

**CS FOR HOUSE BILL NO. 67 (STATE AFFAIRS)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION**

BY THE HOUSE STATE AFFAIRS COMMITTEE

**Offered: 5/16/91
Referred: Judiciary**

Sponsor(s): REPRESENTATIVES KOPONEN, Moyer

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to mistreatment of animals and standards for treatment of animals; and
2 changing Alaska Rule of Civil Procedure 3 and Alaska Rule of Administration 45."

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

4 * Section 1. AS 03.55 is amended by adding a new section to read:

5 ARTICLE 2. MISTREATED ANIMALS.

6 Sec. 03.55.110. IMPOUNDMENT OF MISTREATED ANIMALS. (a) A peace officer
7 may impound a mistreated animal as evidence of a crime under AS 11.61.140 or 11.61.142 or
8 in order to protect the health and life of the animal. The peace officer may remove the animal
9 to a place where humane care and treatment can be provided. The peace officer shall, if
10 practical, give a notice of impoundment to the owner, or the owner's agent at the time the animal
11 is impounded. If the peace officer cannot notify the owner of the animal or the owner's agent
12 of the impoundment at the time of impoundment, the peace officer shall post a conspicuous
13 notice of impoundment at the premises where the animal was impounded. If the peace officer
14 cannot notify the owner of the animal or the owner's agent of the impoundment within 72 hours

1 after the impoundment, the peace officer shall send a notice of impoundment by certified mail
2 to the address, if any, where the animal was impounded. The cost of impounding and caring for
3 the animal is a lien upon the animal.

4 (b) If the peace officer determines that continued custody of the animal is necessary to
5 protect the animal or to preserve evidence of a crime, the peace officer shall notify the superior
6 court of the impoundment by filing, within 72 hours after the impoundment, a petition alleging
7 that the animal was impounded to protect the animal or to preserve evidence of a crime. The
8 superior court shall, within 10 days after receiving the petition unless prevented by lack of
9 transportation, hold a hearing at which the owner of the animal or the owner's agent, if the owner
10 or owner's agent can be found, shall be permitted to be present. The court shall determine
11 whether probable cause exists for impoundment of the animal. The court shall inform the owner
12 or the owner's agent if the owner or owner's agent can be found, of the reasons given as
13 constituting probable cause and the reasons given as authorizing the impoundment. If the court
14 finds that probable cause exists it shall order the animal to remain in the custody of the peace
15 officer or the peace officer's agent or order the animal returned to the custody of the owner or
16 the owner's agent subject to the peace officer's supervision of the animal's care and treatment.
17 If the court finds no probable cause it shall order the animal returned to the custody of the owner
18 or the owner's agent without liability for costs of impoundment or costs of care while the animal
19 was in custody.

20 (c) Except as provided in (b) of this section, an animal may not be released to its owner
21 or the owner's agent unless

22 (1) the animal is not being held as evidence of a crime under AS 11.61.140 or
23 11.61.142; and

24 (2) the owner or the owner's agent

25 (A) pays the costs of impounding and caring for the animal; and

26 (B) demonstrates that the conditions resulting in the impoundment will not
27 recur.

28 (d) An animal impounded under this section may be offered for sale or adoption or
29 disposed of in a humane manner if the animal is

30 (1) not reclaimed by its owner or the owner's agent within 30 days after the later
31 of

- 1 (A) the impoundment;
2 (B) the dispatch of a notice of impoundment by certified mail; or
3 (C) the expiration of the right to appeal the finding of probable cause for
4 the impoundment of the animal by the superior court; or
5 (2) abandoned by the owner.

6 (e) The owner of an animal impounded under this section is not liable for damages
7 caused by the animal while the animal is subject to the custody of the peace officer who
8 impounded the animal or the peace officer's agent. A peace officer who impounds an animal
9 under this section is liable in the peace officer's official capacity for damage to or by the animal
10 while the animal is subject to the custody of the peace officer or the peace officer's agent, except
11 that the peace officer and the peace officer's agent are not liable for damage to the animal caused
12 by or resulting from a condition that existed before the animal was impounded.

13 (f) The state veterinarian and the Board of Veterinary Examiners shall adopt jointly by
14 regulation standards for treatment of animals in order to provide guidelines for identifying
15 mistreated animals.

16 (g) In this section "animal" has the meaning given in AS 11.61.140.

17 * Sec. 2. AS 08.98.050(a) is amended to read:

18 (a) The board shall

19 (1) establish examination requirements for eligible applicants for licensure to
20 practice veterinary medicine;

21 (2) examine, or cause to be examined, eligible applicants for licensure or
22 registration;

23 (3) approve the issuance of licenses to qualified applicants;

24 (4) establish standards for the practice of veterinary medicine by regulation;

25 (5) conduct disciplinary proceedings in accordance with this chapter;

26 (6) adopt regulations requiring proof of continued competency before a license
27 is renewed;

28 (7) prepare and submit an annual report to the department containing information
29 concerning board activities, the number of examinations held, the number of applicants for
30 examination, the number of persons who pass and the number who fail each examination,
31 financial data, including receipts and expenditures, and other information which the department

1 may require;

2 (8) as requested by the department, monitor the standards and availability of
3 veterinary services provided in the state and report its findings to the department;

4 (9) collect, or cause to be collected, data concerning the practice of veterinary
5 technology by veterinary technicians in the state and submit the data to the department for
6 maintenance;

7 (10) establish, by regulation, educational and training requirements for the
8 delegation of duties by veterinarians licensed under this chapter to veterinary technicians;

9 (11) adopt regulations establishing standards for treatment of animals by
10 veterinarians and other persons.

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

12 Sec. 11.61.142. MISTREATMENT OF ANIMALS. (a) A person commits the crime
13 of mistreatment of animals if the person, except in an emergency or circumstances beyond the
14 control of the person,

15 (1) abandons an animal without providing for the continued health and life of the
16 animal; or

17 (2) fails to provide care sufficient to preserve the health and life of an animal
18 including the failure to provide for

19 (A) food of sufficient quantity and quality to provide for normal growth
20 or maintenance of body weight;

21 (B) access to potable water in sufficient quantity to satisfy the animal's
22 needs; or

23 (C) veterinary care considered necessary by a licensed veterinarian to
24 relieve distress from injury, neglect, or disease.

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

26 (c) Mistreatment of animals is a class B misdemeanor.

27 * Sec. 4. AS 22.15.030(b) is amended to read:

28 (b) Insofar as the civil jurisdiction of the district courts and the superior court is the
29 same, the jurisdiction is concurrent. Except for a petition for injunctive relief under
30 AS 25.35.010 or 25.35.020 or for a petition for a probable cause hearing under AS 03.55.110.

31 an action that falls within the concurrent jurisdiction of the superior court and the district court

1 may not be filed in the superior court, except as provided by rules of the supreme court.

2 * Sec. 5. (a) The provisions of sec. 1 of this Act have the effect of changing Alaska Rule of Civil
3 Procedure 3 by allowing a court to proceed on the filing of a petition rather than a complaint.

4 (b) The provisions of secs. 1 and 4 of this Act have the effect of changing Alaska Rule of
5 Administration 45 by allowing a civil action within the concurrent jurisdiction of the superior court and
6 the district court to be filed in the superior court.

7 * Sec. 6. Sections 1, 2, and 4 of this Act take effect only if sec. 5 of this Act receives the two-thirds
8 majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.