

HB

67

Alaska State Legislature
Representative Niilo Koponen

House District 21

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SPONSOR STATEMENT

House Bill 67

"An act relating to the impoundment of mistreated animals"

By Representative Niilo Koponen

Alaska's harsh climate frequently amplifies simple neglect of domestic animals into horrifying episodes of starvation and death. Tragic cases of animal abuse have inspired Alaskan municipalities to equip themselves with the legal ability to take custody of mistreated animals and turn them over to humane societies and other private caretakers until the abusive situation is corrected. Sadly, when such abuse occurs outside borough or municipal boundaries, the State of Alaska is powerless to take action to prevent further suffering.

This bill provides that animals certified by a veterinarian as mistreated may be impounded by Department of Public Safety officials and removed to a setting of proper care and rehabilitation. The Department maintains a current list of volunteer humane associations capable and willing to receive such animals and care for them appropriately.

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. CSHB 67(SA)

Revision Date: _____ Department Affected: Public Safety
 Title: An Act relating to the impoundment of mistreated animals. BRU: Alaska State Troopers
 Component: Detachments
 Sponsor: Representative Koonen
 Requestor: House Judiciary COMPONENT SERIAL NO.

7	9	9
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EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	223.8	223.8	223.8	223.8	223.8	
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	223.8	223.8	223.8	223.8	223.8	223.8

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	223.8	223.8	223.8	223.8	223.8	223.8
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	223.8	223.8	223.8	223.8	223.8	223.8

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)
 See attached analysis

Prepared By: Gayle A. Horetski Phone: 465-4322
 Division: Commissioner's Office Date: 1/16/92
 Approved by Commissioner: *Gayle A. Horetski* for Richard L. Burton
 Agency: Department of Public Safety Date: 1/16/92

Department of Public Safety
CSHB 67(SA)
Fiscal Note Analysis
Page 2 of 4

CSHB 67(SA) amends AS 03.55 and AS 11.61 by adding a new section to each statute. AS 11.61.142 establishes the crime of mistreatment of animals as a Class B misdemeanor. AS 03.55.110 provides for the impoundment of mistreated animals by a peace officer as evidence of a crime or in order to protect the health and well being of an animal.

Under CSHB 67(SA) the Department of Public Safety would be required to do the following:

1. Investigate the mistreatment of animals identified through a complaint or discovered through the normal course of their enforcement programs.
2. Determine the level of mistreatment to the animal(s) and elect a course of action that may include removal of the animal(s) either as evidence of a crime or solely for the protection of the animal.
3. Ensure that the animal(s) are removed to a place that provides humane care and treatment.
4. Provide notice of impoundment.
5. Establish procedures to allow fee collection from owners wanting to reclaim their animal(s).
6. Establish procedures for the adoption or the disposal of the animal(s) that are not claimed by the owner(s).

The bill requires that the animal owner be provided an opportunity for an expedited hearing to appeal the impoundment of the animal(s), but does not identify the agency responsible for ensuring this. The bill also does not draw any distinction between the criminal and non-criminal impoundment in relation to the appeals or their costs. This fiscal note does not include the cost for an appeal hearing as we are assuming that responsibility will be with the Department of Law.

The Department of Public Safety presently does not have the requisite facilities or animal care expertise to fulfill the obligations as set out in this bill. Because the provisions contained here have a statewide application it can be anticipated that reported cases will come from throughout rural and urban Alaska, including largely uninhabited and inaccessible parts of the State. An example would be a complaint against a big game guide whose base of operations might be deep in the Alaska wilderness. If all of the responsibilities and costs are

Department of Public Safety
CSHB 67(SA)
Fiscal Note Analysis
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determined to fall to the Department of Public Safety, it would be the Department's responsibility to transport the impounded animals, when possible, to the nearest place of care and treatment, and then to contract with individuals or businesses to provide the necessary follow-up care and services. There could be cases where the animal(s) in question could not be transported and would have to be cared for in place. This would add considerably to the cost associated with the requirements of this bill, including shipping of food and other materials to the site of the animals, daily care costs, transportation costs of veterinarian, etc.

The number of animal care complaints has been low so far, but the cases handled by the Department of Public Safety in the recent past have been fairly substantial in terms of the large number of animals per incident. In one case, the Alaska State Troopers in Soldotna had to manage over 100 dogs and several horses in a "cruelty to animals" criminal investigation. Additionally, it could be expected that the number of reported cases would increase sharply once the public became aware of this new law.

While this bill specifies several types of animals as being covered, for purposes of identifying the fiscal impact upon the Department of Public Safety, horses, dogs, and miscellaneous animals will be used to describe baseline data as reported cases generally fall in one of these three categories.

ANIMALS IMPOUNDED PER YEAR
by the DEPARTMENT OF PUBLIC SAFETY

1. Horses	50
2. Dogs	100
3. Misc. Animals	25

TRANSPORTATION TO IMPOUND

Horse trailering: 50 horses x \$1.00 per mile per horse x 50 mi. (Includes round trip contingency)	\$ 2,500.00
Air transport small animals 25 animals x \$200.00 (Includes round trip contingency)	\$ 5,000.00
Ground transport fee for small animals, \$50.00 x 100 animals (Includes return trip contingency)	\$ 5,000.00
Facilities fee, horses \$300.00 per mo. x 50 horses x 60 days includes food/water	\$ 30,000.00
Facilities fee, small animals 125 x \$5.00 per day x 60 days	\$ 37,500.00
Veterinarian Services 175 initial exams, 175 follow- up exams (350 total exams) x \$80/hr minimum (4 hrs. per exam)	\$112,000.00
Medications \$50.00 per animal per incident	\$ 8,750.00
Veterinarian transportation costs - air travel to rural sites for initial inspection (25 trips x \$400.00 per trip)	\$ 10,000.00
Ground transportation fee 150 trips x \$1.75 per mile x 50 miles (round trip)	\$ 13,125.00
TOTAL	\$223,875.00

Revision Date: _____
Title: An Act relating to the impoundment of mistreated animals.
Sponsor: Rep. Kodonen
Requestor: House State Affairs

Department Affected: Public Safety
BRU: Alaska State Troopers
Component: Detachments

COMPONENT SERIAL NO.

	7	9	9
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EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not Included)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL	5.6					
CONTRACTUAL	439.1	423.8	423.8	423.8	423.8	423.8
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	444.7	423.8	423.8	423.8	423.8	423.8

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	444.7	423.8	423.8	423.8	423.8	423.8
FEDERAL FUNDS						
OTHER/PROG RCPT						
TOTAL	444.7	423.8	423.8	423.8	423.8	423.8

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact _____

ANALYSIS: (Attach a separate page if necessary)
See attached analysis

Prepared by: Capt. Thomas T. Stearns Phone: 465-4322
Division: Alaska State Troopers Date: 2/26/91
Approved by Commissioner: *Richard L. Burton* Richard L. Burton
Agency: Department of Public Safety Date: 2/26/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

DEPARTMENT OF PUBLIC SAFETY
HB 67 Fiscal Note Analysis

The activities required of the Department of Public Safety under HB 67 are as follows:

1. Impoundment and removal of mistreated animals when the responsibility for this is not delegated elsewhere by local ordinance.
2. Provide notice of impoundment.
3. Provide animal owner with an opportunity for an expedited hearing to appeal the impoundment.
4. Establish procedures to allow fee collection from owners wanting to reclaim their animal(s) and for adoption or removal from State custody.
5. Adopt regulations to implement the proposed act.

Not specified in this bill is the agency initially responsible for the following costs and ultimately responsible in the event of non-payment by the animal owner:

1. Obtaining the required certificate of mistreatment by a licensed veterinarian. This would include transportation costs and veterinary fees for the initial exam.
2. Required facilities, food, water and medications during the period of impoundment.
3. Required veterinary fees for follow-up care.

The Department of Public Safety presently does not have either the facilities or animal care expertise to fulfill the obligations set out in this bill. Because the provisions have a statewide application it can be anticipated that reported cases will come from throughout rural and urban Alaska, including sparsely inhabited and inaccessible areas of the State. An example would be a complaint against a big game guide whose base of operations might be deep in the Alaska wilderness. If all of the responsibilities and costs are to fall to the Department of Public Safety, the Department would have to transport the impounded animals, when possible, to the nearest place of care and treatment, and then to contract with individuals or businesses to provide the necessary follow-up care and services. There are likely to be cases where the animal(s) in question could not be transported and would have to be cared for in place. This would add considerably to the cost associated with the requirements of this bill, including shipping of food and other materials to the site of the animals, daily care costs, transportation costs of veterinarian, etc.

The overall rate of such reportings has been low in numbers, but the cases handled by the Department of Public Safety in the recent past have been fairly substantial in terms of the large number of animals per incident. In one case, the Alaska State Troopers in Soldotna had to manage over 100 dogs and several horses in a "cruelty to animals" criminal investigation. Additionally, it could be expected that the number of reported cases would increase sharply once the public became aware of this new law.

While this bill specifies several types of animals as being covered, for purposes of identifying the fiscal impact upon the Department of Public Safety, horses, dogs, and miscellaneous animals will be used to describe baseline data as reported cases generally fall in one of these three categories. This fiscal note is a very conservative estimate of the costs that would result from the adoption of this bill in its present form.

**ESTIMATED NUMBER OF ANIMALS TO BE IMPOUNDED PER YEAR
by the DEPARTMENT of PUBLIC SAFETY**

1. Horses	50
2. Dogs	100
3. Misc. animals	25

TRANSPORTATION TO IMPOUND

Horse trawling: 50 horses x \$1.00/mile per horse x 50 mi. (Includes round trip contingency)	\$ 2,500.00
Air transport for small animals, 25 animals x \$200.00 (Includes round trip contingency)	\$ 5,000.00
Ground transport fee for small animals, \$50.00 x 100 animals (Include round trip contingency)	\$ 5,000.00
Facilities fee, horses \$300.00 per month x 50 horses x 60 days (includes food/water)	\$ 30,000.00
Facilities fee, small animals, 125 x \$5.00 per day x 60 days	\$ 37,500.00
Veterinarian Services, 175 initial exams, 175 follow-up exams (350 total exams) x \$80.00/hr minimum 4 hours per exam (all animals)	\$ 112,000.00
Medications \$50.00 per animal per incident	\$ 8,750.00
Veterinarian transportation costs - air travel to rural sites for initial inspection (25 trips x \$400.00 per trip)	\$ 10,000.00
Ground transportation fee, 150 trips x \$1.75 per mile x 50 miles (round trip)	\$ 13,125.00
Liability Insurance Costs	\$ 200,000.00
Adoption of Regulations which will require public notice of the proposed regulations and travel to Anchorage, Soldotna/Kenai, Sitka, Ketchikan, Bethel, Kodiak, and Fairbanks to conduct public meetings.	\$ 20,900.00
ESTIMATED TOTAL	\$ 444,775.00

STATE OF ALASKA
1991 LEGISLATIVE SESSION

NO. 4
Bill Version: CSHB 67(STA)
(H) Publish Date: 5/16/91

Revision Date: _____ Department Affected: Department of Law
Title: "An Act relating to the
impoundment of mistreated animals." BRU: Prosecution, Legal Services
Sponsor: Representative Koponen Component: Prosecution/Criminal Justice Litigation
Requestor: House State Affairs Legal Services/Operations
COMPONENT SERIAL NO.

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		9	3

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Prepared By: Richard I. Pegues, Director Phone: 465-3672
Division: Administrative Services Date: February 11, 1991
Approved by Commissioner: Richard I. Pegues / ROR
Charles E. Cole, Attorney General
Agency: Department of Law Date: February 11, 1991

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 67

This bill adds a new section to AS 03.55 that gives the Department of Public Safety the power to impound mistreated animals outside of municipalities and within municipalities that do not provide by ordinance for the impoundment of mistreated animals. The bill further provides that the Department of Public Safety may impound a mistreated animal and remove the animal to a place where humane care and treatment can be provided. Impoundment of an animal would occur only if a licensed veterinarian has issued a certificate of mistreatment regarding the animal.

The bill's other provision include giving notice of impoundment to the owners of impounded animals, an administrative appeals process (including appeal to the superior court), conditions for release of an animal to its owner, financial responsibility for impoundment, and a grant of immunity from civil or criminal liability for employees or agents of the Department of Public Safety or veterinarian who take actions in good faith under the proposed act.

Under the bill, mistreatment is defined to mean the abandonment of an animal without providing for the continued health and well-being of an animal or the failure to provide care sufficient to preserve the health and well-being of an animal. Specifically included in this definition is the failure to provide food of sufficient quantity and quality to provide for normal growth or maintenance of body weight; the failure to provide access to potable water in sufficient quantity to satisfy the animal's needs; in the case of animals other than livestock, the failure to provide access to an enclosed structure that is sufficient to protect the animal from wind, snow, rain or sun and that has adequate bedding to protect against cold and dampness; the failure to provide adequate space for exercise necessary for the health of the animal; the failure to provide a clean confinement area, free from excess waste or other contaminant that could affect the health of the animal; and the failure to provide veterinary care considered necessary by a reasonably prudent person to relieve distress from injury, neglect, or disease. The Department of Public Safety would be required to adopt regulations to implement the proposed act.

Under this bill the Department of Law would represent the Department of Public Safety in appeals brought by the owners of impounded animals under proposed AS 03.55.110. The department cannot, at this time, determine what fiscal impact might result from enactment of this bill because of the lack of information regarding the incidence of animal mistreatment. However, the number of complaints of cruelty to animals under AS 11.16.140, which are more narrowly defined, is relatively small. The department has received as many as ten complaints in some years; however last year it did not receive any cruelty to animals complaints.

For this reason, the Department of Law is not requesting fiscal note funds at this time. It cautions, however, that past as well as projected staff reductions would prevent if from providing animal impoundment appeals representation to the Department of Public Safety if the caseload caused by this bill is more than a few cases per year.

Facts from Alaskan animal control offices
(preliminary figures from Leg. research)

Municipality or Borough	cruelty/mistreatment calls per year	calls investigated	cases prosecuted
Anchorage	1500	"many"	1
Mat-Su Borough	20-25	20-25	none in 4 years
Fairbanks N.S. Borough	155 (in 1990)	155	5
Kenai	50	50	<1
Soldotna	6	6	1
Homer	4-5	4-5	1

Mat-Su Borough: Half or more of calls on mistreated animals are unfounded

Kenai: 90-95% of calls are unfounded

Last case prosecuted was in 1985

Mistreatment cases are usually worked out with owner or animals are confiscated, rather than going to court

Kenai-Soldotna-Homer: Receive calls on animals outside city boundaries, but within borough; city can't do anything, borough has no areawide ability to handle cases

Alaska State Legislature
Representative Niilo Koponen

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House District 21

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(907) 456-8172

M E M O R A N D U M

TO: Mary McBurney, Legislative Aide to Representative Kubina
FROM: Ron Clarke *RC* Legislative Aide to Representative Koponen
DATE: May 15, 1991
RE: HB 67

Here's a brief list of the most recent changes to HB 67:

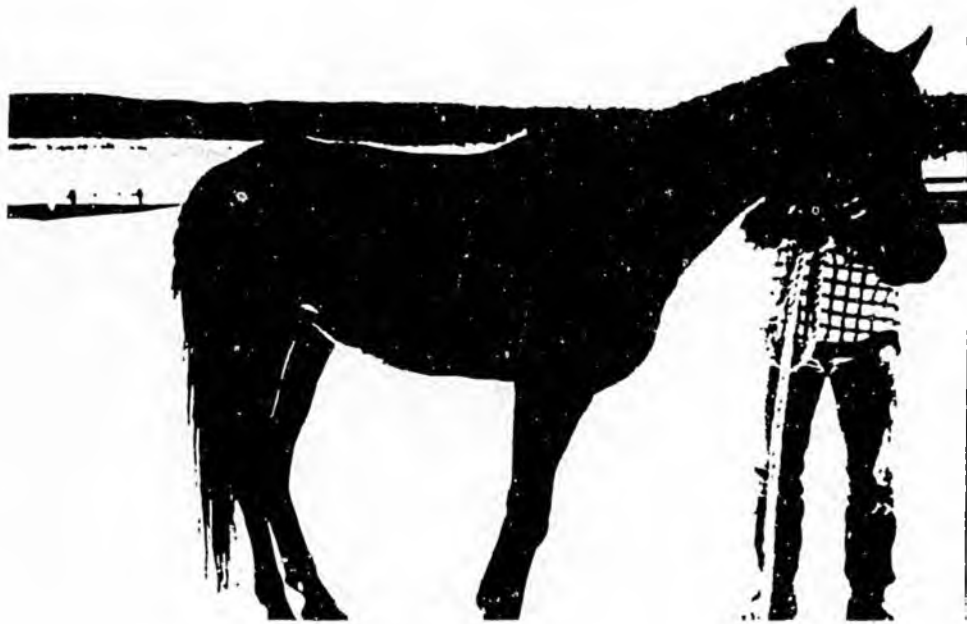
- animal's "health and well-being" changed to "health and life"
- allow for non-release of animals held as evidence
- allow for release of animals at the conclusion of an impound period
- provide for administrative appeals brought by aggrieved owners of impounded animals
- costs of impound and subsequent care are a lien upon the animal
- unclaimed impounded animals may be offered for sale as well as adoption
- sale or adoption of an animal may not occur until all opportunities for appeal by the owner have expired
- owners are indemnified for damages caused by impounded animals no longer under their control
- state is liable for damages by or injuries to impounded animals while in state custody, except for degradation of animals' health due to pre-existing conditions
- hearing for aggrieved owners shall be expedited -- by changing Alaska Rule of Civil Procedure 3 to allow for petition for a probable cause hearing (court can proceed on the filing of a petition rather than a complaint)
- Alaska Board of Veterinary Examiners shall assist the State Veterinarian in adopting regulations regarding standards for

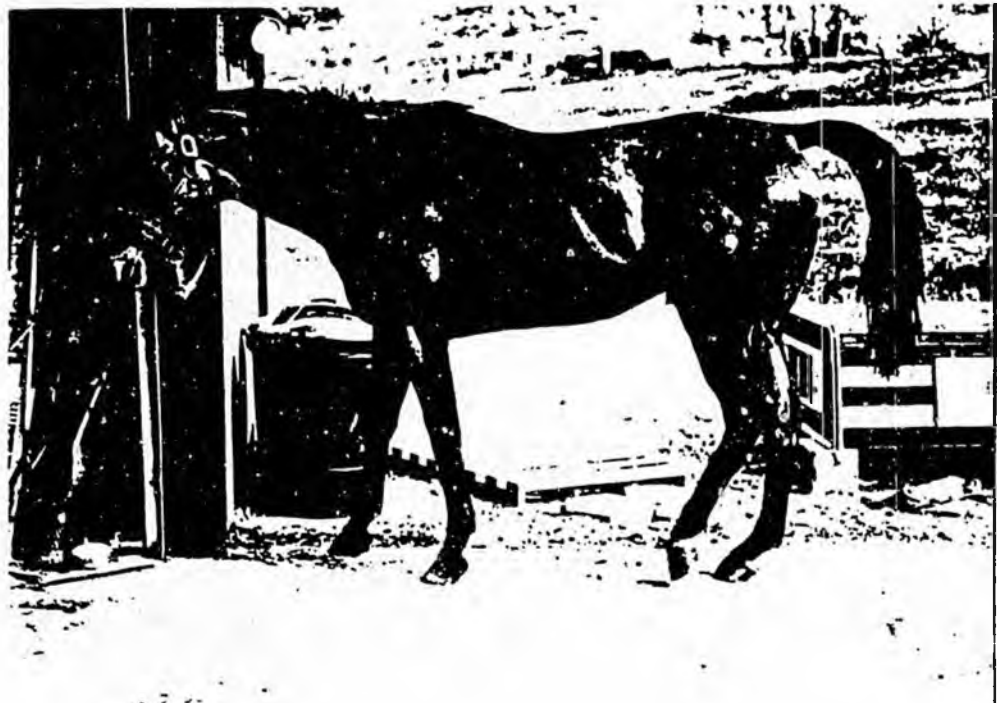
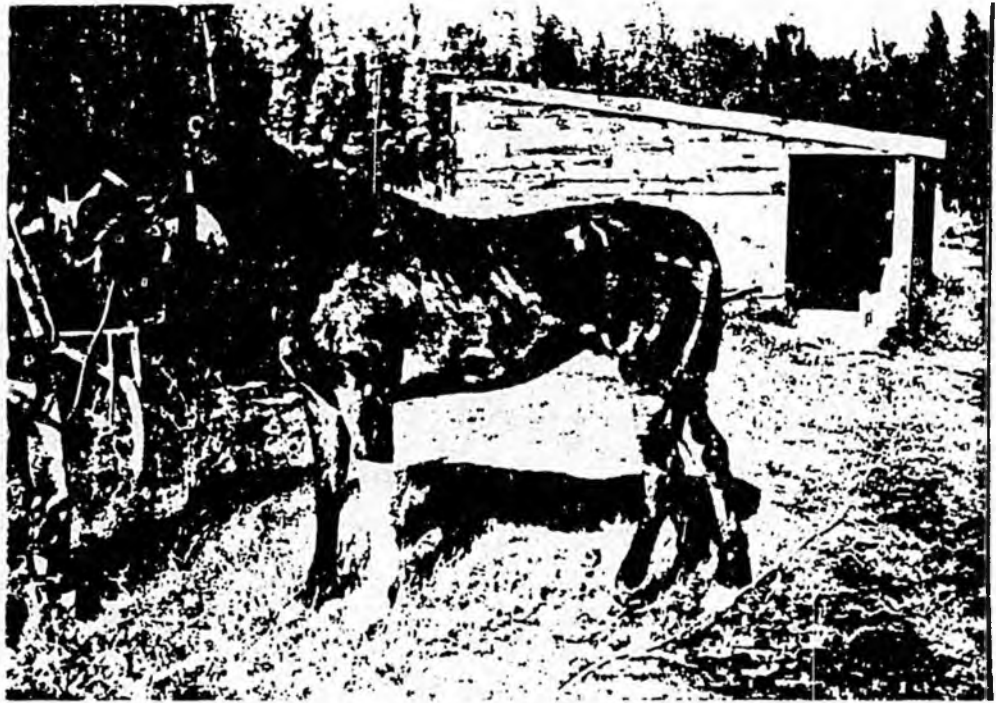
Mary Mc Burney
Page Two
May 15, 1991

treatment of animals in order to provide guidelines for identifying mistreated animals

- Alaska Board of Veterinary Examiners granted authority to adopt such regulations

Let me know if you need any additional information.





He was advertised in the paper as a quarter horse gelding for sale because the owner had no time for him. I called the owner and it sounded promising, the price was right, and we needed a second horse. A time was set to see him that afternoon.

When I arrived at the horse's home, I was taken around back to a small, well chewed corral where the horse was kept. What assailed my eyes and nose was a filthy, mud and manure soaked mess with a dirty, blanketed bay horse standing in the middle of it. He pricked his ears at our approach and hobbled forward. One front leg was bandaged to above the knee with a pus like material oozing between the layers. One hind leg was grotesquely swollen and dragged behind him. The corral smelled as if something had crawled in and died a long time ago.

I took him out of the corral, hosed down the hind leg to get a good look at the massive injuries it had sustained. The young woman told me he had been staked out to a tree while she had gone into town. When she got back, hours later, he was tangled severely and pinned to the ground. There were rope burns all over his legs and the halter had cut into his nose. A veterinarian had applied a bandage on the front leg to protect a full skin thickness rope burn, but the bandage had been left on for a week without changing, thereby promoting infection. The swollen hind leg had a bad rope burn across the tendon just below the hock with double rope burns around the pastern joint. His feet were covered with stress rings and deformed from injuries and malnutrition. As I surveyed this sorry sight I heard the comment that "the stupid horse keeps tangling himself up". My blood was at a slow boil as I reluctantly put the horse up. I informed the woman that the horse was in dire need of veterinary assistance and I would like to have my own vet see the gelding; also, with the condition he was in, he was not worth the \$800 she was asking for him.

The next morning I arrived at her home before my vet, and pulled the horse out of the corral again. I asked for a bucket of hot water and a rag to clean the hind leg off. When I pulled off his filthy canvas blanket, I saw even worse than I had feared. I could see just about every bone on his body, and his skin was crusted with mud, urine and manure. Using a body brush I had brought from home, I started grooming away the worst of areas and found dead, crusty skin and hair coming away in clumps. The owner produced a toilet brush and added her assistance. She started rationalizing his condition by saying they didn't use him, so he received no grain - he "didn't need it". The hay I saw was marginal local, so I knew he hadn't been meeting his basic caloric or nutritional needs.

I was overjoyed to see my vet pull down the drive and get out of his car. He came over to us shaking his head and giving me the "what have you gotten yourself into?" look. We got right down to business by taking off the front bandage. A foul, odorous full thickness rope burn on the inside of his knee was hiding under it, but we were able to clean it up, medicate and rebandage it. He shaved the hind leg and checked it for infection, and luck was with us. The huge swelling of the limb appeared to be edema from the injuries, not infection. After medicating the hind leg, he checked the geldings teeth and had me walk him to the end of the

driveway and back. The horse gamely gave it his all, but it was obvious that even such a small exertion exhausted him. Now came the bad news as my vet summed up his opinion. He gave the horse a 50% chance of coming back sound, but only with some intensive nursing. He informed the owner that the horse was at least 300 lb underweight as well. The gelding would need a bandage change at least every third day, soaking the hind leg 2 to 3 times a day, remedicating it each time, providing a clean and dry environment, and slowly starting him on a high nutrition diet with antibiotics. He would reevaluate him in 10 days and would be better able to tell his fate then.

This news appeared to upset the owner and she started saying that she could not possibly do all these things, and that she didn't even like horses. They were her husband's project and he was away from home a lot. I wanted to see the horse out of that environment, but I did not have my own barn finished yet. I told her I would find a place for the horse for the next 10 days, but she would have to pay all the bills. After the next vet exam, I would decide whether to take the risk to keep him, but I would not give them any money for a horse that might have to be euthanized.

A friend arrived with her trailer and we went through a slow and painful loading, then headed down the road toward a new beginning.

And the story continues.....

We unloaded the gelding at my friend's house, blanketed him, and put him in a stall with generous amounts of grass hay and water. That evening he received his first small helping of grain and alfalfa which perked his interest considerably. I'm sure it was ambrosia to his taste buds. The next week went by quickly for all of us as we took care of his various wounds and bandages. Luckily we were in the midst of a beautiful Indian summer so the gelding was turned out in the arena during the day to exercise and bask in the sun. It was several days, however, before he felt strong enough to lay down and sleep. Although he needed the rest, he was reluctant to go down as he might not be able to get back up again, a horse's worst nightmare. It was so heart lifting to see him finally stretch out in the sunshine and sleep. When he was able to get up and down, we started walking him to the end of the road and back; a mighty exhausting effort for him. Everything was going slowly, but well when I got a call from the owner who had talked to her husband that day and had told him about the gelding's plight. I was informed that he was threatening to shoot the animal be done with the trouble. This got us all worked up, including my vet who thought the horse was too fine a quality animal not to be given a chance. I convinced the owner that the horse's fate should not be decided until his 10 day exam, and to save him some money in board, I would take the horse to my place for the next three days.

The day of the gelding's follow up exam was a tense one for my husband and I. I had called the owner and told him to bring the horse's paperwork with him to the vet. If he passed the exam, I would cut the deal for him right there. By this time the gelding was feeling much better, walking with a barely noticeable limp and more energy. His expression had brightened and his very kind eye showed a renewed interest in his world.

After arriving at the clinic, my vet noted that the horse had made some very positive improvement, but he was still concerned about the hind leg. He decided to x-ray it, and we discovered a dislocated splint bone. After discussing treatment options, we decided that it should be left alone to heal as it wasn't severe enough to warrant surgery. The horse was given about a 50% chance of coming back sound enough for riding. At this point, the owner stated that he had been laid off and maybe he would keep the horse and nurse him back since he now had the time. I knew I couldn't allow the horse to go back to that home; he had worked his magic on me with his sweet disposition, and willing temperament and I had fallen in love with him. I flat out told the owner that the horse wasn't worth much and I would be taking a risk buying him. My vet subtly encouraged the deal and a transaction was made right in the vet clinic; one registered running Quarter Horse in exchange for \$500 and the cost of this vet visit. I had just risked not only my money, but a possible broken heart if things did not go well.

After taking "my horse" home, I decided to do some detective work on his background. His registration papers showed some very impressive racing bloodlines, including four lines to the legendary Three Bars through Rapid Bar, Rocket Bar, Sugar Bars

and Mr Bar None. This accounted for his registered name, Barrad Jazz. I contacted the person who had owned him originally and was told Jazz had spent 2 years on the track and was the first horse trained by his son. He said Jazz had an excellent disposition even then, and was very distraught at the fate the horse had endured after getting to Alaska.

We became more determined than ever to see this ex-racehorse through his injuries and make him into a useful riding horse and companion. After 2 weeks, his diet was up to 4 lb. each of alfalfa and grain, 2 cups of corn oil and lots of good grass hay. His daily medical regimen included hot soaks and DMSO on his hind leg, debriding the massive burn on the front knee and treating all the rope burns with silvadene to encourage soft, healthy scar formation. As this was now October, it was becoming a problem to soak the hind leg, but I couldn't give it up as it was vital to help his healing. Being a creative person, I soon came up with the idea of using a wet towel and a heating pad. Jazz was soon spending an hour a day tied to his hitching post with a heating pad on his hind leg and a surcingle on to hold the cord out of harms way. Good even heat and no more spilled buckets when he got bored!

After 2 months, the change in Jazz was remarkable. He had put on 150# and was sound enough for short one mile jaunts on the powerline. He was still weak and tired easily, but he enjoyed his outings so much he would run up to me in the pasture and shove his head in the halter as if saying "hurry up- let's go. At this stage of his recovery, he decided to shed out all his hair clear down to his black and pink freckled hide. With the onslaught of cold weather, this necessitated the wearing of a good holofil blanket for the rest of the winter. We also decided to put shoes back on him having let him go bare foot during his initial convalescent period. His feet were a mess reflecting the starvation and the injuries he had endured. They were covered with stress rings, with the hind feet also contracted and deformed. Shoeing was stressful as Jazz had a hard time flexing his hind legs for the farrier.

Four months flew by and Jazz was now up to his full ration of 16# of alfalfa and 8# of grain with 2 cups of oil along with his grass hay. He was filling out and hints of his potential beauty were showing though the scraggly hair coat. He would now run around the corral doing sliding stops and roll backs at the fence, bucking and kicking along the way. It was now time for another follow up exam by the vet.

With crossed fingers we waited for the verdict from the doc. and with a grin he pronounced Jazz sound and ready for a conditioning program. He recommended we start putting more miles on him to encourage the ligaments in his hind legs to stretch, and to build back the strength he had lost when his body had eaten up muscle to keep from starving to death. As I had discovered by this time that Jazz had virtually no pleasure horse training, I started working him in a biting rig and long lines. Little did I know then how much work it would be to retrain an ex-racehorse.

By the time May had rolled around, Jazz was well started in his training and shaping up to be a good trail horse. He was still stiff and I saw it was going to take quite a bit of time to work

that out. The only big problems I had with him were a wandering attention span as he found so many interesting things to look at, and extreme excitability whenever other horses ran near him. On Memorial Day he got his first bath. It was hard to believe that the walking scarecrow I had first found had evolved into the gorgeous animal now strutting before me. Jazz has become that once in a lifetime horse of which every child dreams.



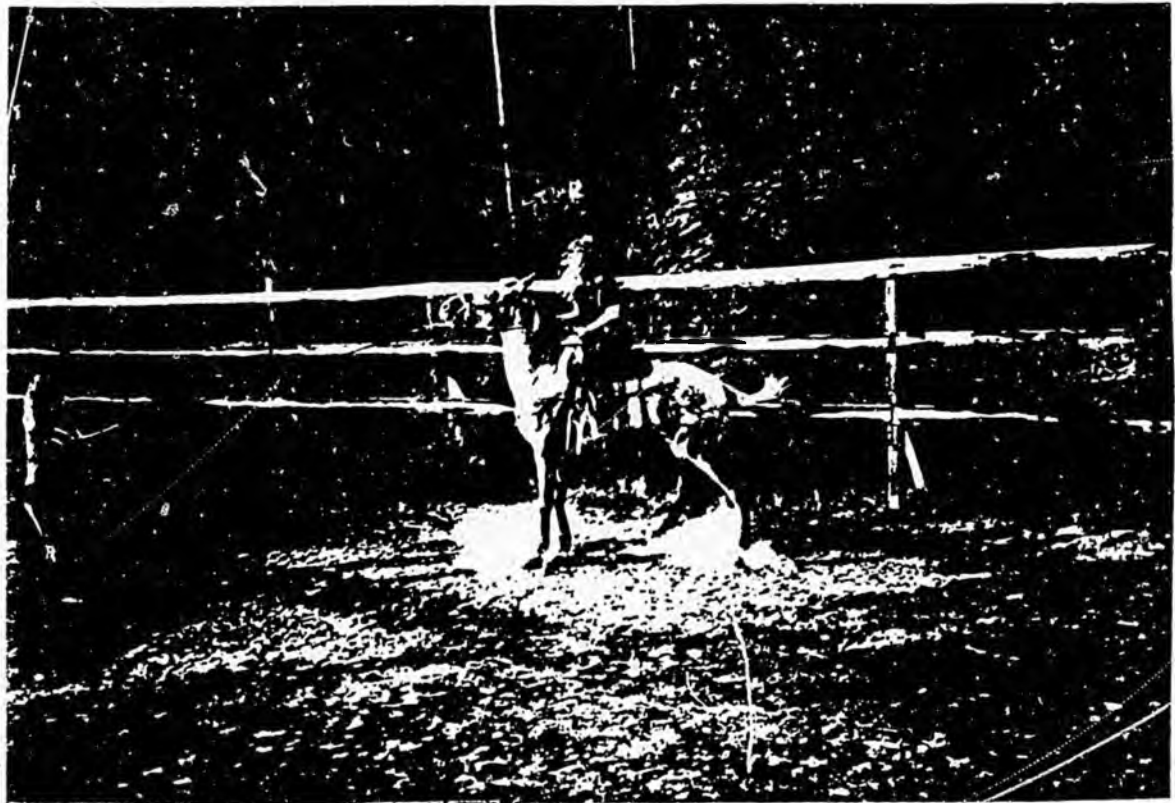


Photo 1 and 2

This Appaloosa mare and 2 day old Appy/Walker filly were given to me in April, 1988. The owner was unaware that the mare, Sugar, was in foal and was being stalled with the stallion. The filly, Ginger, was born in a manure pile and had urine burns on her legs. The owner, unable to put her in a clean environment, placed the mare and filly with me. The mare was unable to produce milk until the 5th day and the filly could not stand on her own. The mare was caked with old manure that took a month to remove as it was very painful. The mare and filly were very lethargic but within a short time were both very active.

Photo 3

Shows the improvement by mid July 1988.

Photo 4

Ginger at 2 years, 4 months, 14.2 hands - August 1990. As of January 1991, Ginger is now 15.2 hands and still growing!

Cheryl Rhodes

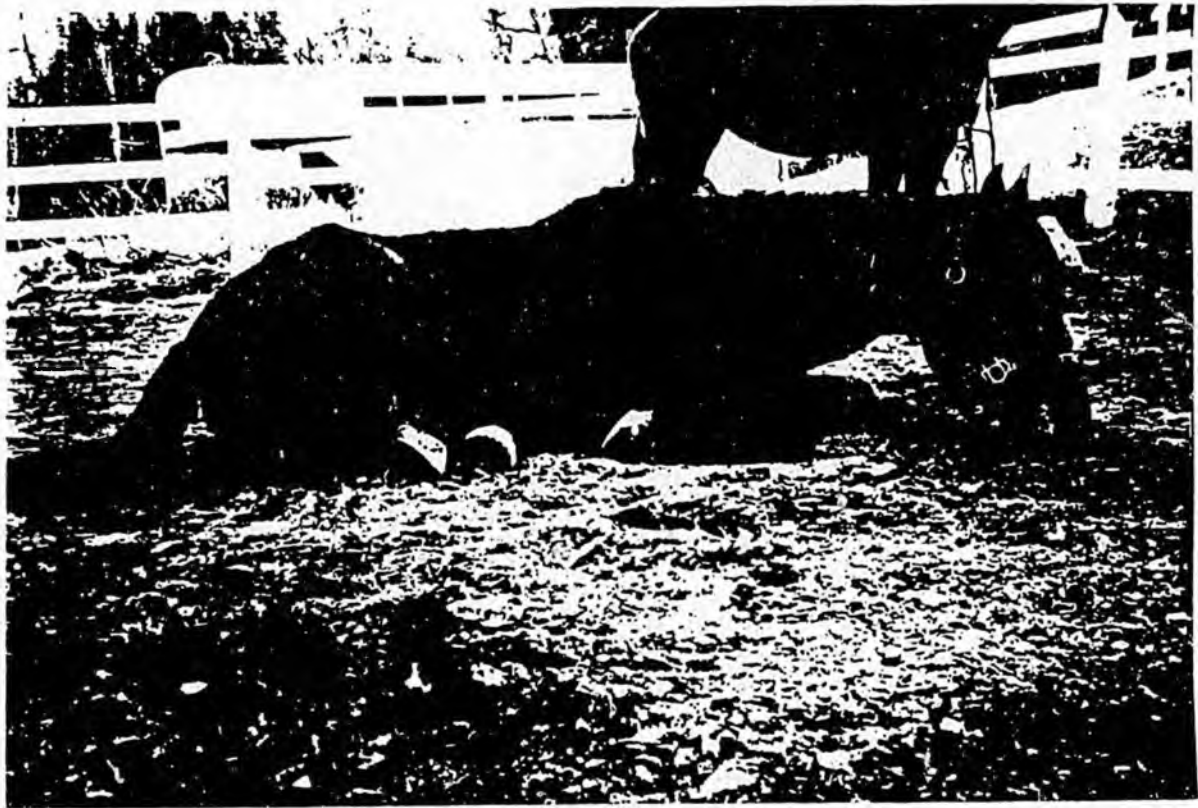


Photo 1

This Thoroughbred/cross 10 year old gelding was purchased in March, 1990, by a young friend of mine and taken to my place for care. The gelding, Dakota, was badly abused by a stallion and had large open sores along the spine. The hoofs were cracked from a very muddy environment. The owner could not put weight on the horse so he was of not use as a pack animal. At 15.3 hands, Dakota weighed under 900 lbs.

Photo 2

A proud Dakota and his very proud owner in June 1990. He had gained 100 lbs at this time. As of February, 1991, Dakota now weighs 1,157 lbs and is very sound.

Cheryl Rhodes

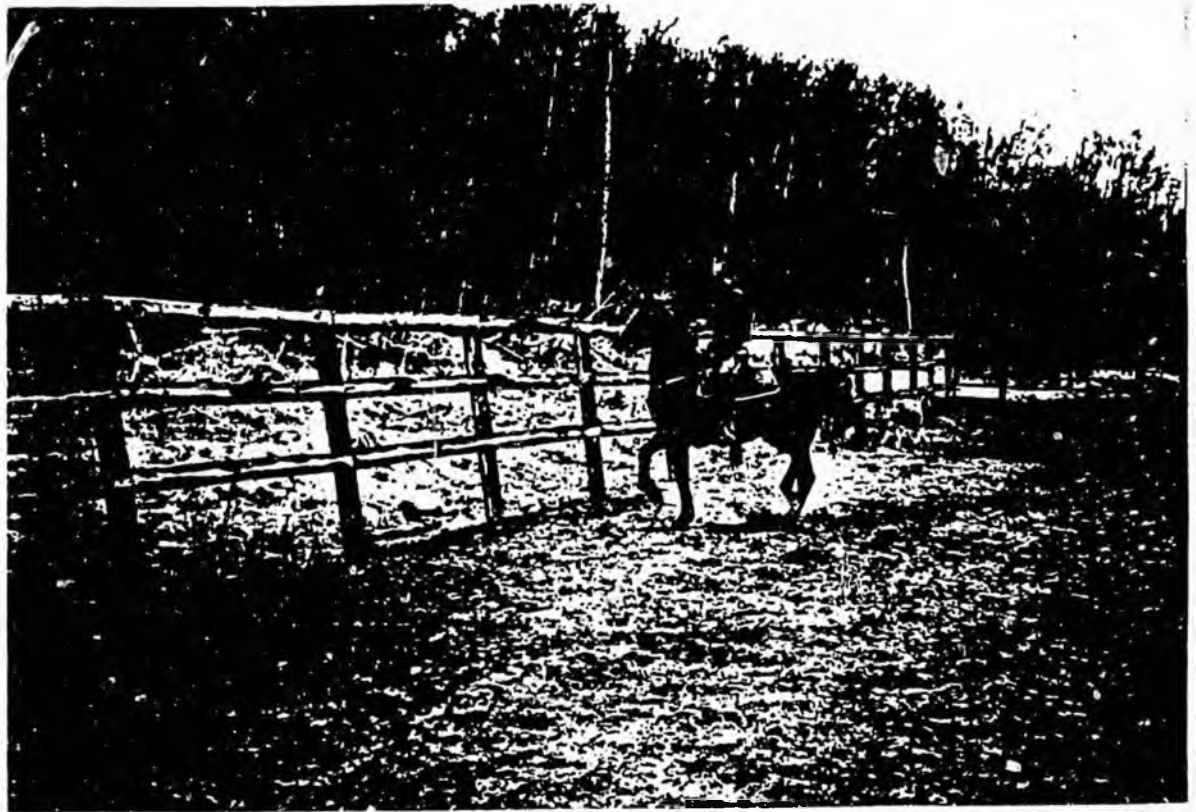


Photo 1

Rex is a 20 year old American Saddlebred (background) that we purchased in January, 1990, at a minimal price because he was no longer wanted. Rex was an extremely stressed horse and obviously never been anything but an arena horse.

Over a 2 month period with worming and a select feeding program, Rex finally calmed enough to begin gaining weight.

Photo 2

A weight gain of nearly 100 lbs. Rex was placed with a young lady who has him back in the ring and showing once again.

Cheryl Rhodes

HOUSE COMMITTEE REPORT

(7)
Date Referred: May 16, 1991

FURTHER REFERRALS:

Date of Committee Action: 3-3-82

The JUDICIARY Committee considered:

HB 67

HOUSE BILL NO. 67

IMPOUNDMENT OF MISTREATED ANIMALS

"An Act relating to the impoundment of mistreated animals."

RECOMMENDATIONS:

be replaced with CS HB 67 (JUD) the same title

a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact DPS (1/16)

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) _____

SIGNING DO-PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Dave Wouley</i>	X				
<i>Al Glick</i>					
<i>Bob Greenberg</i>					
		<i>Kevin Pat Russell</i>			✓

Dave Wouley
CHAIRMAN'S SIGNATURE

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HB 67

Revision Date: _____ Department Affected: Department of Law
 Title: "An Act relating to the impoundment of mistreated animals." BRU: Prosecution, Legal Services
 Sponsor: Representative Koponen Component: Prosecution/Criminal Justice Litigation
 Requestor: House State Affairs Legal Services/Operations

COMPONENT SERIAL NO.

		8	9
		9	3

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Prepared By: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Date: February 11, 1991
 Approved by Commissioner: Richard I. Pegues / JAC
 Agency: Department of Law Date: February 11, 1991
 Charles E. Cole, Attorney General

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

-Dept. of Law FN/Position

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 67

This bill adds a new section to AS 03.55 that gives the Department of Public Safety the power to impound mistreated animals outside of municipalities and within municipalities that do not provide by ordinance for the impoundment of mistreated animals. The bill further provides that the Department of Public Safety may impound a mistreated animal and remove the animal to a place where humane care and treatment can be provided. Impoundment of an animal would occur only if a licensed veterinarian has issued a certificate of mistreatment regarding the animal.

The bill's other provision include giving notice of impoundment to the owners of impounded animals, an administrative appeals process (including appeal to the superior court), conditions for release of an animal to its owner, financial responsibility for impoundment, and a grant of immunity from civil or criminal liability for employees or agents of the Department of Public Safety or veterinarian who take actions in good faith under the proposed act.

Under the bill, mistreatment is defined to mean the abandonment of an animal without providing for the continued health and well-being of an animal or the failure to provide care sufficient to preserve the health and well-being of an animal. Specifically included in this definition is the failure to provide food of sufficient quantity and quality to provide for normal growth or maintenance of body weight; the failure to provide access to potable water in sufficient quantity to satisfy the animal's needs; in the case of animals other than livestock, the failure to provide access to an enclosed structure that is sufficient to protect the animal from wind, snow, rain or sun and that has adequate bedding to protect against cold and dampness; the failure to provide adequate space for exercise necessary for the health of the animal; the failure to provide a clean confinement area, free from excess waste or other contaminant that could affect the health of the animal; and the failure to provide veterinary care considered necessary by a reasonably prudent person to relieve distress from injury, neglect, or disease. The Department of Public Safety would be required to adopt regulations to implement the proposed act.

Under this bill the Department of Law would represent the Department of Public Safety in appeals brought by the owners of impounded animals under proposed AS 03.55.110. The department cannot, at this time, determine what fiscal impact might result from enactment of this bill because of the lack of information regarding the incidence of animal mistreatment. However, the number of complaints of cruelty to animals under AS 11.16.140, which are more narrowly defined, is relatively small. The department has received as many as ten complaints in some years; however last year it did not receive any cruelty to animals complaints.

For this reason, the Department of Law is not requesting fiscal note funds at this time. It cautions, however, that past as well as projected staff reductions would prevent if from providing animal impoundment appeals representation to the Department of Public Safety if the caseload caused by this bill is more than a few cases per year.

Carol A. Jensen
 8451 Greenhill Way
 Anchorage, Alaska 99502
 (907) 344-7078

Post-It™ brand fax transmittal memo 7671		# of pages	2
To	House Judiciary (Info)	From	C. Jensen
Co.	Al. HB 67	Co.	
Dept.		Phone	(907) 243-4366
Fax #	465-2299	Fax #	(907) 344-7078

3-13-92 7:45am

March 13, 1992

TO: HOUSE JUDICIARY COMMITTEE
 FROM: Carol Jensen
 RE: HB 67 (CS) Mistreatment of Animals

Please reference the enclosed copy of my 3/10/92 letter to Representative Koponen regarding some important provisions that have been deleted from this bill. Specifically, we need to include provisions for adequate shelter from the elements, a clean confinement area and sufficient room in which the animal can move around freely. These were stipulated in the bill last year, but are not in the committee substitute.

I am worried about the final section #6, which requires a 2/3 majority of each house to vote yes on section 5 or else the bill is dead. Is this absolutely necessary? This bill is too important to risk it not passing by a simple majority.

As I've stated to you before, animal neglect and cruelty is out of control in Alaska, probably more so than anywhere else in the country. We desperately need this bill passed this session. Of utmost importance, in addition to Section 3, #1, 2, A, B, and C, are the three additional stipulations I mentioned above.

Please feel free to contact me Mon-Fri 8:00AM-5:00PM at 243-4366 or at home at the above number.

Thank you for your attention and consideration.

Carol Jensen
 Carol Jensen

Encl-1-as stated

Carol A. Jensen
8451 Greenhill Way
Anchorage, Alaska 99502
(807) 344-7078

March 10, 1992

Representative Niilo Koponen
Alaska House of Representatives
Pouch V
Juneau, AK 99811

Dear Representative Koponen:

The latest version of HB 67 (Mistreatment of Animals and Standards for Treatment) does not include three definitions of mistreatment under Section 11.61.142 (Section 3). I think it is very important to have the requirements for adequate shelter, space for exercise and a clean confinement area in this bill (see attached page with section from last years bill that included these provisions).

Some of the worst cruelty cases I have seen involved animals becoming ill due to living knee deep in their own excrement. In the John Caston case in Kenai in 1988, some dogs were confined in 50-gallon drums turned over on their sides. These poor animals could only lie down in a very cramped position; they could not move. They were kept in these barrels for sometimes more than 24 HOURS AT A TIME. They were forced to lie in their own waste, which accumulated and was never cleaned out. When these animals were finally let out, they could not walk for a while because of their legs being so cramped. Of course, many died in these barrels. It is not uncommon for people to allow a build-up of manure in horse stalls and corrals; this can result in crippling diseases to the hooves.

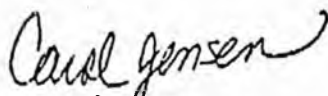
We have extreme weather conditions here in Alaska. It should be mandatory that animals are given shelter from the weather, whether it is drenching rain, hot, burning sun or -50 degree wind chill.

I hope you and Representative Moyer can get these provisions put back into the bill.

Please advise if there will be a teleconference on this bill. I would try to get out of work to attend.

Thank you for your attention and hard work on this.

Sincerely,



Carol Jensen
(work phone: 243-4366)
(Encl-Page 3 of HB 67 (1/23/91))

HOUSE COMMITTEE REPORT

(7) Date Referred: January 23, 1991 FURTHER REFERRALS: Judiciary

Date of Committee Action: 5-15-91

The STATE AFFAIRS Committee considered: HB 67

HOUSE BILL NO. 67 IMPOUNDMENT OF MISTREATED ANIMALS

"An Act relating to the impoundment of mistreated animals."

RECOMMENDATIONS:
 be replaced with CS HB 67 (STA) the same title
 a new title
 have attached amendments(s)
 do pass
 do not pass
 no recommendations
 individual recommendations
 additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) APPROVES PREVIOUS: (Dept/Date)
 fiscal impact Public Safety fiscal note(s) _____
 zero fiscal note Law zero fiscal note(s) _____

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

	Check appropriate column:	Do Not Pass	No Rec	Amend
<u>Gene Kubera</u>	<u>James W. Baker</u>		✓	
<u>T. Meyer</u>	<u>David Indigo</u>		✓	
<u>E. Buden</u>				

Gene Kubera
Chairman's Signature

Alaska State Legislature
Representative Niilo Koponen

Pouch V
Juneau, Alaska 99811
(907) 465-4992

House District 21

119 N. Cushman, Suite 207
Fairbanks, Alaska 99701
(907) 456-8172

SPONSOR STATEMENT

House Bill 67

"An act relating to the impoundment of mistreated animals"

By Representative Niilo Koponen

Alaska's harsh climate frequently amplifies simple neglect of domestic animals into horrifying episodes of starvation and death. Tragic cases of animal abuse have inspired Alaskan municipalities to equip themselves with the legal ability to take custody of mistreated animals and turn them over to humane societies and other private caretakers until the abusive situation is corrected. Sadly, when such abuse occurs outside borough or municipal boundaries, the State of Alaska is powerless to take action to prevent further suffering.

This bill provides that animals certified by a veterinarian as mistreated may be impounded by Department of Public Safety officials and removed to a setting of proper care and rehabilitation. The Department maintains a current list of volunteer humane associations capable and willing to receive such animals and care for them appropriately.

Facts from Alaskan animal control offices
 (preliminary figures from Leg. research)

Municipality or Borough	cruelty/mistreatment calls per year	calls investigated	cases prosecuted
Anchorage	1500	"many"	1
Mat-Su Borough	20-25	20-25	none in 4 years
Fairbanks N.S. Borough	155 (in 1990)	155	5
Kenai	50	50	<1
Soldotna	6	6	1
Homer	4-5	4-5	1

Mat-Su Borough: Half or more of calls on mistreated animals are unfounded

Kenai: 90-95% of calls are unfounded

Last case prosecuted was in 1985

Mistreatment cases are usually worked out with owner or animals are confiscated, rather than going to court

Kenai-Soldotna-Homer: Receive calls on animals outside city boundaries, but within borough; city can't do anything, borough has no areawide ability to handle cases

Alaska State Legislature

Legislative Research Agency



P.O. Box Y
Juneau, AK 99811-3100
Phone: (907) 165-3991
Fax: (907) 163-3351

March 7, 1991

MEMORANDUM

TO: Representative Niilo Koponen

FROM: Paula d. Scavera *PdS*
Legislative Analyst

RE: Complaints of Animal Mistreatment
Research Request 91.191

You requested information about the frequency of complaints of animal mistreatment and cruelty to borough animal control authorities. You also requested information about prosecutions regarding animal mistreatment that resulted from these complaints.

Attached is a table which lists the jurisdiction of the animal control authority, the estimated number of complaints per year and the number of prosecutions. In most cases, animal control officers come to some sort of agreement with the animal owner or confiscate the animal, rather than seek a court remedy.

Note that the Kenai Peninsula Borough is not involved with animal control. Each town within the borough has its own animal control authority. These communities receive many complaints of animal mistreatment occurring outside the limits where they have no jurisdiction. Investigations of these complaints are not made. Thus, a large area of the Kenai Peninsula Borough is not under the jurisdiction of any animal control authority.

I hope this information is helpful to you. If you need further assistance, please don't hesitate to contact this office.

Attachment

COMPLAINTS OF ANIMAL MISTREATMENT

JURISDICTION	ESTIMATED NUMBER OF COMPLAINTS PER YEAR	ACTUAL PROSECUTIONS
Municipality of Anchorage	1,500	Average one prosecution per year.
Fairbanks Northstar Borough	155	Average five court cases per year.
City & Borough of Juneau	75	In the last four years, two prosecutions.
Kenai Peninsula Borough		
Homer	5	One prosecution last year.
Kenai	50	One prosecution in the last six years.
Soldotna	6	One prosecution last year.
Ketchikan Gateway Borough	50	No cases to court in last eight years.
Matanuska-Susitna Borough	20-25	No court cases in the last four years.
City & Borough of Sitka	15	Two pending court cases at this time.

NOTE: All complaints are investigated in each jurisdiction

SOURCES: Animal control officers from each jurisdiction.

Prepared by Legislative Research Agency, March 1991 (91.191).

**THE FOLLOWING PAGES
WERE TREATED AS A UNIT
IN THE ORIGINAL FILE**

PENAL CODE

1990 Revision (Through 1989)

Punishment of Felony Not Otherwise Prescribed.

(Pen. 18.) Except in cases where a different punishment is prescribed by any law of this state, every offense declared to be a felony, or to be punishable by imprisonment in a state prison, is punishable by imprisonment in any of the state prisons for 16 months, or two or three years; provided, however, every offense which is prescribed by any law of the state to be a felony punishable by imprisonment in any of the state prisons or by a fine, but without an alternate sentence to the county jail, may be punishable by imprisonment in the county jail not exceeding one year or by a fine, or by both. (Enacted 1931; last amended 1976.)

Punishment for Misdemeanor.

(Pen. 19.) Except in cases where a different punishment is prescribed by any law of this state, every offense declared to be a misdemeanor is punishable by imprisonment in the county jail not exceeding six months, or by fine not exceeding one thousand dollars (\$1,000), or by both. (Enacted 1872; last amended 1983.)

Punishment for Infractions.

(Pen. 19c.) An infraction is not punishable by imprisonment. A person charged with an infraction shall not be entitled to a trial by jury. A person charged with an infraction shall not be entitled to have the public defender or other counsel appointed at public expense to represent him unless he is arrested and not released on his written promise to appear, his own recognizance, or a deposit of bail. (Enacted 1968.)

(Pen. 19d.) Except as otherwise provided by law, all provisions of law relating to misdemeanors shall apply to infractions, including but not limited to powers of peace officers, jurisdiction of courts, periods for commencing action and for bringing a case to trial and burden of proof. (Enacted 1968.)

Elephant Abuse Misdemeanor: Enumerated.

(Pen. 596.5.) It shall be a misdemeanor for any owner or manager of an elephant to engage in abusive behavior towards the elephant, which behavior shall include the discipline of the elephant by any of the following methods:

- (a) Deprivation of food, water, or rest.
- (b) Use of electricity.

sick, disabled, infirm, or crippled animal, except a dog or cat which shall be abandoned in any city, city and county, or judicial district, may, if after due search no owner can be found therefor, be killed by the officer; and it shall be the duty of all peace officers, an officer of such society, or officer of a pound or animal regulation department of a public agency to cause the animal to be killed on information of such abandonment. The officer may likewise take charge of any animal, including a dog or cat, that by reason of lameness, sickness, feebleness, or neglect, is unfit for the labor it is performing, or that in any other manner is being cruelly treated; and, if the animal is not then in the custody of its owner, the officer shall give notice thereof to the owner, if known, and may provide suitable care for the animal until it is deemed to be in a suitable condition to be delivered to the owner, and any necessary expenses which may be incurred for taking care of and keeping the animal shall be a lien thereon, to be paid before the animal can be lawfully recovered.

(b) It shall be the duty of all officers of pounds or humane societies, and animal regulation departments of public agencies to convey, and for police and sheriff departments, to cause to be conveyed all injured cats and dogs found without their owners in a public place directly to a veterinarian known by the officer or agency to be a veterinarian that ordinarily treats dogs and cats for a determination of whether the animal shall be immediately and humanely destroyed or shall be hospitalized under proper care and given emergency treatment.

If the owner does not redeem the animal within the locally prescribed waiting period, the veterinarian may personally perform euthanasia on the animal; or, if the animal is treated and recovers from its injuries, the veterinarian may keep the animal for purposes of adoption, provided the responsible animal control agency has first been contacted and has refused to take possession of the animal.

Whenever any animal is transferred pursuant to this subdivision to a veterinarian in a clinic, such as an emergency clinic which is not in continuous operation, the veterinarian may, in turn, transfer the animal to an appropriate facility.

If the veterinarian determines that the animal shall be hospitalized under proper care and given emergency treatment, the costs of any services which are provided pending the owner's inquiry to the agency, department, or society shall be paid from the dog license fees, fines, and fees for impounding dogs in the city, county, or city and county in which the animal was licensed or if the animal is unlicensed the jurisdiction in which the animal was found, subject to the provision that this cost be repaid by the animal's owner. No veterinarian shall be criminally or civilly liable for any decision which he or she makes or services which he or she provides pursuant to this section.

(c) An animal control agency which takes possession of an animal pursuant to subdivision (b), shall keep records of

- (c) Physical punishment resulting in damage, scarring, or breakage of skin.
- (d) Insertion of any instrument into any bodily orifice.
- (e) Use of martingales.
- (f) Use of block and tackle. (Enacted 1989.)

Crimes Against Animals—Felony or Misdemeanor.

(Pen. 597.) (a) Except as provided in subdivision (c) of this section or Section 599c, every person who maliciously and intentionally maims, mutilates, tortures, or wounds a living animal, or maliciously and intentionally kills an animal, is guilty of an offense punishable by imprisonment in the state prison, or by a fine of not more than twenty thousand dollars (\$20,000), or by both the fine and imprisonment, or, alternatively, by imprisonment in the county jail for not more than one year, or by a fine of not more than twenty thousand dollars (\$20,000), or by both the fine and imprisonment.

(b) Except as otherwise provided in subdivision (a) or (c), every person who overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, drink, or shelter, cruelly beats, mutilates, or cruelly kills any animal, or causes or procures any animal to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, drink, shelter, or to be cruelly beaten, mutilated, or cruelly killed; and whoever, having the charge or custody of any animal, either as owner or otherwise, subjects any animal to needless suffering, or inflicts unnecessary cruelty upon the animal, or in any manner abuses any animal, or fails to provide the animal with proper food, drink, or shelter or protection from the weather, or who drives, rides, or otherwise uses the animal when unfit for labor, is, for every such offense, guilty of a crime punishable as a misdemeanor or as a felony or alternatively punishable as a misdemeanor or a felony and by a fine of not more than twenty thousand dollars (\$20,000).

(c) Every person who maliciously and intentionally maims, mutilates, or tortures any mammal, bird, reptile, amphibian, or fish as described in subdivision (d), is guilty of an offense punishable by imprisonment in the state prison, or by a fine of not more than twenty thousand dollars (\$20,000), or by both the fine and imprisonment, or, alternatively, by imprisonment in the county jail for not more than one year, by a fine of not more than twenty thousand dollars (\$20,000), or by both the fine and imprisonment.

(d) Subdivision (c) applies to any mammal, bird, reptile, amphibian, or fish which is a creature described as follows:

(1) Endangered species or threatened species as described in Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code.

the whereabouts of the animal for a 72-hour period from the time of possession and those records shall be available to inspection by the public upon request.

(d) Notwithstanding any other provisions of this section, any officer of a pound or animal regulation department or humane society, or any officer of a police or sheriff's department may, with the approval of his or her immediate superior, humanely destroy any abandoned animal in the field in any case where the animal is too severely injured to move or where a veterinarian is not available and it would be more humane to dispose of the animal. (Enacted 1905; last amended 1989.)

Pet Animals As Food Prohibited.

(Pen. 598b.) (a) Every person is guilty of a misdemeanor who possesses, imports into this state, sells, buys, gives away, or accepts any carcass or part of any carcass of any animal traditionally or commonly kept as a pet or companion with the sole intent of using or having another person use any part of that carcass for food.

(b) Every person is guilty of a misdemeanor who possesses, imports into this state, sells, buys, gives away, or accepts any animal traditionally or commonly kept as a pet or companion with the sole intent of killing or having another person kill that animal for the purpose of using or having another person use any part of the animal for food.

(c) This section shall not be construed to interfere with the production, marketing, or disposal of any livestock, poultry, fish, shell fish, or any other agricultural commodity produced in this state. Nor shall this section be construed to interfere with the lawful killing of wildlife, or the lawful killing of any other animal under the laws of this state pertaining to game animals. (Enacted 1989.)

(2) Fully protected birds described in Section 3511 of the Fish and Game Code.

(3) Fully protected mammals described in Chapter 8 (commencing with Section 4700) of Part 3 of Division 4 of the Fish and Game Code.

(4) Fully protected reptiles and amphibians described in Chapter 2 (commencing with Section 5050) of Division 5 of the Fish and Game Code.

(5) Fully protected fish as described in Section 5515 of the Fish and Game Code.

This subdivision does not supersede or affect any provisions of law relating to taking of the described species, including, but not limited to, Section 12008 of the Fish and Game Code.

(e) For the purposes of subdivision (c), each act of malicious and intentional maiming, mutilating, or torturing a separate specimen of a creature described in subdivision (d) is a separate offense. If any person is charged with a violation of subdivision (c), the proceedings shall be subject to Section 12157 of the Fish and Game Code.

(f) Upon the conviction of a person charged with a violation of this section by causing or permitting an act of cruelty, as defined in Section 599b, all animals lawfully seized and impounded with respect to the violation by a peace officer, officer of a humane society, or officer of a pound or animal regulation department of a public agency shall be adjudged by the court to be forfeited and shall thereupon be awarded to the impounding officer for proper disposition. A person convicted of a violation of this section by causing or permitting an act of cruelty, as defined in Section 599b, shall be liable to the impounding officer for all costs of impoundment from the time of seizure to the time of proper disposition.

Mandatory seizure or impoundment shall not apply to animals in properly conducted scientific experiments or investigations performed under the authority of the faculty of a regularly incorporated medical college or university of this state. (Enacted 1872; last amended 1988.)

Permitting Animals to Go Without Care: Veterinary Care for Injured Cats and Dogs.

(Pen. 597f.) (a) Every owner, driver, or possessor of any animal, who permits the animal to be in any building, enclosure, lane, street, square, or lot, of any city, city and county, or judicial district, without proper care and attention, shall, on conviction, be deemed guilty of a misdemeanor. And it shall be the duty of any peace officer, officer of the humane society or officer of a pound or animal regulation department of a public agency, to take possession of the animal so abandoned or neglected and care for the animal until it is redeemed by the owner or claimant, and the cost of caring for the animal shall be a lien on the animal until the charges are paid. Every

GUIDELINES FOR

GENERAL

ANIMAL CRUELTY STATUTES



The Humane Society of the United States
2100 L St. N.W., Washington, DC 20037

or both, of good quality, distribution and duration as appropriate for the species involved. Lighting of primary enclosures shall be designed to protect the animals from excessive illumination. Such lighting shall be uniformly distributed and of sufficient intensity to permit routine inspection and cleaning.

- (4) OUTDOOR SHELTER. Natural or artificial shelter appropriate to the local climate conditions for the species concerned shall be provided for all animals kept outdoors to afford them protection and to prevent discomfort of such animals. When sunlight is likely to cause overheating or discomfort of the animals, sufficient shade by natural or artificial means shall be provided to allow all animals kept outdoors to protect themselves from direct sunlight. A suitable method of drainage shall be provided to rapidly eliminate excess water. The method of drainage shall comply with applicable federal, state and local laws and regulations relating to Pollution control or the protection of the environment. Every person having custody of dogs or horses which are kept outdoors or in an unheated enclosure shall provide such animal with the following minimum standards of shelter: (a) The shelter for a dog shall include a moistureproof and windproof structure of suitable size to accommodate the dog and allow retention of body heat and shall be made of durable material, with a solid floor raised at least two inches from the ground and with the entrance covered by a flexible windproof material or a self-closing swinging door. Such structure shall be provided with a sufficient quantity of suitable bedding material, consisting of hay, straw, cedar shavings or the equivalent, to provide insulation and protection against cold and dampness and promote retention of body heat. (b) The shelter for a horse shall be at least a three-sided, roofed, moistureproof and windproof structure made of durable material. The opening shall face away from the prevailing winds.
- (5) SANITATION. Both indoor and outdoor enclosures shall receive periodic cleanings to remove excreta and other waste materials, dirt and trash so as to minimize disease hazards and to reduce odors.
- (6) SPACE REQUIREMENTS. Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal to make normal postural and social adjustments with adequate freedom of movement to maintain physical condition.

Inadequate space may be indicated by evidence of malnutrition, poor condition, debility, stress or abnormal behavior patterns.

- (7) CARE. Normal and accepted grooming, bathing and veterinary treatment shall be provided. Preventive medicine, where warranted, shall be provided and treatment for illness or injuries shall be provided.

Section 1.02

This Act shall not prevent an owner or tenant of land from killing any animal which has caused or is presenting an imminent threat to life, limb or property nor shall it be interpreted as controverting any state or federal law relating to the taking of game animals provided, however, that any person who injures an animal while hunting or protecting his property shall make a reasonable effort to track and dispatch or assist such animal and failure to comply with this provision shall constitute a violation of this act.

Section 1.03

A violation of this act shall be punishable by a fine of not more than \$1,000 or by imprisonment for not more than one year, or both. Conviction under this section shall result in confiscation of cruelly treated animals belonging to the person convicted.

Section 1.04 Investigation of Cruelty Complaints

Any person who has reason to believe that a violation of this chapter has taken place or is taking place may apply to any court having jurisdiction over actions alleging such violation for a search warrant and for investigation. The court shall examine under oath the person so applying and any witnesses he may produce and shall take his sworn affidavit or their sworn affidavits in writing. The affidavit shall set forth the facts tending to establish the grounds for believing a violation of this chapter has occurred or is occurring, or probable cause to believe that such grounds exist. If the court is satisfied of the existence of the grounds of the application or that there is probable cause to believe their existence, it shall issue a search warrant and order for investigation to a peace officer in the county, commanding him to proceed immediately to the location of the alleged violation, retaining in his custody subject to the order of the court such property or things as are specified in the warrant, including any animal if the warrant so specifies. The warrant shall be executed and returned to the court which issued the warrant.

Page Four

Section 1.05 Expenses of Investigation

The expenses of investigation authorized by s. 1.04 including the fee of the doctor of veterinary medicine, the expenses of keeping or disposing of any animal taken into custody pursuant to such investigation shall be assessed against the person alleged to have violated this chapter if the Person is found guilty of such violation.

Reference:

Oregon 167.740
California 597
Wisconsin 948.14 (proposed)

The Humane Society of the United States
2100 L Street, N.W.
Washington, D.C. 20037

Note: This draft is not presented as an absolute model but rather is intended as a reference from which a statute appropriate to the needs of a particular state can be developed. Upon request, The HSUS will provide a copy of suggested municipal ordinances for use at the local level.

The Farm

In 1989, HAHS took a giant step forward when it purchased a 22 acre farm in Woodstock, Illinois, which included a small barn and administrative office. The farm has already proven effective by decreasing the time and expense of rehabilitating horses critical from starvation. However, foster care is still frequently used because the HAHS barn is not large enough to accommodate the number of cases the Society handles.

Most animal abuse stems from owner ignorance about animals' needs. Educational and training opportunities are offered at the farm for first-hand learning about proper animal care. These local programs are widely publicized to breeders, school groups, animal interest groups, 4-H groups, Girl and Boy Scout groups, as well as novice, first-time horse owners.

On a national level, HAHS conducts seminars to train horse people from throughout the United States in the areas of large animal inspection, the care and treatment of malnourished horses and how to update antiquated humane laws in their respective states.

Visiting Hours: Interested parties are invited to tour the facility. Please call the HAHS office for times (815-337-5563).

Rehabilitation Educational Center

The current objective of HAHS is to build an enlarged barn and a Rehabilitation/Educational Center on the farm property.

In addition to a hospital unit, the barn will include a wash rack to bathe the impounded animals, eradicate harmful parasites and treat their sores and wounds. Animals too weak to stand will undergo this process supported by a sling on a moveable track. After medical attention, the animals will be transferred to a stall area with a viewing room for around-the-clock monitoring.

The educational center will accommodate large groups of people. Classroom training will be conducted by experienced, HAHS approved teachers, utilizing visual aids and offering hands-on training with animals in the Society's care.

The Future

HAHS's long-term goals are two-fold:

First, to establish a Rehabilitation/Educational Center.

Secondly, to serve as a national headquarters to assist other states in establishing credible hooved animal humane societies.

Let's Work Together

The Hooved Animal Humane Society receives no Federal or State support.

They are entirely dependent on contributions from people like you, who care about the fate of abused, neglected and forgotten hooved animals. Their volunteer work force has rescued thousand of horses, as well as cattle, sheep and goats from unspeakable conditions. Pitiful, starved horses with ribs and hip bones grotesquely protruding -- some too weak to stand without the aid of a sling -- have been restored to beautiful, useful animals. Abused horses being ridden, despite open wounds and crippled joints, have been offered a safe haven. Dead horses -- buried in such a hurry that body parts were still exposed -- have been given a voice to cry out against those who allowed them to die in agony. But they can't do it alone.

The Hooved Animal Humane Society needs your help to continue to speak for those who can't.

Please become a member today and help bring hope to suffering animals.

Hooved Animal Humane Society
P.O. Box 1099
Woodstock, Illinois 60098-1099
(815) 337-5563

Membership Categories:

Life \$1000
Sustaining 500
Contributing..... 150
Club Membership..... 100
Adult..... 25
Junior (under 18 yrs.) 10
Family..... 40

Please send me:

- Basics of Horse Care (free)
 HAHS Decal (free)
 Misuse of Drugs in Horse Racing (hardcover, \$18; softcover, \$10)
 Hoofprints (members receive 1 year subscription to Hoofprints)

A contribution of any amount is welcomed.

Name _____ Phone _____

Address _____ City _____ State _____ Zip _____

Membership fees enclosed (Includes Hoofprints subscription)

Donation enclosed

Hooved Animal Humane Society Fact Sheet

The Beginning

In 1971, Donna Ewing was looking for a horse for her daughter. What she found was shocking -- broodmares and foals starving in dirty stalls. When she approached the authorities, everyone from the local police to the Anti-Cruelty Society, there was simply no one with the authority or the ability to do anything about it.

Al Olson had a similar experience. He watched six horses freeze to death at a farm across the road from his northern Illinois home. Despite Olson's complaints, no one could intervene. Al contacted Donna, and together they applied for a charter and formed the Hooved Animal Humane Society (HAHS), and waited for the appropriate time to launch what has turned into a lifetime mission.

Lynne Thomas was, in some ways, luckier. She lived in McHenry, Illinois, where the laws were somewhat broader and enforced more effectively. Her complaint about some mistreated horses reached the County Health Department. In a precedent-setting decision, Lynne was awarded custody of the animals. The only problem was that Lynne had nowhere to go with the horses. What had begun as a mission of mercy, turned into a mess.

Donna Ewing contacted Al Olson and decided the time had come for action.

The Hooved Animal Humane Society charter was put to use. Their intention was to find a way of dealing with the kinds of cases they had all witnessed. For the past 18 years, the Hooved Animal Humane Society has remained under Donna Ewing's capable leadership.

Since its founding in 1971, the Hooved Animal Humane Society (HAHS) has responded to almost 7,000 calls to assist hooved animals who were in dire need of medical care. Neglected, abused or often suffering from both, each year the work of this volunteer organization has truly been the lifeline for hundreds of animals. Marshaling the expertise of over 60 state licensed or trained apprentice investigators, in 1989 alone, over 600 animals were under

the supervised care the HAHS, with a survival rate of 95 percent.

The Humane Animal Act

The successes of the Society have had far-reaching effects in Illinois and nationwide. Eighteen years ago, the HAHS was begun by a small group of concerned citizens with the goal to promote humane treatment of hooved animals through education, investigation, and if necessary, legal intervention.

At one point, after receiving a call in the middle of the night about a starved horse which had collapsed and was now being circled by Doberman Pinschers, Donna awakened a prominent veterinarian to accompany her to the site. They arrived to find an emaciated filly lying in the middle of a small paddock where it had dropped from starvation three days before. A stallion stood feebly nearby and an emaciated mare was near the gate. The filly was still barely alive, but her ears and tail had been chewed off by dogs. The need for new laws became abundantly clear.

In just two years, the Society was the driving force behind the passage of the Illinois Humane Care for Animals Act. It was a difficult job to enact such laws, but Donna Ewing had the determination and commitment to cut through the red tape. This landmark legislation set, for the first time, a state-wide standard of care for large animals, while providing authorization to state-qualified humane society investigators to enter private property if animal abuse is suspected. This important legislation is the doctrine through which legal status is given to the Society and other Illinois humane groups, and has set a precedent in animal protection legislation after which other states are attempting to pattern their laws.

Current Programs

To fulfill its goal of creating an environment for educated, humane treatment of hooved animals, the Society maintains three programs.

Investigators Program:

Within 24 hours of receiving a complaint one of the Society's 60

trained investigators visits the alleged site and determines the proper course of action. One of three routes can be taken. In cases of owner ignorance, the investigator "educates" the owner on proper care and nutrition, provides written material for the owner's guidance in daily care of the animal and makes periodic observation visits to insure the proper care of the animal. In more serious cases, a veterinarian is called in for consultation. Critical cases require emergency veterinary treatment and sometimes even removal of the animal on a temporary or permanent basis. Dr. David Bromwell, of the Illinois Department of Agriculture, is the veterinary advisor to the Society.

Humane Care:

When necessary, and under state guidelines, the Society will assume the care for abused or neglected animals and nurse them back to health for adoption or purchase by responsible owners. The Society pays and arranges for transportation, temporary shelter, veterinarian care, medicine, special feed and supplements necessary to restore impounded animals to good health. In addition, the Society also provides horse slings and other equipment to treat horses too weak from starvation to stand alone. These slings are also used on horses with spinal injuries or broken bones, at the request of attending veterinarians.

Publications:

The Society continues to expand its offerings of educational publications:

The Misuse of Drugs in Horse Racing (HAHS's book), helped spur the introduction of major reforms into a variety of the 22 racing states' legislation, and has been requested by leading universities all over the world.

The Basics of Horse Care is a pamphlet available to aid owners in providing proper care for their animals.

Hoolprints is the Humane Society Newsletter. It is published quarterly and deals with current cases and activities of the Humane Society.

OVER PLEASE

**THE PRECEDING PAGES
WERE TREATED AS A UNIT
IN THE ORIGINAL FILE**

**ILLINOIS
HUMANE CARE FOR ANIMALS ACT
With Regulations**



**Administered by the
STATE OF ILLINOIS
DEPARTMENT OF AGRICULTURE**

Division of Animal Industries

Printed by authority of the State of Illinois
200 copies/10-89

HUMANE CARE FOR ANIMALS ACT
(Illinois Revised Statutes, ch. 8, par. 701 et seq.)

AN ACT in relation to the humane care and treatment of animals and to provide penalties for violations thereof. P.A. 78-905, approved Sept. 21, 1973, eff. Oct. 1, 1973.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

701. Short title

§ 1. This Act shall be known and may be cited as the "Humane Care for Animals Act".

702. Definitions

§ 2. As used in this Act, unless the context otherwise requires, the terms specified in Sections 2.01 through 2.07¹ have the meanings ascribed to them in those Sections.

¹ Paragraph 702.1 through 702.7 of this chapter.

702.01. Animal

§ 2.01. "Animal" means every living creature, domestic or wild, but does not include man.

702.02. Department

§ 2.02. "Department" means the Department of Agriculture.

702.03. Department Investigator—Approved humane investigator

§ 2.03. "Department investigator" or "approved humane investigator" means a person employed by or approved by the Department to determine whether there has been a violation of this Act.

702.04. Director

§ 2.04. "Director" means the Director of Agriculture, or his duly appointed representative.

702.05. Humane society

§ 2.05. "Humane society" means any chartered, not for profit organization authorized to do business in this State and organized for the purpose of preventing cruelty to animals and promoting humane care and treatment of animals.

702.05a. Livestock management facility

§ 2.05a. "Livestock management facility" means any on-farm animal feeding operation, on-farm livestock shelter, or on-farm milking and accompanying milk handling area.

Added by P.A. 83-140, § 1, eff. Jan. 1, 1984.

702.06. Owner

§ 2.06. "Owner" means any person who (a) has a right of property in an animal, (b) keeps or harbors an animal, (c) has an animal in his care, or (d) acts as custodian of an animal.

702.07. Person

§ 2.07. "Person" means any individual, firm, corporation, partnership, other business unit, society, association or other legal entity, any public or private institution, the State of Illinois, or any municipal corporation or political subdivision of the State.

703. Owner's duties

§ 3. Each owner shall provide for each of his animals:

(a) sufficient quantity of good quality, wholesome food and water;

- (b) adequate shelter and protection from the weather;
- (c) veterinary care when needed to prevent suffering; and
- (d) humane care and treatment.

703.01. Cruel treatment

§ 3.01. No person or owner may beat, cruelly treat, torment, starve, overwork or otherwise abuse any animal.

No owner may abandon any animal where it may become a public charge or may suffer injury, hunger or exposure.

Added by P.A. 84-466, § 1, eff. Jan. 1, 1986.

704. Prohibited acts

§ 4. No person may sell, offer for sale, barter, or give away as a pet or a novelty any rabbit or any baby chick, duckling or other fowl which has been dyed, colored, or otherwise treated to impart an artificial color thereto. Baby chicks or ducklings shall not be sold, offered for sale, bartered, or given away as pets or novelties. Rabbits, ducklings or baby chicks shall not be awarded as prizes in any game of chance.

Amended by P.A. 86-172, § 1, eff. Jan. 1, 1990.

704.01. Animals for use in entertainment—Prohibited acts

§ 4.01. (a) No person may own, capture, breed, train, or lease any animal which he or she knows or should know is intended for use in any show, exhibition, program, or other activity featuring or otherwise involving a fight between such animal and any other animal or the intentional killing of any animal for the purpose of sport, wagering, or entertainment.

(b) No person shall promote, conduct, carry on, advertise, collect money for or in any other manner assist or aid in the presentation for purposes of sport, wagering, or entertainment, any show, exhibition, program, or other activity involving a fight between two or more animals or the intentional killing of any animal.

(c) No person shall sell or offer for sale, ship, transport, or otherwise move, or deliver or receive any animal which he or she knows or should know has been captured, bred, or trained, or will be used, to fight another animal or be intentionally killed, for the purpose of sport, wagering, or entertainment.

(d) No person shall manufacture for sale, shipment, transportation or delivery any device or equipment which that person knows or should know is intended for use in any show, exhibition, program, or other activity featuring or otherwise involving a fight between two or more animals or the intentional killing of any animal for purposes of sport, wagering or entertainment.

(e) No person shall own, possess, sell or offer for sale, ship, transport, or otherwise move any equipment or device which such person knows or should know is intended for use in connection with any show, exhibition, program, or activity featuring or otherwise involving a fight between two or more animals or the intentional killing of any animal for purposes of sport, wagering or entertainment. (f)

No person shall make available any site, structure, or facility, whether enclosed or not, which he or she knows or should know is intended to be used for the purpose of conducting any show, exhibition, program, or other activity involving a fight between two or more animals or the intentional killing of any animal.

(g) No person shall attend or otherwise patronize any show, exhibition, program, or other activity featuring or otherwise involving a fight between two or more animals or the intentional killing of any animal for the purposes of sport, wagering or entertainment.

(h) No person shall tie or attach or fasten any live animal to any machine or device propelled by any power for the purpose of causing such animal to be pursued by a dog or dogs. This subsection (h) shall apply only when such dog is intended to be used in a dog fight.

Amended by P.A. 84-723, § 1, eff. Jan. 1, 1986.

704.02. Arrests—Possession of dogs, paraphernalia, implements, etc. —Veterinarian's report

§ 4.02. (a) Any law enforcement officer making an arrest for an offense involving one or more dogs under Section 4.01 of this Act shall lawfully take possession of all dogs and all paraphernalia, implements, or other property or things used or employed, or about to be employed in the violation of any of the provisions of Section 4.01 of this Act.¹ Such officer, after taking possession of such dogs, paraphernalia, implements or other property or things, shall file with the court before whom the complaint is made against any person so arrested an affidavit containing therein the name of the person charged in such complaint, a description of the property so taken and the time and place of the taking thereof together with the name of the person from whom the same was taken and name of the person who claims to own such property, if known, and that the affiant has reason to believe and does believe, stating the ground of such belief, that the property so taken was used or employed, or was about to be used or employed, in such violation of Section 4.01 of this Act. He shall thereupon deliver the property so taken to the court, which shall, by order, place the same in custody of an officer or other proper person named and designated in such order, to be kept by him until the conviction or final discharge of such person complained against, and shall send a copy of such order without delay to the State's attorney of the county and the Department. The officer or person so named and designated in such order shall immediately thereupon assume the custody of such property and shall retain the same, subject to the order of the court before which such person so complained against may be required to appear for trial. Upon the conviction of the person so charged, all property so seized shall be adjudged by the court to be forfeited and shall thereupon be destroyed or otherwise disposed of as the court may order. In the event of the acquittal or final discharge without conviction of the person so charged such court shall, on demand, direct the delivery of such property so held in custody to the owner thereof.

(b) Any veterinarian in this State who is presented with an animal for treatment of injuries or wounds resulting from fighting where there is a reasonable possibility that the animal was engaged in or utilized for a fighting event shall file a report with the Department and cooperate by furnishing the owners' names, dates and descriptions of the animal or animals involved. Any veterinarian who in good faith makes a report, as required by this subsection (b), shall have immunity from any liability, civil, criminal or that otherwise might result by reason of such actions. For the purposes of any proceedings, civil or criminal, the good faith of any such veterinarian shall be presumed.

Added by P.A. 84-723, § 1, eff. Jan. 1, 1986.

¹ Paragraph 704.01 of this chapter.

704.03. Teasing, striking or tampering with police dogs prohibited

§ 4.03. Teasing, striking or tampering with Police Dogs Prohibited. It shall be unlawful for any person to willfully and maliciously taunt, torment, tease, beat, strike, or administer or subject any desensitizing drugs, chemicals or substance to any dog used by a law enforcement officer in the performance of his functions or duties, or when placed in a kennel off duty; or to interfere or meddle with any such dog used by a law enforcement department or agency or any handler thereof in the performance of the functions or duties of said department or agency.

Added by P.A. 85-800, §1, eff. Jan. 1, 1980.

704.04. Injury or killing police dogs prohibited

§ 4.04. Injury or Killing Police Dogs Prohibited. It shall be unlawful for any person to willfully or maliciously torture, mutilate, injure, disable, poison or kill any dog used by a law enforcement department or agency in the performance of the functions or duties of such department or when placed in a kennel off duty. However, a police officer or veterinarian may perform euthanasia in emergency situations when delay would cause the dog undue suffering and pain.

Added by P.A. 85-800, §1, eff. Jan. 1, 1988.

705. Horses—Acts prohibited

§ 5. No person shall sell, offer to sell, lead, ride, transport, or drive on any public way any horse

which, because of debility, disease, lameness or any other cause, could not be worked in this State without violating this Act. Such a horse may be conveyed to a proper place for medical or surgical treatment or for humane keeping or euthanasia.

706. Poisoning dogs or other domestic animals prohibited—Exception

§ 6. No person may knowingly poison or cause to be poisoned any dog or other domestic animal. The only exception will be by written permit from the Department for the purpose of controlling diseases transmissible to humans or other animals and only when all other methods and means have been exhausted. Such a written permit shall name the person or persons conducting the poisoning, specify the products to be used, give the boundaries of the area involved, and specify the precautionary measures to be employed to insure the safety of humans and other animals. Any drug used for euthanasia shall be by or under the direction of a licensed veterinarian.

707. Transportation of animals

§ 7. No owner, railroad or other common carrier may, when transporting any animal, allow that animal to be confined in any type of conveyance more than 28 consecutive hours without being exercised as necessary for that particular type of animal and without being properly rested, fed and watered; except that a reasonable extension of this time limit shall be granted when a storm or accident causes a delay. In the case of default of the owner or consignee, the company transporting the animal shall exercise the animal, when necessary for the particular type of animal and for the proper resting, feeding, watering and sheltering of such animal, and shall have a lien upon the animal until all expenses resulting therefrom have been paid.

708. Administration of Act—Rules and regulations

§ 8. The Department shall administer this Act and shall promulgate such rules and regulations as are necessary to effectuate the purposes of this Act. Such rules and regulations are subject to the approval of the Advisory Board of Livestock Commissioners.

The Director may, in formulating rules and regulations pursuant to this Act, seek the advice and recommendations of humane societies in this State.

709. Qualifications for approved humane investigators—Listing of Investigators

§ 9. The Department shall, by rule or regulation, establish reasonable qualifications for approved humane investigators and shall maintain a current listing of all approved humane investigators which shall be available for public inspection. Such qualifications shall include, but need not be limited to, a knowledge of the provisions of this Act and of the rules and regulations adopted pursuant thereto and expertise in the investigation of complaints relating to the care and treatment of animals.

Employees of the Department may be assigned as Department investigators.

710. Entry upon premises for investigation of complaints—Exemption—Assistance of State's Attorneys and law enforcement officials

§ 10. Upon receiving a complaint of a suspected violation of this Act, a Department investigator any law enforcement official, or an approved humane investigator may, for the purpose of investigating the allegations of the complaint, enter during normal business hours upon any premises where the animal or animals described in the complaint are housed or kept, provided such entry shall not be made into any building which is a person's residence, except by search warrant or court order. Institutions operating under federal license to conduct laboratory experimentation utilizing animals for research or medical purposes are, however, exempt from the provisions of this Section. State's Attorneys and law enforcement officials shall provide such assistance as may be required in the conduct of such investigations. Any such investigation requiring legal procedures shall be immediately reported to the Department. No employee or representative of the Department shall enter a livestock management facility unless sanitized footwear is used, or unless the owner or operator of the facility waives this:

requirement. The employee or representative must also use any other reasonable disease prevention procedures or equipment provided by the owner or operator of the facility.
Amended by P.A. 83-1362, Art. II, § 5, eff. Sept. 11, 1984.

Article II of P.A. 83-1362, the First 83rd General Assembly Combining Revisory Act, resolved multiple actions in the 83rd General Assembly.

711. Notification to violator—Impoundment upon refusal or failure to take corrective action

§ 11. (a) If an investigation under Section 10¹ discloses that a violation of this Act has been committed, the approved humane investigator shall furnish the violator, if known, with a notice of violation, and state what action is necessary to come into compliance with this Act and that a maximum of 48 hours may be granted in which to take corrective action.

(b) If the violator fails or refuses to take corrective action necessary for compliance or if the violator is still unknown after an attempt to identify ownership, the humane investigator shall contact the Department and request authorization to impound the animal or animals. The Department will authorize impoundment if a review of facts gathered by the humane investigator indicates a violation of Section 3 of this Act² has occurred and the violator, if known, has failed or refused to take corrective action necessary for compliance.

This Section shall not apply to violations committed under Section 4.01 of this Act.³
Amended by P.A. 83-649, § 1, eff. Jan. 1, 1984.

¹ Paragraph 710 of this chapter.

² Paragraph 703 of this chapter.

³ Paragraph 704.01 of this chapter.

712. Impounding animals—Notice of impoundment—Lien for expense— Sale or disposition of animal

§ 12. (a) When an approved humane investigator, a Department investigator or a veterinarian finds that a violation of this Act has rendered an animal in such a condition that no remedy or corrective action by the owner is possible or the violator fails or refuses to take corrective action necessary for compliance pursuant to Section 11 of this Act,¹ the Department may authorize a humane society to impound the animal in a facility which will provide the elements of good care as set forth in Section 3 of this Act,² where such animals shall be examined by a licensed veterinarian.

(b) A notice of impoundment shall be given by the humane investigator to the violator, if known, in person or sent by certified or registered mail. A copy of the notice shall be retained by the humane investigator and a copy forwarded immediately to the Department. The notice of impoundment shall include the following:

(1) A number assigned by the Department which will also be given to the humane society accepting the responsibility of the animal or animals.

(2) Listing of deficiencies noted.

(3) An accurate description of the animal or animals involved.

(4) Date on which the animal or animals were impounded.

(5) Signature of the humane investigator.

(6) A statement that: "The violator may request a hearing to appeal the impoundment. A person desiring a hearing shall contact the Department of Agriculture within 7 days from the date of impoundment" and the Department will hold an administrative hearing within 7 days after receiving a request to appeal the impoundment. If the hearing cannot be held prior to the expiration of the 7-day impoundment period, the Department shall notify the humane society that it cannot sell, offer for adoption or dispose of the animal or animals until a final decision is rendered and all of the appeal processes have expired.

Any expense incurred in such impoundment becomes a lien on the animal impounded and must be discharged before the animal is released from the facility. When the animal is not claimed by its owner and all impoundment costs satisfied within 7 days, it may be sold at public or private sale for fair

consideration to a person capable of providing care consistent with this Act, with the proceeds of that sale applied first to discharge the lien and any balance to be paid over to the owner. If no purchaser is found, the animal may be offered for adoption or disposed of in a manner not inconsistent with this or any other Act.

Amended by P.A. 87-649, § 1, eff. Jan. 1, 1984.

¹ Paragraph 711 of this chapter.

² Paragraph 703 of this chapter.

713. Normal husbandry practices—Construction with other Acts

§ 13. Nothing in this Act affects normal, good husbandry practices utilized by any person in the production of food, companion or work animals, or in the extermination of undesirable pests. In case of any alleged conflict between this Act, or regulations adopted hereunder, and the "Wildlife Code of Illinois"¹ or "An Act to define and require the use of humane methods in the handling, preparation for slaughter, and slaughter of livestock for meat or meat products to be offered for sale", approved July 26, 1967, as amended,² the provisions of those Acts shall prevail.

Amended by P.A. 81-359, § 4, eff. Jan. 1, 1980.

¹ Chapter 61, § 1.1 et seq.

² Paragraph 229.51 et seq. of this chapter.

714. Review under Administrative Review Law—Certification of record

§ 14. Any person affected by a final administrative decision of the Department may have such decision reviewed judicially by the circuit court of the county wherein the person resides, or in the case of a corporation, the county where its registered office is located. If the plaintiff in the review proceeding is not a resident of this State, the venue shall be in Sangamon County. The Administrative Review Law, and all amendments and modifications thereof,¹ and the rules adopted pursuant thereto, apply to and govern all proceedings for the judicial review of final administrative decisions of the Department hereunder. The term "administrative decision" is defined in Section 3-101 of the Code of Civil Procedure.

The Department may not be required to certify the record of the proceeding unless the plaintiff in the review proceedings first pays the sum of 75¢ per page of such record. Exhibits shall be certified without cost.²

Amended by P.A. 82-783, Art. XI, § 15, eff. July 13, 1982.

¹ Chapter 110, § 3-101 et seq.

² Chapter 110, § 3-101.

715. Effect of Invalid provision or application of Act

§ 15. If any provision of this Act is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, by a court of competent jurisdiction, the constitutionality of the remainder of this Act and the applicability thereof to other persons and circumstances shall not be affected thereby.

716. Violations—Punishment—Injunctions

§ 16. (a) Any person convicted of violating Sections 5 or 6 of this Act¹ or any rule, regulation, or order of the Department pursuant thereto, is guilty of a Class C misdemeanor.

(b)(1) This subsection (b) does not apply where the only animals involved in the violation are dogs.

(2) Any person convicted of violating subsection (a), (b), (c) or (h) of Section 4.01 of this Act² or any rule, regulation, or order of the Department pursuant thereto, is guilty of a Class A misdemeanor.

(3) A second or subsequent offense involving the violation of subsection (a), (b) or (c) of Section 4.01 of this Act or any rule, regulation, or order of the Department pursuant thereto is a Class 4 felony.

(4) Any person convicted of violating subsection (d), (e) or (f) of Section 4.01 of this Act or any rule, regulation, or order of the Department pursuant thereto, is guilty of a Class B misdemeanor.

(5) Any person convicted of violating subsection (g) of Section 4.01 of this Act or any rule, regulation, or order of the Department pursuant thereto is guilty of a Class C misdemeanor.

(c)(1) This subsection (c) applies exclusively where the only animals involved in the violation are dogs. (2) Any person convicted of violating subsection (a), (b) or (c) of Section 4.01 of this Act or any rule, regulation or order of the Department pursuant thereto is guilty of a Class 4 felony and may be fined an amount not to exceed \$50,000.

(3) Any person convicted of violating subsection (d), (e) or (f) of Section 4.01 of this Act or any rule, regulation or order of the Department pursuant thereto is guilty of Class A misdemeanor, if such person knew or should have known that the device or equipment under subsection (d) or (e) of that Section or the site, structure or facility under subsection (f) of that Section was to be used to carry out a violation where the only animals involved were dogs. Where such person did not know or should not reasonably have been expected to know that the only animals involved in the violation were dogs, the penalty shall be same as that provided for in paragraph (4) of subsection (b).

(4) Any person convicted of violating subsection (g) of Section 4.01 of this Act or any rule, regulation or order of the Department pursuant thereto is guilty of a Class C misdemeanor.

(5) A second or subsequent violation of subsection (a), (b) or (c) of Section 4.01 of this Act or any rule, regulation or order of the Department pursuant thereto is a Class 3 felony. A second or subsequent violation of subsection (d), (e) or (f) of Section 4.01 of this Act or any rule, regulation or order of the Department adopted pursuant thereto is a Class 3 felony, if in each violation the person knew or should have known that the device or equipment under subsection (d) or (e) of that Section or the site, structure or facility under subsection (f) of that Section was to be used to carry out a violation where the only animals involved were dogs. Where such person did not know or should not reasonably have been expected to know that the only animals involved in the violation were dogs, a second or subsequent violation of subsection (d), (e) or (f) of Section 4.01 of this Act or any rule, regulation or order of the Department adopted pursuant thereto is a Class A misdemeanor. A second or subsequent violation of subsection (g) is a Class B misdemeanor.

(6) Any person convicted of violating Section 3.01 of this Act³ is guilty of a Class C misdemeanor. A second conviction for a violation of Section 3.01 is a Class B misdemeanor. A third or subsequent conviction for a violation of Section 3.01 is a Class A misdemeanor.

(7) Any person convicted of violating Section 4.03⁴ is guilty of a Class B misdemeanor.

(8) Any person convicted of violating Section 4.04⁵ is guilty of a Class A misdemeanor where the dog is not killed or totally disabled, but if the dog is killed or totally disabled such person shall be guilty of a Class 4 felony.

(9) Any person convicted of violating any other provision of this Act, or any rule, regulation, or order of the Department pursuant thereto, is guilty of a petty offense.

The Department may enjoin a person from a continuing violation of this Act.

Amended by P.A. 84-1308, Art. II, § 7, eff. Aug. 25, 1986; P.A. 85-800, §1, eff. Jan. 1, 1988.

¹ Paragraph 705 or 706 of this chapter.

² Paragraph 704.01 of this chapter.

³ Paragraph 703.01 of this chapter.

⁴ Paragraph 704.03 of this chapter.

⁵ Paragraph 704.04 of this chapter.

Article II of P.A. 84-1308, the First 84th General Assembly Combining Revisory Act, resolved multiple actions in the 84th General Assembly and made certain technical corrections.

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER 1: DEPARTMENT OF AGRICULTURE
SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS (EXCEPT MEAT
AND POULTRY INSPECTION ACT REGULATIONS)

PART 35
HUMANE CARE FOR ANIMALS ACT

Section

- 35.10 Approved Humane Investigator; Qualifications; Requirements; Termination; Reports; Appointment Period
35.20 Notice of Violation; Impoundment Procedure (Repealed)
35.30 Administrative Hearings

AUTHORITY: Implementing and authorized by the Humane Care for Animals Act (Ill. Rev. Stat. 1983, ch. 8, par. 701 et seq.).

SOURCE: Rules and Regulations relating to Humane Care for Animals, filed December 14, 1973, effective December 24, 1973; codified at 5 Ill. Reg. 10441; amended at 7 Ill. Reg. 865, effective January 10, 1983; amended at 8 Ill. Reg. 5936, effective April 23, 1984; amended at 9 Ill. Reg. 4498, effective March 22, 1985.

Section 35.10 Approved Humane Investigator; Qualifications; Requirements; Termination; Reports; Appointment Period

Persons, when submitting an application for appointment as an Approved Humane Investigator, will furnish the following information: name, address, telephone number; name and address of the Humane Society with whom they are affiliated, and a brief resume of their experience and education, both practical and formal, relative to the humane care of animals.

a) Qualifications for appointment as an Approved Humane Investigator shall include:

- 1) Membership in or employment by a humane society, as defined in Section 2.05 of the Act, or other individual so designated by official action of that particular humane society's board of directors;
- 2) Responsibility to his or her organization, but in compliance with all administrative rules issued by the Department;
- 3) Demonstration of satisfactory knowledge of this Act and its applications by oral and written examination to be given by the Department at times to be designated and as needed by the Department.
 - A) Knowledge of how to conduct and complete an investigation, including legally guided knowledge of how to file charges if required.
 - B) Applicant shall have a high school diploma or its equivalent and two years experience raising, caring for or breeding the particular species of animal being investigated.

- b) The Department shall require additional consultation and training when the applicant does not have experience in caring for certain animals that could reasonably be encountered in the performance of his/her duties or has no experience in conducting investigations and the proceedings that accompany such investigations.
- c) An Approved Humane Investigator shall comply with the following:
 - 1) Cooperation, whenever possible, with other Approved Humane Investigators or law enforcement authorities, if requested, to aid in an investigation of complaints relative to the care and treatment of animals;
 - 2) Except when so authorized by the Department, no Approved Humane Investigator shall represent himself/herself, at any stage in the conduct of an investigation, as acting directly in behalf of or as an agent of the Department.
- d) All hearings for termination of approval as a Humane Investigator will be conducted in accordance with 8 Ill. Adm. Code 35.30. The appointment as an Approved Humane Investigator will be terminated following a hearing for:
 - 1) Material misstatement in the original application;
 - 2) Wilful disregard or violation of this Act or rules issued pursuant thereto;
 - 3) Pursuing a continued course of misrepresentation or false statements regarding investigations relative to humane care of animals after a warning letter is given;
 - 4) Failure to perform his/her investigational duties and enforcement of the Humane Care for Animals Act or rules issued pursuant thereto;
 - 5) Loss of membership in or employment by a humane society as defined in 8 Ill. Adm. Code 35.10(a)(1) or on written request by their board of directors.
- e) All Approved Humane Investigators shall prepare and submit to the Department an annual report on forms furnished by the Department. It shall contain the species and number of animals involved, and total number of investigations performed that calendar year. The annual report shall be filed by September 1 for the preceding calendar year's activity.
- f) The appointment as an Approved Humane Investigator shall be for 2 years or for any portion thereof and shall be renewable on January 1 of even numbered years. The reappointment procedure shall be the same procedure used for the original appointment as set forth in this Section. Qualifications for reappointment as an Approved Humane Investigator shall be as set forth in Section 35.10(a).

(Source: Amended at 9 Ill. Reg. 4498, effective March 22, 1985)

Section 35.20 Notice of Violation; Impoundment Procedure (Repealed)

(Source: Repealed at 8 Ill. Reg. 5936, effective April 23, 1984)

Section 35.30 Administrative Hearings

All decisions and actions of the Department are subject to the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1981, ch. 127, par. 1001 et seq.) and the Department's Administrative Rules (8 Ill. Adm. Code 1) which pertain to administrative hearings, petitions, contested cases, declaratory rulings and availability of Department files for public access. Administrative hearings are governed by the Illinois Administrative Procedure Act and Subpart B of the Department's Administrative Rules, except that, in the case of impoundment, a petition for reconsideration or stay must be filed with the Director within 48 hours from the date the decision is rendered by the hearing officer. The final administrative decision (See 8 Ill. Adm. Code 1.75(k) and 1.350) shall be subject to Section 14 of the Humane Care for Animals Act.

(Source: Added at 7 Ill. Reg. 865, January 10, 1983)

133.310 Authority of officer to arrest without warrant. (1) A peace officer may arrest a person without a warrant if the officer has probable cause to believe that the person has committed any of the following:

- (a) A felony.
- (b) A Class A misdemeanor.
- (c) An unclassified offense for which the maximum penalty allowed by law is equal to or greater than the maximum penalty allowed for a Class A misdemeanor.
- (d) Reckless driving under ORS 811.140.
- (e) Driving while under the influence of intoxicants under ORS 813.010.
- (f) Failure to perform the duties of a driver under ORS 811.700 or 811.705.
- (g) Criminal driving while suspended or revoked or in violation of a hardship or probationary permit under ORS 811.182.
- (h) Fleeing or attempting to elude a police officer under ORS 811.540.
- (i) Driving after being declared a habitual offender under ORS 811.185.
- (j) Any other offense in the officer's presence except traffic infractions as defined in ORS 153.505 and violations as defined in ORS 161.565.

(2) A peace officer may arrest a person without a warrant when the peace officer is notified by telegraph, telephone, radio or other mode of communication by another peace officer of any state that there exists a duly issued warrant for the arrest of a person within the other peace officer's jurisdiction.

(3) A peace officer shall arrest and take into custody a person without a warrant when the peace officer has probable cause to believe that:

(a) There exists an order issued pursuant to ORS 107.095 (1)(c) or (d), 107.716 or 107.718 restraining the person;

(b) A true copy of the order and proof of service on the person has been filed as required in ORS 107.720; and

(c) The person to be arrested has violated the terms of that order. [Amended by 1963 c.448 §1; 1973 c.836 §72; 1974 s.s. c.42 §2; 1977 c.845 §2; 1979 c.522 §2; 1981 c.780 §8; 1981 c.818 §2; 1983 c.338 §887; 1983 c.661 §7; 1987 c.730 §4a; 1989 c.171 §15]

133.315 Liability of peace officer making arrest. No peace officer shall be held criminally or civilly liable for making an arrest pursuant to ORS 133.055 (2) or 133.310 (3) provided the peace officer acts in good faith and without malice. [1977 c.845 §9]

133.320 [Repealed by 1973 c.836 §358]

133.330 [Repealed by 1973 c.836 §358]

133.340 Authority to order arrest for crime committed in presence of magistrate. When a crime is committed in the presence of a magistrate, the magistrate may, by a verbal or written order, command any person to arrest the offender and may thereupon proceed as if the offender had been brought before the magistrate upon a warrant of arrest. [Amended by 1973 c.836 §73; 1983 c.661 §8]

133.350 [Repealed by 1973 c.836 §358]

133.360 Arrests on warrant or order transmitted by telegraph. Whenever any person has been indicted or accused on oath of any public offense, or thereof convicted, and a warrant of arrest has been issued, the magistrate issuing the warrant, or any judge of the Supreme Court, or of the Court of Appeals, or of a circuit or county court, may indorse thereon an order signed by the magistrate or judge authorizing the service thereof by telegraph. Thereupon the warrant and order may be sent by telegraph to any marshal, sheriff, constable or policeman and, on receipt of the telegraphic copy thereof, as defined in ORS 165.840, by any such officer, the officer shall have the same authority and be under the same obligations to arrest, take into custody and detain the person as if the original warrant of arrest with the proper direction for its service duly indorsed thereon had been placed in the hands of the officer. The telegraphic copy shall be entitled to full faith and credit and shall have the same force and effect in all courts and places as the original. Prior to indictment or conviction, no such order shall be made by any officer unless in the judgment of the officer there is probable cause to believe the accused person guilty of the offense charged, but the making of such order by any officer is prima facie evidence of the regularity thereof and of all proceedings prior thereto. The original warrant and order, or a copy thereof certified by the officer making the order, shall be preserved in the telegraph office from which the same is sent and in telegraphing the same, the original or the certified copy may be used. [Amended by 1969 c.198 §61]

133.370 [Repealed by 1971 c.743 §432]

133.375 Definitions for ORS 133.375 to 133.381. As used in ORS 133.375 to 133.381 and 156.705:

(1) "Animal" has the meaning provided in ORS 167.310.

(2) "Owner" or "person" includes corporations as well as individuals. [Formerly 770.210; 1985 c.662 §11]

133.377 Arrest of persons for cruelty to animals; immunity of peace officer providing care for animal. (1) Any person violating ORS 167.315 to 167.330 and 167.340

may be arrested and held without warrant, in the same manner as in the case of persons found breaking the peace.

(2) The person making the arrest, with or without warrant, shall use reasonable diligence to give notice thereof to the owners of the animals found in the charge of the person arrested, and shall properly care and provide for such animals until the owners or their duly authorized agents take charge of them; provided, such owners or agents shall claim and take charge of the animals within 60 days from the date of said notice.

(3) The person making such arrest shall have a lien upon the animals for the expense of such care and provisions.

(4) Any peace officer who cares or provides for an animal pursuant to this section and any person into whose care an animal is delivered by a peace officer acting under this section shall be immune from civil or criminal liability based upon an allegation that such care was negligently provided. [Formerly 770.230; 1983 c.648 §2; 1985 c.662 §12]

133.379 Duty of peace officer to arrest and prosecute violators of cruelty to animals laws; disposition of fines. (1) It shall be the duty of any peace officer to arrest and prosecute any violator of ORS 167.315 to 167.330 and 167.340 for any violation which comes to the knowledge or notice of the officer.

(2) All fines and forfeitures collected for violations of ORS 167.315 to 167.330 and 167.340, except for forfeitures of the animal as provided under ORS 167.350, shall be paid into the county treasury of the county in which it is collected, and placed to the credit of the county school fund. [Formerly 770.240; 1983 c.648 §3; 1985 c.662 §13]

133.380 [Repealed by 1971 c.743 §432]

133.381 Procedure in arrests for violation of certain restraining orders; arrest of person not in county where order or warrant issued. (1) When a peace officer arrests a person pursuant to ORS 133.310 (3) or pursuant to a warrant issued under ORS 33.040 by a court or judicial officer for the arrest of a person charged with contempt for violating an order issued under ORS 107.095 (1)(c) or (d), 107.716 or 107.718, if the person is arrested in a county other than that in which the warrant or order was originally issued, the peace officer shall take the person before a magistrate as provided in ORS 133.450. If it becomes necessary to take the arrested person to the county in which the warrant or order was originally issued, the costs of such transportation shall be paid by that county.

(2) If a person arrested for the reasons described in subsection (1) of this section is

subsequently found guilty of contempt, the court, in addition to any other sentence it may impose, may order the person to repay a county all costs of transportation incurred by the county pursuant to subsection (1) of this section. [1979 c.162 §2; 1981 c.780 §9]

UNIFORM ACT ON FRESH PURSUIT

133.410 Short title. ORS 133.410 to 133.440 may be cited as the Uniform Act on Fresh Pursuit.

133.420 Definitions for ORS 133.410 to 133.440. As used in ORS 133.410 to 133.440:

(1) "Fresh pursuit" includes fresh pursuit as defined by the common law; the pursuit of a person who has committed a felony or who reasonably is suspected of having committed a felony; and the pursuit of a person suspected of having committed a felony; though no felony actually has been committed, if there is reasonable ground for believing that a felony has been committed. It does not necessarily imply instant pursuit, but pursuit without unreasonable delay.

(2) "State" includes the District of Columbia.

133.430 Authority of officers of other states to make arrest. (1) Any member of a duly organized state, county or municipal peace unit of another state of the United States who enters this state in fresh pursuit, and continues within this state in such fresh pursuit, of a person in order to arrest the person on the ground that the person is believed to have committed a felony in the other state has the same authority to arrest and hold such person in custody as has any member of any duly organized state, county or municipal peace unit of this state to arrest and hold in custody a person on the ground that the person is believed to have committed a felony in this state.

(2) This section shall not be construed to make unlawful any arrest in this state which otherwise would be lawful.

133.440 Proceedings following arrest by officer of other state. If an arrest is made in this state by an officer of another state in accordance with ORS 133.430, the officer shall without unnecessary delay take the person arrested before a magistrate of the county in which the arrest was made, who shall conduct a hearing for the purpose of determining the lawfulness of the arrest. If the magistrate determines that the arrest was lawful, the magistrate shall commit the person arrested to await for a reasonable time the issuance of an extradition warrant by the Governor of this state. If the magistrate determines that the arrest was

of arrest, the defendant shall be continued in the custody of the officer or, if the court is held in the vicinity of the county jail, committed to jail, to answer the action, as the justice may direct. [Amended by 1973 c.836 §336]

156.450 Form of commitment. The commitment shall be signed by the justice with the name of office of the justice and may be substantially as follows:

JUSTICE'S COURT FOR
THE DISTRICT OF _____
State of Oregon, County of _____
IN THE NAME OF
THE STATE OF OREGON

To the sheriff of the county aforesaid:

An order having this day been made by me that A. B. be committed for trial in a criminal action against A. B. for the crime of (designating it generally), you hereby are commanded to receive A. B. into your custody and detain A. B. accordingly or until A. B. is otherwise legally discharged.

Dated at _____, this ____ day of _____, 19__.

C. D., Justice of the Peace

156.460 How commitment is executed. When committed, the defendant shall be delivered to the custody of the proper officer by any peace officer to whom the justice may deliver the commitment, first indorsing thereon, substantially, as follows: "I hereby authorize and command E. F. to deliver this commitment, together with the defendant therein named, to the custody of the sheriff of the County of _____."

**MISCELLANEOUS PROVISIONS
RELATING TO JUSTICES' COURTS**

156.510 Proceeding when crime is not within jurisdiction of justice. If in the course of the trial it appears to the justice that the defendant has committed a crime

not within the jurisdiction of a justice's court, the justice shall dismiss the action, state in the entry the reasons therefor, hold the defendant upon the warrant of arrest and proceed to examine the charge as upon an information of the commission of crime.

156.520 Function of district attorney in justice's court. The district attorney may prosecute an action and if requested by the court shall prosecute an action in a justice's court and attend an examination before a magistrate, either in person or by someone appointed by the district attorney for that purpose, and in any case the district attorney shall control the proceedings on behalf of the state. [Amended by 1981 c.863 §1]

156.530 Disposition of money paid on judgment. (1) Any money paid to the justice upon a judgment in a criminal action shall first be applied to the costs of the action. The remainder shall be paid by the justice to the treasurer of the county, to be appropriated as provided by law.

(2) Money paid pursuant to subsection (1) of this section shall be delivered by the justice to the treasurer within 30 days from the receipt thereof, or the same may be recovered from the justice, with 20 percent additional, by a civil action in the name of the county.

156.610 [Amended by 1969 c.619 §14; repealed by 1977 c.876 §9 (46.800 enacted in lieu of 156.610)]

156.620 [Amended by 1973 c.836 §337; repealed by 1977 c.876 §9 (46.800 enacted in lieu of 156.620)]

156.630 [Repealed by 1975 c.611 §24]

156.640 [Amended by 1965 c.510 §23; repealed by 1977 c.876 §9 (46.800 enacted in lieu of 156.640)]

156.650 [1959 c.559 §1; 1971 c.186 §1; repealed by 1977 c.876 §9 (46.800 enacted in lieu of 156.650)]

**CONCURRENT JURISDICTION OF
JUSTICE AND DISTRICT COURTS**

156.705 Jurisdiction over offenses against animals. Justices of the peace and police judges shall have concurrent jurisdiction over all offenses committed under ORS 167.315 to 167.330 and 167.340. [Formerly 770.260; 1985 c.662 §14]

mation that controlled substances are being unlawfully transported or possessed in any boat, vehicle or other conveyance, may search the same without warrant and without an affidavit being filed. If controlled substances are found in or upon such conveyance, the district attorney or peace officer may seize them, arrest any person in charge of the conveyance and as soon as possible take the arrested person and the seized controlled substances before any court in the county in which the seizure is made. The district attorney or peace officer shall also, without delay, make and file a complaint for any crime justified by the evidence obtained. [1939 c.791 §17]

167.245 [Amended by 1955 c.504 §1; 1959 c.322 §1; repealed by 1971 c.743 §432]

167.247 Search, seizure and forfeiture of conveyance in which drugs unlawfully transported or possessed. (1) A district attorney or peace officer charged with the enforcement of ORS 167.212 and 167.222, having personal knowledge or reasonable information that controlled substances are being unlawfully transported or possessed in any boat, vehicle or other conveyance, may search the same without warrant and without an affidavit being filed. If controlled substances are found in or upon such conveyance, the district attorney or peace officer may seize them, arrest any person in charge of the conveyance and as soon as possible take the arrested person and the seized controlled substances before any court in the county in which the seizure is made. The district attorney or peace officer shall also, without delay, make and file a complaint for any crime justified by the evidence obtained.

(2) Any boat, vehicle or other conveyance used by or with the knowledge of the owner, operator or person in charge thereof for the unlawful transportation or concealment of controlled substances shall be forfeited to the state in the same manner and with like effect as provided in ORS 471.660 and 471.665. However, a conveyance is not subject to forfeiture for a violation of ORS 475.992 (3).

(3) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of ORS 475.005 to 475.285, 475.295 and 475.940 to 475.995.

(4) No conveyance is subject to forfeiture under this section by reason of any act or omission committed or omitted without the knowledge or consent of the owner. [1971 c.743 §281; 1977 c.745 §38]

Note: See note under 167.242.

167.250 [Amended by 1959 c.322 §2; repealed by 1971 c.743 §432]

167.252 Acquittal or conviction under federal law as precluding state prosecution. No person shall be prosecuted under

ORS 167.203 to 167.222 if the person has been acquitted or convicted under the federal narcotic laws of the same act or omission which it is alleged constitutes a violation of ORS 167.203 to 167.222. [1971 c.743 §282]

167.255 [Repealed by 1959 c.322 §3]

167.260 [Repealed by 1959 c.322 §3]

167.265 [Repealed by 1959 c.322 §3]

167.270 [Repealed by 1959 c.322 §3]

167.275 [Repealed by 1959 c.322 §3]

167.280 [Repealed by 1959 c.322 §3]

167.285 [Repealed by 1959 c.322 §3]

167.290 [Repealed by 1959 c.322 §3]

167.295 [Amended by 1963 c.314 §1; repealed by 1971 c.743 §432]

167.300 [Repealed by 1971 c.743 §432]

OFFENSES AGAINST ANIMALS

167.310 Definitions for ORS 167.310 to 167.340. (1) As used in ORS 167.310 to 167.340.

(a) "Animal" means any nonhuman mammal, bird, reptile, amphibian or fish.

(b) "Good animal husbandry" includes, but is not limited to the dehorning of cattle, the docking of horses, sheep or swine, and the castration or neutering of livestock, according to accepted practices of veterinary medicine or animal husbandry.

(c) "Livestock" means any horse, mule, burro, dairy or beef animal, goat, sheep, swine or rabbit, regardless of age.

(d) "Pet or domestic animal" means any animal that is owned or possessed by a person, other than livestock or poultry.

(e) "Physical injury" has the meaning provided in ORS 161.015.

(f) "Possess" has the meaning provided in ORS 161.015.

(g) "Serious physical injury" has the meaning provided in ORS 161.015.

(2) As used in ORS 167.325 and 167.330, "minimum care" means care sufficient to preserve the health and well-being of an animal and, except for emergencies or circumstances beyond the reasonable control of the owner, includes, but is not limited to, the following requirements:

(a) Food of sufficient quantity and quality to allow for normal growth or maintenance of body weight.

(b) Open or adequate access to potable water in sufficient quantity to satisfy the animal's needs. Snow or ice is not an adequate water source.

(c) In the case of pet or domestic animals, access to a barn, dog house or other inclosed structure sufficient to protect the animal from wind, rain, snow or sun and

which has adequate bedding to protect against cold and dampness.

(d) Veterinary care deemed necessary by a reasonably prudent person to relieve distress from injury, neglect or disease.

(e) Pet or domestic animals shall not be confined to an area without adequate space for exercise necessary for the health of the animal or which does not allow access to a dry place for the animal to rest. The air temperature in a confinement area must be suitable for the animal involved. Confinement areas must be kept reasonably clean and free from excess waste or other contaminants which could affect the animal's health. [1985 c.662 §1]

Note: 167.310 to 167.355 was enacted into law by the Legislative Assembly but was not added to or made a part of the Oregon Criminal Code of 1971 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

167.315 Animal abuse in the second degree. (1) A person commits the crime of animal abuse in the second degree if, except as otherwise authorized by law, the person intentionally, knowingly or recklessly causes physical injury to an animal.

(2) Any practice of good animal husbandry is not a violation of this section.

(3) Animal abuse in the second degree is a Class B misdemeanor. [1985 c.662 §2]

Note: See note under 167.310.

167.320 Animal abuse in the first degree. (1) A person commits the crime of animal abuse in the first degree if, except as otherwise authorized by law, the person intentionally, knowingly or recklessly:

(a) Causes serious physical injury to an animal; or

(b) Cruelly causes the death of an animal.

(2) Any practice of good animal husbandry is not a violation of this section.

(3) Animal abuse in the first degree is a Class A misdemeanor. [1985 c.662 §3]

Note: See note under 167.310.

167.325 Animal neglect in the second degree. (1) A person commits the crime of animal neglect in the second degree if, except as otherwise authorized by law, the person intentionally, knowingly, recklessly or with criminal negligence fails to provide minimum care for an animal in such person's custody or control.

(2) Animal neglect in the second degree is a Class B misdemeanor. [1985 c.662 §4]

Note: See note under 167.310.

167.330 Animal neglect in the first degree. (1) A person commits the crime of animal neglect in the first degree if, except as otherwise authorized by law, the person in-

tionally, knowingly, recklessly or with criminal negligence:

(a) Fails to provide minimum care for an animal in such person's custody or control; and

(b) Such failure to provide care results in serious physical injury or death to the animal.

(2) Animal neglect in the first degree is a Class A misdemeanor. [1985 c.662 §5]

Note: See note under 167.310.

167.335 Exemption for livestock, rodeo animals and commercially grown poultry. Unless gross negligence can be shown, the provisions of ORS 167.315 to 167.330 shall not apply to the treatment of livestock being transported by owner or common carrier, animals involved in rodeos or similar exhibitions or commercially grown poultry. [1985 c.662 §6]

Note: See note under 167.310.

167.340 Animal abandonment. (1) A person commits the crime of animal abandonment if the person intentionally, knowingly, recklessly or with criminal negligence leaves a domesticated animal at a location without providing for the animal's continued care.

(2) It is no defense to the crime defined in subsection (1) of this section that the defendant abandoned the animal at or near an animal shelter, veterinary clinic or other place of shelter if the defendant did not make reasonable arrangements for the care of the animal.

(3) Animal abandonment is a Class C misdemeanor. [1985 c.662 §8]

Note: See note under 167.310.

167.345 Authority to enter premises; search warrant; notice of impoundment of animal. If there is probable cause to believe that any animal is being subjected to treatment in violation of ORS 167.315 to 167.340, a peace officer, after obtaining a search warrant in the manner authorized by law, may enter the premises where the animal is being held, provide food and water and impound such animal. If after reasonable search the owner or person having custody of such animal cannot be found and notified of the impoundment, such notice shall be conspicuously posted on such premises and within 72 hours after the impoundment such notice shall be sent by certified mail to the address, if any, at which the animal was impounded. [Formerly 167.860]

Note: See note under 167.310.

167.350 Forfeiture of rights in mistreated animal; costs; disposition of animal. (1) In addition to and not in lieu of any other sentence it may impose, a court may

require a defendant convicted under ORS 167.315 to 167.330 and 167.340 to forfeit any rights of the defendant in the animal subjected to abuse, neglect or abandonment, and to repay the reasonable costs incurred by any person or agency prior to judgment in caring for each animal subjected to abuse, neglect or abandonment.

(2) When the court orders the defendant's rights in the animal to be forfeited, the court may further order that those rights be given over to an appropriate person or agency demonstrating a willingness to accept and care for the animal or to the county or an appropriate animal care agency for further disposition in accordance with accepted practices for humane treatment of animals. This subsection shall not constitute or authorize any limitation upon the right of the person or agency to whom rights are granted to resell or otherwise make disposition of the animal. A transfer of rights under this subsection constitutes a transfer of ownership. [Formerly 167.862]

Note: See note under 167.310.

167.355 Involvement in animal fighting. (1) A person commits the crime of involvement in animal fighting if the person:

(a) Owns or trains an animal with the intention that the animal engage in an exhibition of fighting; or

(b) Promotes, conducts, participates in or is present as a spectator at an exhibition of fighting or preparations thereto; or

(c) Keeps or uses, or in any way is connected with or interested in the management of, or receives money for the admission of any person to any place kept or used for the purpose of an exhibition of fighting; or

(d) Knowingly suffers or permits any place over which the person has possession or control to be occupied, kept or used for the purpose of an exhibition of fighting.

(2) For purposes of this section:

(a) "Animal" means any bird, reptile, amphibian, fish or nonhuman mammal, other than a dog.

(b) "Exhibition of fighting" means a public or private display of combat between two or more animals in which the fighting, killing, maiming or injuring of animals is a significant feature. "Exhibition of fighting" does not include demonstrations of the hunting or tracking skills of an animal or the lawful use of animals for hunting, tracking or self-protection.

(3) Nothing in this section applies to or prohibits any customary practice of breeding or rearing game cocks even though those cocks may be subsequently used in cock

fighting exhibitions outside the State of Oregon.

(4) Involvement in animal fighting is a Class A misdemeanor. [Formerly 167.865; 1987 c.249 §6]

Note: See note under 167.310.

167.360 Definitions for ORS 167.360 to 167.380. As used in ORS 167.360 to 167.380:

(1) "Dogfight" means a fight, arranged by any person, between two or more dogs the purpose or probable result of which fight is the infliction of injury by one dog upon another.

(2) "Fighting dog" means a dog that is intentionally bred or trained to be used in, or that is actually used in, a dogfight. A dog does not constitute a fighting dog solely on account of its breed. [1987 c.249 §1]

Note: 167.360 to 167.380 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 167 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

167.365 Dogfighting. (1) A person commits the crime of dogfighting if the person knowingly does any of the following:

(a) Owns, possesses, keeps, breeds, trains, buys, sells or offers to sell a fighting dog, including but not limited to any advertisement by the person to sell such a dog.

(b) Promotes, conducts or participates in, or performs any service in the furtherance of, an exhibition of dogfighting, including but not limited to refereeing of a dogfight, handling of dogs at a dogfight, transportation of spectators to a dogfight, organizing a dogfight, advertising a dogfight, providing or serving as a stakes holder for any money wagered on a fight.

(c) Keeps, uses or manages, or accepts payment of admission to, any place kept or used for the purpose of dogfighting.

(d) Suffers or permits any place over which the person has possession or control to be occupied, kept or used for the purpose of an exhibition of dogfighting.

(2) Dogfighting is a Class C felony. [1987 c.249 §2]

Note: See note under 167.360.

167.370 Participation in dogfighting.

(1) A person commits the crime of participation in dogfighting if the person knowingly:

(a) Attends or has paid admission at any place for the purpose of viewing or betting upon a dogfight.

(b) Advertises or otherwise offers to sell equipment for the training and handling of a fighting dog.

(2) Participation in dogfighting is a Class A misdemeanor. [1987 c.249 §3]

Note: See note under 167.360.

167.375 Seizure of fighting dogs; procedure. (1) Pursuant to ORS 133.525 to 133.703, a judge may order the seizure of alleged fighting dogs owned, possessed or kept by any person.

(2) The judge issuing an order for the seizure of a dog as provided in subsection (1) of this section may require the dog to be impounded at an animal shelter if the judge believes it to be in the best interest of the animal and the public to so order. The governmental unit, the agency of which executes the seizure of the dog, shall be responsible for the costs of impoundment at the animal shelter, but the governmental unit is entitled to receive reimbursement of those costs from the owner, possessor or keeper of the impounded dog. If the owner, possessor or keeper of the dog is subsequently convicted of dogfighting under ORS 167.365, the court may order the defendant to pay the costs of animal shelter as restitution in the case.

(3) In lieu of ordering such dogs seized under subsection (1) of this section to be impounded at an animal shelter, the court may order the dogs impounded on the property of their owner, possessor or keeper. If dogs are ordered impounded on the property of their owner, possessor or keeper, the court shall order such person to provide all necessary care for the dogs and to allow regular and continuing inspection of the dogs by any persons designated by the court, or the agents of such persons. The court shall further order the person not to sell or otherwise dispose of any of the dogs unless the court authorizes such sale or disposition, or until the seized dogs are released as evidence by the law enforcement agency that seized them, or restored to the person by the court pursuant to an order under ORS 133.643. [1987 c.249 §4]

Note: See note under 167.360.

167.380 Forfeiture of rights in fighting dogs or property; public nuisance; destruction of dogs. (1) In addition to and not in lieu of any other penalty it may impose upon a person convicted of dogfighting under ORS 167.365 or participating in dogfighting under ORS 167.370, the court shall, as a part of the judgment, order to be forfeited to the city or county wherein the crime occurred, as the case may be, the person's rights in any fighting dogs or property proved to have been used by the defendant as an instrumentality in the commission of the crime.

(2) A fighting dog is a public nuisance, regardless of whether or not a person has

been convicted of animal fighting with respect to the dog, and a dog proved by a preponderance of the evidence to be a fighting dog in a forfeiture proceeding shall be forfeited to the county in which the dog was found, to be destroyed as provided in this section.

(3) When a court orders a fighting dog to be forfeited, the dog shall be destroyed by a method consistent with such state law regulating methods to be used for destruction of animals. No forfeited fighting dog shall be released or given to any person or agency other than for purposes of destruction in accordance with this subsection. [1987 c.249 §5]

Note: See note under 137.360.

- 167.405 [Repealed by 1971 c.743 §432]
- 167.410 [Repealed by 1971 c.743 §432]
- 167.415 [Repealed by 1971 c.743 §432]
- 167.420 [Repealed by 1971 c.743 §432]
- 167.425 [Repealed by 1971 c.743 §432]
- 167.430 [Amended by 1961 c.648 §8; repealed by 1971 c.743 §432]
- 167.505 [Amended by 1959 c.530 §3; repealed by 1971 c.743 §432]
- 167.510 [Amended by 1959 c.530 §4; repealed by 1971 c.743 §432]
- 167.515 [Repealed by 1971 c.743 §432]
- 167.520 [Repealed by 1971 c.743 §432]
- 167.525 [Repealed by 1971 c.743 §432]
- 167.530 [Repealed by 1971 c.743 §432]
- 167.535 [Amended by 1959 c.530 §5; repealed by 1971 c.743 §432]
- 167.540 [Repealed by 1971 c.743 §432]
- 167.545 [Repealed by 1971 c.743 §432]
- 167.550 [Amended by 1959 c.426 §8; repealed by 1971 c.743 §432]
- 167.555 [Repealed by 1971 c.743 §432]
- 167.605 [Amended by 1963 c.201 §1; repealed by 1971 c.743 §432]
- 167.610 [Repealed by 1971 c.743 §432]
- 167.615 [Repealed by 1971 c.743 §432]
- 167.620 [Repealed by 1971 c.743 §432]
- 167.625 [Repealed by 1971 c.743 §432]
- 167.630 [Repealed by 1971 c.743 §432]
- 167.635 [Repealed by 1971 c.743 §432]
- 167.640 [Repealed by 1971 c.743 §432]
- 167.645 [Repealed by 1971 c.743 §432]
- 167.705 [Amended by 1959 c.503 §6; repealed by 1971 c.743 §432]
- 167.710 [Repealed by 1971 c.743 §432]
- 167.715 [Repealed by 1971 c.743 §432]
- 167.720 [Repealed by 1971 c.743 §432]
- 167.725 [Repealed by 1971 c.743 §432]
- 167.730 [Repealed by 1971 c.743 §432]
- 167.735 [Repealed by 1971 c.743 §432]
- 167.740 [Amended by 1965 c.370 §1; repealed by 1971 c.743 §432]
- 167.745 [1959 c.200 §1; repealed by 1971 c.743 §432]