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**SENATE CS FOR CS FOR HOUSE BILL NO. 275(JUD)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 5/6/04

Referred: Finance

Sponsor(s): REPRESENTATIVES CHENAULT, Crawford, Gruenberg, Heinze, Foster, Seaton, Masek, Kerttula, McGuire, Stoltze, Meyer, Kott, Hawker, Anderson, Lynn, Croft, Wolf

**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;

8 (2) an environment compatible with protecting and maintaining the  
9 good health and safety of the animal; and

10 (3) reasonable medical care at times and to the extent available and  
11 necessary to maintain the animal in good health.

12 (b) Any determination as to whether or not the standards of this chapter are  
13 met shall be based on the professional opinion of a veterinarian licensed under  
14 AS 08.98.

15 (c) The department may adopt regulations to implement this section.

1           **Sec. 03.55.110. Investigation of cruelty to animals complaints.** (a) A  
 2 person who believes that cruelty to animals has taken place or is taking place may file  
 3 a complaint with a public or private animal control agency or organization, the  
 4 department, or a peace officer. An agency or organization or the department may refer  
 5 the complaint to a peace officer.

6           (b) A peace officer who receives a complaint of animal cruelty may apply for  
 7 a search warrant under AS 12.35 to the judicial officer in the judicial district in which  
 8 the alleged violation has taken place or is taking place. If the court finds that probable  
 9 cause exists, the court shall issue a search warrant directing a peace officer to proceed  
 10 immediately to the location of the alleged violation, search the place designated in the  
 11 warrant, and, if warranted, take property, including animals, specified in the warrant.  
 12 The warrant shall be executed by the peace officer and returned to the court.

13           (c) Before a peace officer may take an animal and place it into protective  
 14 custody, the peace officer shall request an immediate inspection and decision by a  
 15 veterinarian licensed under AS 08.98 that placement into protective custody is in the  
 16 immediate best interest of the animal. If a veterinarian is not available to perform an  
 17 inspection, before a peace officer may take an animal, the peace officer shall  
 18 communicate with a veterinarian who has, after hearing a description of the condition  
 19 of the animal and its environment, decided it is in the immediate best interest of the  
 20 animal that it be placed into protective custody. If the peace officer is not able to  
 21 communicate with a veterinarian, before the officer may take an animal, the officer  
 22 shall decide it is in the immediate best interest of the animal that it be placed into  
 23 protective custody. For purposes of this section, "peace officer" means

- 24                   (1) an officer of the state troopers;
- 25                   (2) a member of the police force of a municipality;
- 26                   (3) a village public safety officer; or
- 27                   (4) a regional public safety officer.

28           **Sec. 03.55.120. Seizure of animals.** (a) A peace officer shall place an animal  
 29 in protective custody before removing the animal from the location where it was  
 30 found. If the animal is removed, the peace officer shall place the animal with a  
 31 veterinarian licensed under AS 08.98 or, if a veterinarian is not readily available, with

1 a responsible public or private custodian to be sheltered, cared for, and provided  
2 necessary medical attention.

3 (b) A peace officer who has removed an animal shall immediately notify the  
4 animal's owner in writing of the removal and of the owner's right to petition the court  
5 under AS 03.55.130 for return of the animal. Notification may be delivered in person,  
6 posted at the owner's residence, or mailed to the owner.

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

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

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

20 (b) Upon diagnosis and recommendation of a veterinarian licensed under  
21 AS 08.98, a public or private custodian may humanely destroy or arrange for the  
22 humane destruction of a severely injured, diseased, or suffering animal that has been  
23 removed under AS 03.55.100 - 03.55.190.

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

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

1 (1) petitioning the court of the judicial district in which the animal was  
 2 removed 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 removed.

8 (e) If the custodian still has custody of the animal when the bond or security  
 9 posted under (d)(2) of this section expires and the court has not ordered an alternative  
 10 disposition, the animal becomes the custodian's property. If a court order prevents the  
 11 custodian from assuming ownership and the custodian continues to care for the  
 12 animal, the court shall require the owner of the animal to pay by bond or otherwise for  
 13 the custodian's continuing costs of care for the animal until a final disposition of the  
 14 animal is made by the court.

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

19 **Sec. 03.55.190. Definitions.** In AS 03.55.100 - 03.55.190,

20 (1) "animal" has the meaning given in AS 11.81.900;

21 (2) "custodian" means a person responsible by law for the care,  
 22 custody, or control of animals;

23 (3) "department" means the Department of Environmental  
 24 Conservation.

25 \* **Sec. 2.** AS 11.61.140 is repealed and reenacted to read:

26 **Sec. 11.61.140. Cruelty to animals.** (a) A person commits cruelty to animals  
 27 if the person

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

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

31 (3) intentionally kills or injures a pet or livestock by the use of poison;

1 (4) with criminal negligence, fails to care for an animal and, as a result,  
2 causes the death of the animal or causes severe physical pain or prolonged suffering to  
3 the animal.

4 (b) Each animal that is subject to cruelty to animals under (a)(1) - (4) of this  
5 section shall constitute a separate offense.

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

8 (1) was part of scientific research governed by accepted standards;

9 (2) constituted the humane destruction of an animal;

10 (3) conformed to accepted veterinary or animal husbandry practices;

11 (4) was necessarily incidental to lawful fishing, hunting or trapping  
12 activities;

13 (5) conformed to professionally accepted training and discipline  
14 standards.

15 (d) In (a)(4) of this section, failure to provide the minimum standards of care  
16 for an animal under AS 03.55.100 is prime facie evidence of failure to care for an  
17 animal.

18 (e) This section does not apply to generally accepted dog mushing or pulling  
19 contests or practices or rodeos or stock contests.

20 (f) Cruelty to animals is a class A misdemeanor. The court may also

21 (1) require forfeiture of any animal affected to the state or to a  
22 custodian that supplies shelter, care, or medical treatment for the animal;

23 (2) require the defendant to reimburse the state or a custodian for all  
24 reasonable costs incurred in providing necessary care, shelter, veterinary attention, or  
25 medical treatment for any animal affected;

26 (3) prohibit or limit the defendant's ownership, possession, or custody  
27 of animals for up to 10 years.

28 \* **Sec. 3.** AS 11.81.900(b) is amended by adding new a paragraph to read:

29 (63) "animal" means a vertebrate living creature not a human being,  
30 but does not include fish.