

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 769

Introduced by Cornett, 45; Pirsch, 4; Preister, 5.

Read first time January 09, 2008

Committee: Judiciary

A BILL

1 FOR AN ACT relating to offenses against animals; to amend
2 sections 28-1014, 28-1015, and 28-1016, Revised Statutes
3 Cumulative Supplement, 2006, and sections 28-101,
4 28-1008, and 28-1013, Revised Statutes Supplement, 2007;
5 to define terms; to harmonize provisions; and to repeal
6 the original sections.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-101, Revised Statutes Supplement,
2 2007, is amended to read:

3 28-101 Sections 28-101 to 28-1350 and section 3 of this
4 act shall be known and may be cited as the Nebraska Criminal Code.

5 Sec. 2. Section 28-1008, Revised Statutes Supplement,
6 2007, is amended to read:

7 28-1008 For purposes of sections 28-1008 to 28-1017 and
8 section 3 of this act:

9 (1) Abandon means to leave any animal in one's care,
10 whether as owner or custodian, for any length of time without
11 making effective provision for its food, water, or other care as is
12 reasonably necessary for the animal's health;

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

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

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

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

23 (6) Law enforcement officer means any member of the
24 Nebraska State Patrol, any county or deputy sheriff, any member
25 of the police force of any city or village, or any other public

1 official authorized by a city or village to enforce state or
2 local animal control laws, rules, regulations, or ordinances.
3 Law enforcement officer also includes any inspector under the
4 Commercial Dog and Cat Operator Inspection Act to the extent that
5 such inspector may exercise the authority of a law enforcement
6 officer under section 28-1012 while in the course of performing
7 inspection activities under the Commercial Dog and Cat Operator
8 Inspection Act;

9 (7) Mutilation means intentionally causing permanent
10 injury, disfigurement, degradation of function, incapacitation,
11 or imperfection to an animal. Mutilation does not include conduct
12 performed by a veterinarian licensed under the Nebraska Veterinary
13 Practice Act or conduct that conforms to accepted veterinary
14 practices;

15 ~~(7)~~ (8) Police animal means a horse or dog owned or
16 controlled by the State of Nebraska for the purpose of assisting a
17 Nebraska state trooper in the performance of his or her official
18 enforcement duties; and

19 (9) Repeated beating means intentional successive strikes
20 to an animal by a person resulting in serious bodily injury or
21 death to the animal;

22 ~~(8)~~ (10) Serious injury or illness includes any injury
23 or illness to any animal which creates a substantial risk of death
24 or which causes broken bones, prolonged impairment of health, or
25 prolonged loss or impairment of the function of any bodily organ;

1 and -

2 (11) Torture means intentionally subjecting an animal to
3 extreme pain, suffering, or agony. Torture does not include conduct
4 performed by a veterinarian licensed under the Nebraska Veterinary
5 Practice Act or conduct that conforms to accepted veterinary
6 practices.

7 Sec. 3. (1) (a) Any person convicted of a Class IV felony
8 under section 28-1005 or 28-1009 shall not own, possess, or reside
9 with any animal for not less than fifteen years from the date of
10 conviction. Any person violating this subdivision shall be guilty
11 of a Class I misdemeanor.

12 (b) Any person convicted of a Class I misdemeanor under
13 subdivision (2) (a) of section 28-1009 or a Class III misdemeanor
14 under section 28-1010 shall not own, possess, or reside with any
15 animal for not less than five years from the date of conviction.
16 Any person violating this subdivision shall be guilty of a Class IV
17 misdemeanor.

18 (c) Any animal involved in a violation of subdivisions
19 (a) and (b) of this subsection shall be subject to seizure by law
20 enforcement.

21 (d) A court may extend the time restrictions for owning,
22 possessing, or residing with any animal under this subsection as
23 the court deems reasonable and necessary.

24 (2) The time restrictions in subdivisions (1) (a) and (b)
25 of this section shall not apply to any person convicted under

1 section 28-1005 or 28-1009:

2 (a) If a licensed physician confirms in writing that
3 ownership or possession of or residence with an animal is essential
4 to the health of such person; or

5 (b) If the person holds a license for the sale, resale,
6 or sale of a product of an animal grown, produced, or raised in the
7 state and at least twenty percent of the person's annual income is
8 derived from such sale or resale.

9 Sec. 4. Section 28-1013, Revised Statutes Supplement,
10 2007, is amended to read:

11 28-1013 Sections 28-1008 to 28-1017 and section 3 of this
12 act shall not apply to:

13 (1) Care or treatment of an animal by a veterinarian
14 licensed under the Veterinary Medicine and Surgery Practice Act;

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

18 (3) Research activity carried on by any research facility
19 currently meeting the standards of the federal Animal Welfare Act,
20 7 U.S.C. 2131 et seq., as such act existed on January 1, 2003;

21 (4) Commonly accepted practices of hunting, fishing, or
22 trapping;

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

25 (6) Humane killing of an animal by the owner or by his or

1 her agent or a veterinarian upon the owner's request;

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

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

13 (9) Killing of house or garden pests;

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

16 (11) Commonly accepted animal training practices.

17 Sec. 5. Section 28-1014, Revised Statutes Cumulative
18 Supplement, 2006, is amended to read:

19 28-1014 Any city, village, or county may adopt and
20 promulgate rules, regulations, and ordinances which are not
21 inconsistent with the provisions of sections 28-1008 to 28-1017
22 and section 3 of this act for the protection of the public, public
23 health, and animals within its jurisdiction.

24 Sec. 6. Section 28-1015, Revised Statutes Cumulative
25 Supplement, 2006, is amended to read:

1 28-1015 When an animal is owned by a minor child, the
2 parent of such minor child with whom the child resides or legal
3 guardian with whom the child resides shall be subject to the
4 penalties provided under sections 28-1008 to 28-1017 and section 3
5 of this act if the animal is abandoned or cruelly neglected.

6 Sec. 7. Section 28-1016, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

8 28-1016 Nothing in sections 28-1008 to 28-1017 and
9 section 3 of this act shall be construed as amending or changing
10 the authority of the Game and Parks Commission as established in
11 the Game Law or to prohibit any conduct authorized or permitted by
12 such law.

13 Sec. 8. Original sections 28-1014, 28-1015, and 28-1016,
14 Revised Statutes Cumulative Supplement, 2006, and sections 28-101,
15 28-1008, and 28-1013, Revised Statutes Supplement, 2007, are
16 repealed.