

**SENATE BILL NO. 238**

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

**BY SENATOR PHILLIPS**

**Introduced: 1/24/96**

**Referred: Judiciary**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to the care and regulation of the care of animals; relating to**  
2 **registration of animal abuse offenders; and relating to crimes involving animals."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 **\* Section 1.** AS 03.53 is amended by adding new sections to read:

5 **ARTICLE 2. CARE OF ANIMALS.**

6 Sec. 03.53.100. SEIZURE OF ANIMALS. (a) A peace officer may seize,  
7 remove, shelter, and care for an animal found by the officer to be treated or confined  
8 in violation of AS 11.61.140 - 11.61.145. The peace officer seizing the animal may  
9 deliver the animal to another person to be sheltered, cared for, and provided medical  
10 attention. The peace officer shall notify the owner of the animal immediately. If the  
11 owner of the animal is unknown and cannot with reasonable effort be ascertained, or  
12 does not within five days of notice redeem the animal by paying the expenses incurred,  
13 the animal shall be considered a stray or abandoned. The state or a municipality,  
14 person, or other entity that supplies shelter, care, or medical treatment or provides

1 notice to the owner for an animal seized under this section, shall have a lien on the  
2 animal for the cost of the shelter, care, medical treatment, or notice.

3 (b) If a peace officer who finds an animal under (a) of this section determines  
4 that the animal is injured or diseased to such an extent that, in the opinion of the  
5 officer, it is probable that the animal cannot recover, the officer can humanely destroy  
6 the animal or arrange for the animal's humane destruction. An owner of an animal  
7 humanely destroyed under this section may not recover damages for the humane  
8 destruction of the animal unless the owner shows that the destruction was not  
9 warranted by the facts as known to the officer.

10 Sec. 03.53.110. INVESTIGATION OF CRUELTY TO ANIMALS  
11 COMPLAINTS. A person who has reason to believe that a violation of AS 11.61.140  
12 - 11.61.145 has taken place or is taking place may apply to the superior court for a  
13 search warrant. The application must be supported by affidavit that sets out the facts  
14 tending to establish that there is probable cause to believe that a violation of  
15 AS 11.61.140 - 11.61.145 has occurred or is occurring. The court shall examine under  
16 oath the person applying for the search warrant and witnesses the person may produce.  
17 If the court finds that probable cause exists, the court shall issue a search warrant  
18 directing a municipal police officer, for violations within municipalities with police  
19 forces, or an Alaska state trooper, to proceed immediately to the location of the alleged  
20 violation, accompanied by a doctor of veterinary medicine if the court determines that  
21 a doctor is necessary for the search, and directing the officer or trooper, as appropriate,  
22 to search the place designated in the warrant, and to take into custody the property  
23 and things, including animals, specified in the warrant. The warrant shall be executed  
24 and returned to the court.

25 Sec. 03.53.120. RESPONSIBILITY FOR ENFORCEMENT OF CRUELTY  
26 TO ANIMALS STATUTES. Employees of the department designated by the  
27 commissioner and peace officers shall be responsible for enforcement of AS 11.61.140  
28 - 11.61.145.

29 Sec. 03.53.130. RABIES VACCINATIONS BY THE STATE. Annually, the  
30 department shall, in each municipality, provide voluntary rabies vaccinations to animals  
31 at reduced cost to the owners of the animals. The cost of the vaccination may not

1 exceed the cost to the department of the amount of vaccine administered to the animal.

2 Sec. 03.53.140. STANDARDS OF PROPER CARE FOR ANIMALS. The  
3 department shall establish minimum standards for the proper care of animals. The  
4 standards must include provisions concerning food, water, shelter, space, sanitation,  
5 ventilation, rest, and medical care. At a minimum, the standards must provide that

6 (1) food and water must be sufficient to maintain each animal in good  
7 health; if potable water is not provided to an animal at all times, it must be provided  
8 daily and in sufficient quantity to maintain the good health of the animal;

9 (2) shelter provided an animal indoors must be maintained at a  
10 temperature compatible with the good health of the animal; shelter provided an animal  
11 outdoors must

12 (A) provide sufficient shade to protect the animal from sunlight  
13 likely to cause heat exhaustion of an animal;

14 (B) protect the animal from inclement weather to an extent  
15 sufficient to maintain the animal in good health;

16 (C) be structurally sound and maintained in good repair to  
17 protect the animal from injury and to contain the animal;

18 (3) space provided an animal indoors or outdoors must be sufficient to  
19 allow the animal adequate freedom of movement so as to maintain the good health of  
20 the animal and so that the animal is free from debility, stress, and abnormal behavior  
21 patterns;

22 (4) sanitation of indoor or outdoor enclosures or shelters must include  
23 periodic cleaning to remove excreta and other waste material, dirt, and trash;

24 (5) medical care must be provided an animal at times and to the extent  
25 necessary to maintain the animal in good health.

26 Sec. 03.53.150. ANIMAL ABUSER REGISTRATION. (a) An animal abuser  
27 who is physically present in the state shall register with the department as provided in  
28 this section. The animal abuser shall register within

29 (1) seven days of release from an in-state correctional facility;

30 (2) seven days of conviction for a violation of an animal abuse offense  
31 if the animal abuser is not sentenced to a term of incarceration; or

1 (3) 14 days of becoming physically present in the state.

2 (b) An animal abuser required to register under (a) of this section shall register  
3 by mail or in person at an office of the department. To fulfill the registration  
4 requirement, the animal abuser shall complete a registration form that includes, at a  
5 minimum, the animal abuser's name, address, place of employment, date of birth, each  
6 conviction for an animal abuse offense for which the duty to register has not  
7 terminated under this section, date of animal abuse offense convictions, and place and  
8 court of animal abuse offense convictions, all aliases used, and driver's license  
9 number.

10 (c) If an animal abuser changes residence within the state after having  
11 registered under (a) of this section, the animal abuser shall provide written notice of  
12 the change to the department office located nearest to the new residence within 10  
13 days of the change.

14 (d) The duty of an animal abuser to comply with the requirements of this  
15 section for each animal abuse offense ends 10 years following the animal abuser's  
16 unconditional discharge from a conviction for an animal abuse offense.

17 (e) In this section,

18 (1) "animal abuse offense" means a crime, or an attempt to commit a  
19 crime, under AS 11.61.140 - 11.61.145;

20 (2) "animal abuser" means a person convicted of an animal abuse  
21 offense in this state;

22 (3) "correctional facility" has the meaning given in AS 33.30.901;

23 (4) "unconditional discharge" has the meaning given in AS 12.55.185.

24 Sec. 03.53.160. DEFINITIONS FOR AS 03.53.100 - 03.53.160. In  
25 AS 03.53.100 - 03.53.160,

26 (1) "commissioner" means the commissioner of environmental  
27 conservation;

28 (2) "department" means the Department of Environmental  
29 Conservation.

30 \* Sec. 2. AS 11.61.140(a) is amended to read:

31 (a) A person commits the crime of cruelty to animals **in the first degree** if the

1 person

2 (1) intentionally inflicts severe and prolonged physical pain or suffering  
3 on an animal;

4 (2) violates AS 11.61.142 [RECKLESSLY NEGLECTS AN ANIMAL]  
5 and, as a result of that violation [NEGLECT], causes the death of the animal or causes  
6 severe pain or suffering to the animal; or

7 (3) kills or injures an animal by the use of a decompression chamber;

8 (4) kills a dog or cat for the purpose of preparing or serving the  
9 animal for human consumption;

10 (5) kills or injures a domestic animal by the use of poison.

11 \* **Sec. 3.** AS 11.61.140(b) is amended to read:

12 (b) It is a defense to a prosecution under

13 (1) (a)(1), (2), or (5) [OR (2)] of this section that the conduct of the  
14 defendant

15 (A) [(1)] conformed to accepted veterinary practice; or

16 (B) [(2)] was part of scientific research governed by accepted  
17 standards;

18 (2) (a)(1) or (2) of this section that the conduct of the defendant

19 [OR (3)] was necessarily incident to lawful hunting or trapping activities.

20 \* **Sec. 4.** AS 11.61.140(d) is amended to read:

21 (d) Except as provided in (e) of this section, cruelty [CRUELTY] to animals  
22 in the first degree is a class A misdemeanor.

23 \* **Sec. 5.** AS 11.61.140 is amended by adding new subsections to read:

24 (e) A person convicted under this section is guilty of a class C felony if,  
25 within the preceding seven years, the person was convicted under this section or a law  
26 or ordinance of this or another jurisdiction with elements substantially similar to those  
27 of the offenses described in this section.

28 (f) In addition to any other penalty provided by law, a court shall order a  
29 defendant convicted under this section not to own or care for animals for a period of  
30 time not less than one year nor more than 10 years.

31 (g) An animal that is the subject of a prosecution under this section may be

1 forfeited by the court to the state if the defendant is the owner of the animal and the  
2 defendant is convicted under this section.

3 \* **Sec. 6.** AS 11.61 is amended by adding a new section to read:

4 Sec. 11.61.142. CRUELTY TO ANIMALS IN THE SECOND DEGREE. (a)

5 A person commits the crime of cruelty to animals in the second degree if the person

6 (1) recklessly abandons a domestic animal;

7 (2) owns or is responsible for the care of an animal and recklessly fails

8 to provide proper care by failing to provide the animal with proper food, water, shelter,

9 rest, sanitation, ventilation, space, or medical attention;

10 (3) while operating a propelled vehicle, strikes and injures an animal

11 and fails to

12 (A) stop as close as possible to the scene of the accident; and

13 (B) notify

14 (i) the owner of the animal if the owner of the animal

15 can be reasonably discovered; and

16 (ii) the appropriate law enforcement agency;

17 (4) sets a steel jaw, leg-hold, snare, spring, or similar trap that has the

18 capacity to injure or kill an animal;

19 (5) keeps a dog, unless the property on which the dog is kept contains,

20 or is contiguous with, a permanently occupied residence of the person or the person's

21 designated agent who is responsible for the daily care, maintenance, and supervision

22 of the dog.

23 (b) It is a defense to a prosecution under (a)(4) of this section that the  
24 defendant's conduct in setting the trap was

25 (1) for a commercially reasonable purpose; or

26 (2) necessarily incident to lawful hunting or trapping activities.

27 (c) Proof that an animal has been left unattended by the defendant for 72 hours

28 or more is prima facie evidence that an animal has been abandoned under (a)(1) of this

29 section.

30 (d) Proof that a defendant's provision of food, water, shelter, rest, sanitation,

31 ventilation, space, or medical attention under (a)(2) of this section does not meet the

1 standards of care set by the Department of Environmental Conservation under  
2 AS 03.53.140 is prima facie evidence that proper care has not been provided to the  
3 animal under (a)(2) of this section.

4 (e) An animal that is the subject of a prosecution under this section may be  
5 forfeited by the court to the state if the defendant is the owner of the animal and the  
6 defendant is convicted under this section.

7 (f) In this section,

8 (1) "animal" has the meaning given in AS 11.61.140;

9 (2) "domestic animal" means an animal as defined under AS 11.61.140  
10 that is tame by nature, has become accustomed to man by the passage of time, or has  
11 been subjected to the will of human beings to the extent that the animal is without the  
12 disposition to escape the dominion of human beings.

13 (g) Cruelty to animals in the second degree is a class B misdemeanor. In  
14 addition to any other penalty provided by law, a court shall order a defendant  
15 convicted under this section not to own or care for animals for a period of time not  
16 less than one year nor more than 10 years.