

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 409**

Introduced by Dierks, 40.

Read first time January 16, 2009

Committee: Judiciary

A BILL

1 FOR AN ACT relating to offenses against animals; to amend  
2 sections 28-906, 28-1008, 28-1009, and 28-1013, Reissue  
3 Revised Statutes of Nebraska; to provide violations and  
4 penalties for offenses against arson dogs; to define and  
5 redefine 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 28-906, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           28-906 (1) A person commits the offense of obstructing  
4 a peace officer, when, by using or threatening to use violence,  
5 force, physical interference, or obstacle, he or she intentionally  
6 obstructs, impairs, or hinders (a) the enforcement of the penal  
7 law or the preservation of the peace by a peace officer or judge  
8 acting under color of his or her official authority or (b) a police  
9 animal assisting a peace officer acting pursuant to the peace  
10 officer's official authority or an arson dog assisting in a fire  
11 scene investigation.

12           (2) For purposes of this section, police animal ~~means a~~  
13 ~~horse or dog owned or controlled by the State of Nebraska for the~~  
14 ~~purpose of assisting a Nebraska state trooper acting pursuant to~~  
15 ~~his or her official authority.~~ and arson dog have the same meanings  
16 as in section 28-1008.

17           (3) Obstructing a peace officer is a Class I misdemeanor.

18           Sec. 2. Section 28-1008, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20           28-1008 For purposes of sections 28-1008 to 28-1017 and  
21 28-1019:

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

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

3           (3) Arson dog means a dog that is owned or controlled  
4 by a fire department of a county, city, or village or by the  
5 State Fire Marshal for the purpose of assisting in fire scene  
6 investigations;

7           ~~(3)~~ (4) Bovine means a cow, an ox, or a bison;

8           ~~(4)~~ (5) Cruelly mistreat means to knowingly and  
9 intentionally kill, maim, disfigure, torture, beat, mutilate, burn,  
10 scald, or otherwise inflict harm upon any animal;

11           ~~(5)~~ (6) Cruelly neglect means to fail to provide any  
12 animal in one's care, whether as owner or custodian, with food,  
13 water, or other care as is reasonably necessary for the animal's  
14 health;

15           ~~(6)~~ (7) Equine means a horse, pony, donkey, mule, hinny,  
16 or llama;

17           ~~(7)~~ (8) Humane killing means the destruction of an  
18 animal by a method which causes the animal a minimum of pain and  
19 suffering;

20           ~~(8)~~ (9) Law enforcement officer means any member of  
21 the Nebraska State Patrol, any county or deputy sheriff, any  
22 member of the police force of any city or village, or any other  
23 public official authorized by a city or village to enforce state  
24 or local animal control laws, rules, regulations, or ordinances.  
25 Law enforcement officer also includes any inspector under the

1 Commercial Dog and Cat Operator Inspection Act to the extent that  
2 such inspector may exercise the authority of a law enforcement  
3 officer under section 28-1012 while in the course of performing  
4 inspection activities under the Commercial Dog and Cat Operator  
5 Inspection Act;

6 ~~(9)~~ (10) Mutilation means intentionally causing permanent  
7 injury, disfigurement, degradation of function, incapacitation, or  
8 imperfection to an animal. Mutilation does not include conduct  
9 performed by a veterinarian licensed to practice veterinary  
10 medicine and surgery in this state or conduct that conforms to  
11 accepted veterinary practices;

12 ~~(10)~~ (11) Police animal means a horse or dog owned or  
13 controlled by ~~the State of Nebraska~~ a law enforcement agency for  
14 the purpose of assisting a ~~Nebraska state trooper~~ law enforcement  
15 officer in the performance of his or her official enforcement  
16 duties;

17 ~~(11)~~ (12) Repeated beating means intentional successive  
18 strikes to an animal by a person resulting in serious bodily injury  
19 or death to the animal;

20 ~~(12)~~ (13) Serious injury or illness includes any injury  
21 or illness to any animal which creates a substantial risk of death  
22 or which causes broken bones, prolonged impairment of health, or  
23 prolonged loss or impairment of the function of any bodily organ;  
24 and

25 ~~(13)~~ (14) Torture means intentionally subjecting an

1 animal to extreme pain, suffering, or agony. Torture does not  
2 include conduct performed by a veterinarian licensed to practice  
3 veterinary medicine and surgery in this state or conduct that  
4 conforms to accepted veterinary practices.

5 Sec. 3. Section 28-1009, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 28-1009 (1) A person who intentionally, knowingly, or  
8 recklessly abandons or cruelly neglects an animal is guilty of a  
9 Class I misdemeanor unless the abandonment or cruel neglect results  
10 in serious injury or illness or death of the animal, in which case  
11 it is a Class IV felony.

12 (2)(a) Except as provided in subdivision (b) of this  
13 subsection, a person who cruelly mistreats an animal is guilty of  
14 a Class I misdemeanor for the first offense and a Class IV felony  
15 for any subsequent offense.

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

20 (3) A person commits harassment of a police animal or  
21 arson dog if he or she knowingly and intentionally attempts to  
22 interfere with, interferes with, teases, or harasses a police  
23 animal or arson dog in order to distract, agitate, or harm the  
24 police animal or arson dog for the purpose of preventing such  
25 animal from performing its legitimate official duties. Harassment

1 of a police animal or arson dog is a Class IV misdemeanor unless  
2 the harassment results in serious injury or illness or is the  
3 proximate cause of the death of the police animal or arson dog, in  
4 which case it is a Class IV felony.

5 Sec. 4. Section 28-1013, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 28-1013 Sections 28-1008 to 28-1017 and 28-1019 shall not  
8 apply to:

9 (1) Care or treatment of an animal by a veterinarian  
10 licensed under the ~~Nebraska Veterinary Practice Act until December~~  
11 ~~17, 2008,~~ and the Veterinary Medicine and Surgery Practice Act; ~~on~~  
12 ~~and after December 17, 2008,~~

13 (2) Commonly accepted care or treatment of a police  
14 animal by a law enforcement officer in the normal course of his or  
15 her duties or of an arson dog in the normal course of a fire scene  
16 investigation;

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

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

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

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

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

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

12           (9) Killing of house or garden pests;

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

15           (11) Commonly accepted animal training practices.

16           Sec. 5. Original sections 28-906, 28-1008, 28-1009, and  
17 28-1013, Reissue Revised Statutes of Nebraska, are repealed.