably necessary for the animal's health;

(5) Humane killing shall mean the destruction of an animal by a method which causes the animal a minimum of pain and suffering; and

(6) Law enforcement officer shall mean any member of the Nebraska State Patrol, any county or deputy sheriff, any member of the police force of any city or village, or any other public official authorized by a city or village to enforce state or local animal control laws, rules, regulations, or ordinances.

Sec. 2. A person commits cruelty to animals if he or she abandons, cruelly mistreats, or cruelly neglects an animal. Cruelty to animals is a Class II misdemeanor for the first offense and a Class I misdemeanor for any subsequent offense.

Sec. 3. That section 28-1003, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-1003- (1) A person commits indecency with an animal when such person subjects an animal to sexual penetration as defined in subdivision (6) of section 28-318. (2) Indecency with an animal is a Class III misdemeanor.

Sec. 4. (1) Any law enforcement officer who has reason to believe that an animal has been abandoned or is being cruelly neglected or cruelly mistreated may seek a warrant authorizing entry upon private property to inspect, care for, or impound the animal.

(2) Any law enforcement officer who has reason to believe that an animal has been abandoned or is being cruelly neglected or cruelly mistreated may issue a citation to the owner as prescribed in sections 29-422 to 29-429.

(3) Any law enforcement officer acting under this section shall not be liable for damage to property if such damage is not the result of the officer's negligence.

Sec. 5. Any person who violates section 2 or 3 of this act shall be liable for all expenses incurred by a governmental subdivision in conjunction with the care, impoundment, or disposal of an animal. The expenses shall be a lien upon the animal.

Sec. 6. Sections 1 to 9 of this act shall not apply to:

(1) Care or treatment of an animal performed by a veterinarian licensed under the Nebraska Veterinary Practice Act;

(2) Research activity carried on by any research facility currently meeting the standards of the Animal Welfare Act, 7 U.S.C. 2131 et seq.;

(3) Commonly accepted practices of hunting, fishing, or trapping;

(4) Commonly accepted practices occurring in conjunction with rodeos, animal racing, or pulling contests;

(5) Humane killing of an animal by the owner or by his or her agent or a veterinarian upon the owner's request;

(6) Commonly accepted practices of animal husbandry with respect to farm animals, including their transport from one location to another and nonnegligent actions taken by personnel or agents of the Nebraska Department of Agriculture or the United States Department of Agriculture in the performance of duties prescribed by law;

(7) Use of reasonable force against an animal, other than a police dog, which is working, including killing, capture, or restraint, if the animal is outside the owned or rented property of its owner or custodian and is injuring or posing an immediate threat to any person or other animal;

(8) Killing of house or garden pests;

(9) Commonly followed practices occurring in conjunction with the slaughter of animals for food or byproducts; and

(10) Commonly accepted animal training practices.

Sec. 7. Any city, village, or county may adopt and promulgate rules, regulations, and ordinances which are not inconsistent with the provisions of sections 1 to 9 of this act for the protection of the public, public health, and animals within its jurisdiction.

Sec. 8. When an animal is owned by a minor child, the parent of such minor child with whom the child resides or legal guardian with whom the child resides shall be subject to the penalties provided under sections 1 to 9 of this act if the animal is abandoned or cruelly neglected.

Sec. 9. Nothing in sections 1 to 9 of this act shall be construed as amending or changing the authority of the Game and Parks Commission as established in the Game Law or to prohibit any conduct authorized or permitted by such law.

Sec. 10. That section 28-101, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-101. Sections 28-101 to 28-1348 and sections 1 to 9 of this act shall be known as the

Nebraska Criminal Code.

Sec. 11. That section 54-160, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-160. Sections 54-159 to 54-169 are adopted for the purpose of insuring compliance with sections 28-511, 28-512, 28-519, ~~28-1002~~, 54-101 to 54-156, 54-401 to 54-408, 54-415, and 54-1183 to 54-1185.

Sec. 12. That section 54-605, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-605. It shall be the duty of every owner or owners of any dog or dogs to securely place upon the neck of such dog or dogs a good and sufficient collar with a metallic plate thereon, on which The plate shall be plainly inscribed with the name of such owner. ~~it shall be lawful for any person to kill any dog found running at large on whose neck there is no collar as aforesaid; and no action shall be maintained for such killing-~~

Sec. 13. That original sections 28-101, 28-1003, 54-160, and 54-605, Reissue Revised Statutes of Nebraska, 1943, and also sections 28-1001 and 28-1002, Reissue Revised Statutes of Nebraska, 1943, are repealed.