

AMENDMENTS TO LB 273

1 1. Strike the original sections and all amendments
2 thereto and insert the following sections:

3 "Section 1. (1) For purposes of this section:

4 (a) Reasonably suspects means a basis for reporting
5 knowledge or a set of facts that would lead a person of ordinary
6 care and prudence to believe and conscientiously entertain a strong
7 suspicion that criminal activity is at hand or that a crime has
8 been committed; and

9 (b) Employee means any employee of an agency relating to
10 a governmental child or adult protective services, animal control,
11 or animal abuse.

12 (2) Any employee, while acting in his or her professional
13 capacity or within the scope of his or her employment, who observes
14 or is involved in an incident which leads the employee to
15 reasonably suspect that an animal has been abandoned, cruelly
16 neglected, or cruelly mistreated shall report such to the entity or
17 entities that investigate such reports in that jurisdiction.

18 (3) The report shall be made within two working days of
19 acquiring the information concerning the animal by facsimile
20 transmission of a written report presented in the form described in
21 subsection (6) of this section or by telephone. When an immediate
22 response is necessary to protect the health and safety of the
23 animal or others, the report shall be made by telephone as soon as
24 possible.

1 (4) Nothing in this section shall be construed to impose
2 a duty to investigate observed or reasonably suspected animal
3 abandonment, cruel neglect, or cruel mistreatment. Any person
4 making a report under this section is immune from liability except
5 for false statements of fact made with malicious intent.

6 (5) Reports made pursuant to this section shall include:

7 (a) The reporter's name and title, business address, and
8 telephone number;

9 (b) The name, if known, of the animal owner or custodian,
10 whether a business or individual;

11 (c) A description of the animal or animals involved,
12 person or persons involved, and location of the animal or animals
13 and the premises; and

14 (d) The date, time, and a description of the observation
15 or incident which led the reporter to reasonably suspect animal
16 abandonment, cruel neglect, or cruel mistreatment and any other
17 information the reporter believes may be relevant.

18 (6) Reports made pursuant to this section may be made on
19 preprinted forms prepared by the entity or entities that
20 investigate reports of animal abandonment, cruel neglect, or cruel
21 mistreatment in that jurisdiction. The form shall include space
22 for the information required under subsection (5) of this section.

23 (7) When two or more employees jointly have observed or
24 reasonably suspected animal abandonment, cruel neglect, or cruel
25 mistreatment and there is agreement between or among them, a report
26 may be made by one person by mutual agreement. Any reporter who
27 has knowledge that the person designated to report has failed to do

1 so shall thereafter make the report.

2 (8) Any employee failing to report under this section
3 shall be guilty of an infraction.

4 Sec. 2. Section 28-101, Revised Statutes Supplement,
5 2002, is amended to read:

6 28-101. Sections 28-101 to 28-1348 and section 1 of this
7 act shall be known and may be cited as the Nebraska Criminal Code.

8 Sec. 3. Section 28-1005, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 28-1005. (1) No person shall knowingly:

11 (a) Promote, engage in, or be employed at dogfighting,
12 cockfighting, bearbaiting, or pitting an animal against another;

13 (b) Receive money for the admission of another person to
14 a place kept for such purpose;

15 (c) Own, use, train, sell, or possess an animal for such
16 purpose; or

17 (d) Permit any act as described in this subsection to
18 occur on any premises owned or controlled by him or her.

19 (2) Any person violating subsection (1) of this section
20 shall be guilty of a ~~Class I misdemeanor for the first conviction.~~
21 ~~A person convicted of violating any provision of subsection (1) of~~
22 ~~this section for a second or subsequent time shall be guilty of a~~
23 Class IV felony.

24 (3) No person shall knowingly and willingly be present at
25 and witness as a spectator dogfighting, cockfighting, bearbaiting,
26 or the pitting of an animal against another as prohibited in
27 subsection (1) of this section. Any person who violates any

1 provision of this subsection shall be guilty of a ~~Class I~~
2 ~~misdemeanor~~ Class IV felony.

3 Sec. 4. Section 28-1008, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 28-1008. For purposes of sections 28-1008 to 28-1016 and
6 section 1 of this act:

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

10 (2) Animal means any vertebrate member of the animal
11 kingdom. The term does not include an uncaptured wild creature;

12 (3) Cruelly mistreat means to knowingly and intentionally
13 kill, maim, disfigure, torture, beat, mutilate, burn, scald, or
14 otherwise inflict harm upon any animal;

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

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

20 (6) Law enforcement officer means any member of the
21 Nebraska State Patrol, any county or deputy sheriff, any member of
22 the police force of any city or village, or any other public
23 official authorized by a city or village to enforce state or local
24 animal control laws, rules, regulations, or ordinances; and

25 (7) Police animal means a horse or dog owned or
26 controlled by the State of Nebraska for the purpose of assisting a
27 Nebraska state trooper in the performance of his or her official

1 enforcement duties.

2 Sec. 5. Section 28-1009, Revised Statutes Supplement,
3 2002, is amended to read:

4 28-1009. (1) A person who abandons or cruelly neglects
5 an animal is guilty of a ~~Class II misdemeanor for the first offense~~
6 ~~and a Class I misdemeanor. for any subsequent offense.~~

7 ~~(2) A (2)(a) Except as provided in subdivision (b) of~~
8 this subsection, a person who cruelly mistreats an animal is guilty
9 of a Class I misdemeanor for the first offense and a Class IV
10 felony for any subsequent offense.

11 (b) A person who cruelly mistreats an animal is guilty of
12 a Class IV felony if such cruel mistreatment involves the knowing
13 and intentional torture, repeated beating, or mutilation of the
14 animal.

15 (3) A person commits harassment of a police animal if he
16 or she knowingly and intentionally teases or harasses a police
17 animal in order to distract, agitate, or harm the police animal for
18 the purpose of preventing such animal from performing its
19 legitimate official duties. Harassment of a police animal is a
20 Class IV misdemeanor unless the harassment is the proximate cause
21 of the death of the police animal, in which case it is a Class IV
22 felony.

23 Sec. 6. Section 28-1013, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 28-1013. Sections 28-1008 to 28-1016 and section 1 of
26 this act shall not apply to:

27 (1) Care or treatment of an animal by a veterinarian

1 licensed under the Nebraska Veterinary Practice Act;

2 (2) Commonly accepted care or treatment of a police
3 animal by a law enforcement officer in the normal course of his or
4 her duties;

5 (3) Research activity carried on by any research facility
6 currently meeting the standards of the federal Animal Welfare Act,
7 7 U.S.C. 2131 et seq., as such section existed on January 1, 2003;

8 (4) Commonly accepted practices of hunting, fishing, or
9 trapping;

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

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

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

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

25 (9) Killing of house or garden pests;

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

1 (11) Commonly accepted animal training practices.

2 Sec. 7. Section 28-1014, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 28-1014. Any city, village, or county may adopt and
5 promulgate rules, regulations, and ordinances which are not
6 inconsistent with the provisions of sections 28-1008 to 28-1016 and
7 section 1 of this act for the protection of the public, public
8 health, and animals within its jurisdiction.

9 Sec. 8. Section 28-1015, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 28-1015. When an animal is owned by a minor child, the
12 parent of such minor child with whom the child resides or legal
13 guardian with whom the child resides shall be subject to the
14 penalties provided under sections 28-1008 to 28-1016 and section 1
15 of this act if the animal is abandoned or cruelly neglected.

16 Sec. 9. Section 28-1016, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 28-1016. Nothing in sections 28-1008 to 28-1016 and
19 section 1 of this act shall be construed as amending or changing
20 the authority of the Game and Parks Commission as established in
21 the Game Law or to prohibit any conduct authorized or permitted by
22 such law.

23 Sec. 10. Original sections 28-1005, 28-1008, and 28-1013
24 to 28-1016, Reissue Revised Statutes of Nebraska, and sections
25 28-101 and 28-1009, Revised Statutes Supplement, 2002, are
26 repealed.".