

LEGISLATIVE BILL 764

Approved by the Governor April 16, 2008

Introduced by Cornett, 45; Lautenbaugh, 18.

FOR AN ACT relating to crimes and offenses; to amend sections 28-1014, 28-1015, and 28-1016, Revised Statutes Cumulative Supplement, 2006, and sections 28-101, 28-1008, and 28-1013, Revised Statutes Supplement, 2007; to prohibit certain treatment of bovines and equines; to define terms; to provide penalties; to harmonize provisions; and to repeal the original sections.

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

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

28-101 Sections 28-101 to 28-1350 and sections 3, 4, 6, and 7 of this act shall be known and may be cited as the Nebraska Criminal Code.

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

28-1008 For purposes of sections 28-1008 to 28-1017 and sections 3, 4, 6, and 7 of this act:

(1) Abandon means to leave any animal in one's care, whether as owner or custodian, 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 means any vertebrate member of the animal kingdom. The term does not include an uncaptured wild creature;

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

~~(3)~~ (4) Cruelly mistreat means to knowingly and intentionally kill, maim, disfigure, torture, beat, mutilate, burn, scald, or otherwise inflict harm upon any animal;

~~(4)~~ (5) Cruelly neglect means 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;

(6) Equine means a horse, pony, donkey, mule, hinny, or llama;

~~(5)~~ (7) Humane killing means the destruction of an animal by a method which causes the animal a minimum of pain and suffering;

~~(6)~~ (8) Law enforcement officer means 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. Law enforcement officer also includes any inspector under the Commercial Dog and Cat Operator Inspection Act to the extent that such inspector may exercise the authority of a law enforcement officer under section 28-1012 while in the course of performing inspection activities under the Commercial Dog and Cat Operator Inspection Act;

~~(7)~~ (9) Police animal means a horse or dog owned or controlled by the State of Nebraska for the purpose of assisting a Nebraska state trooper in the performance of his or her official enforcement duties; and

~~(8)~~ (10) Serious injury or illness includes any injury or illness to any animal which creates a substantial risk of death or which causes prolonged impairment of health or prolonged loss or impairment of the function of any bodily organ.

Sec. 3. (1) No person shall intentionally trip or cause to fall, or lasso or rope the legs of, any equine by any means for the purpose of entertainment, sport, practice, or contest.

(2) Violation of this section is a Class I misdemeanor.

Sec. 4. (1) No person shall intentionally trip, cause to fall, or drag any bovine by its tail by any means for the purpose of entertainment, sport, practice, or contest.

(2) Violation of this section is a Class I misdemeanor.

Sec. 5. Section 28-1013, Revised Statutes Supplement, 2007, is amended to read:

28-1013 Sections 28-1008 to 28-1017 and sections 3, 4, 6, and 7 of this act shall not apply to:

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

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

(3) Research activity carried on by any research facility currently

meeting the standards of the federal Animal Welfare Act, 7 U.S.C. 2131 et seq., as such act existed on January 1, 2003;

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

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

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

(7) 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;

(8) Use of reasonable force against an animal, other than a police animal, 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;

(9) Killing of house or garden pests;

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

(11) Commonly accepted animal training practices.

Sec. 6. The intentional tripping or causing to fall, or lassoing or roping the legs of, any equine by any means for the purpose of entertainment, sport, practice, or contest shall not be considered a commonly accepted practice occurring in conjunction with sanctioned rodeos, animal racing, or pulling contests.

Sec. 7. The intentional tripping, causing to fall, or dragging of any bovine by its tail by any means for the purpose of entertainment, sport, practice, or contest shall not be considered a commonly accepted practice occurring in conjunction with sanctioned rodeos, animal racing, or pulling contests.

Sec. 8. Section 28-1014, Revised Statutes Cumulative Supplement, 2006, is amended to read:

28-1014 Any city, village, or county may adopt and promulgate rules, regulations, and ordinances which are not inconsistent with the provisions of sections 28-1008 to 28-1017 and sections 3, 4, 6, and 7 of this act for the protection of the public, public health, and animals within its jurisdiction.

Sec. 9. Section 28-1015, Revised Statutes Cumulative Supplement, 2006, is amended to read:

28-1015 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 28-1008 to 28-1017 and sections 3, 4, 6, and 7 of this act if the animal is abandoned or cruelly neglected.

Sec. 10. Section 28-1016, Revised Statutes Cumulative Supplement, 2006, is amended to read:

28-1016 Nothing in sections 28-1008 to 28-1017 and sections 3, 4, 6, and 7 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. 11. Original sections 28-1014, 28-1015, and 28-1016, Revised Statutes Cumulative Supplement, 2006, and sections 28-101, 28-1008, and 28-1013, Revised Statutes Supplement, 2007, are repealed.