

CS FOR HOUSE BILL NO. 275(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 4/19/04

Referred: Finance

Sponsor(s): REPRESENTATIVES CHENAULT, Crawford, Gruenberg, Heinze, Foster, Seaton, Masek, Kerttula, McGuire, Stoltze, Meyer, Kott

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to animals; and to the care of and to cruelty to animals."**

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

3 * **Section 1.** AS 03.55 is amended by adding new sections to read:

4 **Article 1A. Care of Animals.**

5 **Sec. 03.55.100. Minimum standards of care for animals.** (a) The minimum
6 standards of care for animals include

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

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

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

15 (B) protect the animal from inclement weather to an extent

1 sufficient to maintain the animal in good health; and

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

4 (3) sanitation of indoor or outdoor enclosures or shelters that includes
5 periodic removal of animal waste material, dirt, and trash sufficient to maintain the
6 animal in good health;

7 (4) medical care must be provided an animal at times and to the extent
8 necessary to maintain the animal in good health;

9 (5) other standards for the health and safety of animals as set by the
10 state veterinarian by regulation.

11 (b) Determinations as to the sufficiency of food, water, shelter, space,
12 sanitation, ventilation, rest, medical care, or good health; the extent of injury or
13 disease; and whether methods of destruction or euthanization are humane, as used in
14 this chapter, shall be based on the professional opinion of a veterinarian licensed
15 under AS 08.98.

16 (c) The Department of Environmental Conservation may adopt regulations to
17 implement this section.

18 **Sec. 03.55.110. Investigation of cruelty to animals complaints.** (a) A
19 person who believes that cruelty to animals has taken place or is taking place may file
20 a complaint with a public or private animal control agency, humane animal treatment
21 shelter or organization, the department, or with a peace officer. An agency or
22 organization that receives a complaint on which it wishes to take action shall refer the
23 complaint to a peace officer.

24 (b) A peace officer who receives a complaint of animal cruelty may apply for
25 a search warrant under AS 12.35 to the judicial officer in the district in which the
26 alleged violation has taken place or is taking place. If the court finds that probable
27 cause exists, the court shall issue a search warrant directing a peace officer to proceed
28 immediately to the location of the alleged violation, to search the place designated in
29 the warrant, and to take into custody the property, including animals, specified in the
30 warrant. The warrant shall be executed by the peace officer and returned to the court.

31 **Sec. 03.55.120. Seizure of animals.** (a) A peace officer who seizes and

1 removes an animal may deliver the animal to a veterinarian licensed under AS 08.98
 2 or to a person, a public or private animal control agency, humane animal treatment
 3 shelter or organization, or other custodial agency to be sheltered, cared for, and
 4 provided medical attention.

5 (b) The peace officer shall immediately notify the animal's owner in writing of
 6 the seizure and removal of the animal and the owner's right to petition the court under
 7 AS 03.55.130. Notification may be posted at the owner's residence or may be mailed
 8 to the owner.

9 (c) If the animal's owner is unknown and cannot be ascertained with
 10 reasonable effort, the animal shall be considered a stray or abandoned.

11 (d) The state, a municipality, a person, or another entity that supplies shelter,
 12 care, veterinary attention or medical treatment for an animal seized under this section
 13 shall make a reasonable effort to locate the owner.

14 **Sec. 03.55.130. Destruction and adoption of animals.** (a) If a determination
 15 is made by a veterinarian licensed under AS 08.98 or by a peace officer alone or in
 16 consultation with a veterinarian licensed under AS 08.98 that an animal seized under
 17 AS 03.55.100 - 03.55.190 is injured or diseased to such an extent that, in the opinion
 18 of the veterinarian, it is probable the animal cannot recover, the veterinarian or the
 19 peace officer alone or at the direction of the veterinarian, may humanely destroy the
 20 animal or arrange for the animal's humane destruction.

21 (b) Upon diagnosis and recommendation of a veterinarian licensed under
 22 AS 08.98, a public or private animal control agency, humane animal treatment shelter
 23 or organization, or other custodial agency may euthanize a severely injured, diseased,
 24 or suffering animal at any time.

25 (c) An owner of an animal destroyed under this section may not recover
 26 damages for the destruction of the animal unless the owner shows that the destruction
 27 was not reasonable under the facts as known to the veterinarian or the peace officer.

28 (d) Except as provided in (a) or (b) of this section, the person or entity having
 29 custody of an animal may not adopt, provide for the adoption of, or euthanize the
 30 animal within 10 business days after the animal is taken into custody. An owner may
 31 prevent the animal's adoption or destruction by

1 (1) petitioning the court of the judicial district in which the animal was
 2 seized for the animal's immediate return, subject, if appropriate, to court-imposed
 3 conditions; or

4 (2) posting a bond or security with the court of the judicial district in
 5 which the animal was seized in an amount determined by the court to be sufficient to
 6 provide for the animal's care for a minimum of 30 days from the date the animal was
 7 seized.

8 (e) If the custodial agency still has custody of the animal when the bond or
 9 security posted under (d)(2) of this section expires, the animal becomes the agency's
 10 property unless the court orders an alternative disposition. If a court order prevents
 11 the agency from assuming ownership and the agency continues to care for the animal,
 12 the court shall require the owner of the animal to renew the bond or security for the
 13 agency's continuing costs for the animal's care.

14 (f) The state may not be required to reimburse a person, a public or private
 15 animal control agency, humane animal treatment shelter or organization, or other
 16 custodial agency that voluntarily assists with a seizure or receives custody of an
 17 animal seized under this section, for costs of shelter, care, veterinary assistance, or
 18 medical treatment rendered to the animal.

19 **Sec. 03.55.190. Definition.** In AS 03.55.100 - 03.55.190, "animal" means a
 20 vertebrate living creature not a human being, but does not include fish.

21 * **Sec. 2.** AS 11.61 is amended by adding a new section to read:

22 **Sec. 11.61.138. Cruelty to animals in the first degree.** (a) A person
 23 commits cruelty to animals in the first degree if the person

24 (1) knowingly inflicts severe and prolonged physical pain or suffering
 25 on an animal;

26 (2) kills or injures an animal by the use of a decompression chamber;

27 (3) kills a dog or cat for the purpose of preparing or serving the animal
 28 for human consumption except for the emergency survival of a human being;

29 (4) kills or injures a domestic animal by the use of poison;

30 (5) with criminal negligence, fails to care for an animal and, as a result,
 31 causes the death of the animal or causes severe physical pain or prolonged suffering to

1 the animal;

2 (6) violates AS 11.61.140(a)(1), but the violation is committed against
3 more than one animal; or

4 (7) violates AS 11.61.140 and the person has been previously
5 convicted of a crime under this section, AS 11.61.140, or a law or ordinance of
6 another jurisdiction with elements similar to a crime under this section or
7 AS 11.61.140.

8 (b) Each animal that is subject to cruelty to animals under (a)(1) - (5) and (7)
9 of this section shall constitute a separate offense.

10 (c) It is a defense to a prosecution under this section that the conduct of the
11 defendant

12 (1) constituted the humane destruction of an animal for just cause;

13 (2) conformed to accepted veterinary or animal husbandry practices;

14 (3) was necessarily incidental to lawful fishing, hunting or trapping
15 activities.

16 (d) In (a)(5) of this section, failure to provide the minimum standards of care
17 for an animal under AS 03.55.100 is prime facie evidence of failure to care for an
18 animal.

19 (e) In this section, "animal" has the meaning given in AS 11.61.140.

20 (f) Cruelty to animals in the first degree is a class A misdemeanor. The court
21 may also

22 (1) require forfeiture of any animal affected to the state, or to a
23 municipality, person, or other entity that supplies shelter, care, or medical treatment
24 for the animal;

25 (2) require the defendant to reimburse the state, or a municipality,
26 person, or other entity for all reasonable costs incurred in providing necessary care,
27 shelter, veterinary attention or medical treatment for any animal affected;

28 (3) prohibit or limit the defendant's ownership, possession, or custody
29 of animals for any period of time.

30 * **Sec. 3.** AS 11.61.140 is repealed and reenacted to read:

31 **Sec. 11.61.140. Cruelty to animals in the second degree.** (a) A person

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

2 (1) recklessly abandons a domestic animal on a highway, railroad, or
3 in another place where it may suffer injury, hunger, or exposure, or become a public
4 charge;

5 (2) while operating a propelled vehicle, knowingly strikes and injures a
6 domestic animal and fails to

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

8 (B) notify

9 (i) the owner of the animal if the owner of the animal
10 can be reasonably discovered; and

11 (ii) the appropriate law enforcement agency;

12 (3) sets a steel jaw, leg-hold, snare, spring, or similar trap that has the
13 capacity to injure or kill an animal;

14 (4) while operating a pickup truck or other open motor vehicle, fails to
15 secure an animal riding in the open area of the vehicle.

16 (b) It is a defense to a prosecution under (a)(3) of this section that the conduct
17 of the defendant in setting the trap was

18 (1) for a commercially reasonable purpose; or

19 (2) necessarily incidental to lawful hunting or trapping activities.

20 (c) Proof that an animal has been left unattended or without food or water for
21 72 hours or more is prima facie evidence that the animal has been abandoned under
22 (a)(1) of this section.

23 (d) In this section, each animal that is subject to cruelty to animals, constitutes
24 a separate offense.

25 (e) In this section, "animal" means a vertebrate living creature not a human
26 being, but does not include fish.

27 (f) Cruelty to animals is a class B misdemeanor. The court may also

28 (1) require forfeiture of any animal affected to the state, or to a
29 municipality, person, or other entity that supplies shelter, care, or medical treatment
30 for the animal;

31 (2) require the defendant to reimburse the state, or a municipality,

1 person, or other entity for all reasonable costs incurred in providing necessary care,
2 shelter, veterinary attention or medical treatment for any animal affected;

3 (3) prohibit or limit the defendant's ownership, possession, or custody
4 of animals for any period of time.

5 * **Sec. 4.** AS 12.55.155(c) is amended by adding new paragraphs to read:

6 (31) the defendant's conduct during the commission of the offense
7 manifested deliberate cruelty to an animal or exposed an animal to the threat of serious
8 physical injury; in this paragraph, "animal" has the meaning given in AS 11.61.140;

9 (32) the defendant is convicted of an offense specified in AS 11.46.360
10 or 11.46.365 and an animal was present in the propelled vehicle at the time of the
11 offense; in this paragraph, "animal" has the meaning given in AS 11.61.140.

12 * **Sec. 5.** AS 47.17.020(a) is amended to read:

13 (a) The following persons who, in the performance of their occupational
14 duties, or with respect to (8) of this subsection, in the performance of their appointed
15 duties, have reasonable cause to suspect that a child has suffered harm as a result of
16 child abuse or neglect shall immediately report the harm to the nearest office of the
17 department:

18 (1) practitioners of the healing arts;

19 (2) school teachers and school administrative staff members of public
20 and private schools;

21 (3) peace officers and officers of the Department of Corrections;

22 (4) administrative officers of institutions;

23 (5) child care providers;

24 (6) paid employees of domestic violence and sexual assault programs,
25 and crisis intervention and prevention programs as defined in AS 18.66.990;

26 (7) paid employees of an organization that provides counseling or
27 treatment to individuals seeking to control their use of drugs or alcohol;

28 (8) members of a child fatality review team established under
29 AS 12.65.015(e) or 12.65.120 or the multidisciplinary child protection team created
30 under AS 47.14.300;

31 **(9) a person who has a duty under state law or municipal**

1 **ordinance to investigate animal cruelty, abuse, or neglect.**