

SB

284



SENATOR DAVE DONLEY

ALASKA STATE LEGISLATURE

Sponsor Statement Sponsor Substitute for Senate Bill 284 "An Act relating to cruelty to animals"

SSSB 284 was introduced in response to concerns about the treatment of animals and the difficulty of prosecuting cases which involve animal cruelty.

There have been numerous incidents of animal cruelty and neglect in Alaska which have gone un-prosecuted because of the current statutory language. One district attorney testified that the language, which reads, "intentionally inflicts severe and prolonged physical pain or suffering on an animal", is "un-prosecutable". SSSB 284 gives the state a more workable statute. The following outlines the changes the bill would make.

- ❖ Changes "intentionally" to "knowingly" which lowers the state of mind the state must prove in prosecuting an animal cruelty case. This would help in cases of starving animals. An owner's actions may not have been "intentional", but a reasonable person would "know" that lack of food causes starvation.
- ❖ Changes "recklessly" to "with criminal negligence" which lowers the criminal standard. Recklessness is indicated by an awareness and conscious disregard. Criminal negligence is indicated by a "failure to perceive a substantial and unjustifiable risk that the result will occur..." AS 11.81.900.
- ❖ Does not affect existing statute which protects farmers, ranchers, hunters and trappers who are conducting accepted veterinary practices including castration, dehorning, branding, euthanizing, etc. AS 11.61.140
- ❖ Does not affect the existing statute which designates cruelty to animals as a class A misdemeanor.

Supporters of this bill include: *Alaska Animal Control Association* (statewide), *Alaska Society for the Prevention of Cruelty to Animals* (Anchorage), *Iditarod Race Winner Libby Riddles* (Wasilla), *Fairbanks Animal Control* (Fairbanks), *Kenai Animal Control* (Kenai), *Friends of Pets* (Anchorage), and the *Gastineau Humane Society* (Juneau).

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HOW SB 284 DIFFERS FROM PAST ANIMAL CRUELTY PROPOSALS

In 1996, HB 386 "An Act relating to cruelty to animals and to the power of first and second class boroughs to prohibit cruelty to animals" passed the House but died in the Senate Finance Committee in the last days of session.

HB 386 contained two sections. Section 1 made a simple wording change to the criminal code, while Section 2 gave first and second class boroughs the authority to prohibit (or regulate) animal cruelty issues in the borough.

Section 1 received little comment or opposition throughout the committee hearing process in both the House and Senate. The question was asked, "will farmers, hunters and trappers be prosecuted if they castrate, dehorn, brand, euthanize, hold in traps, etc?" The answer is no because there is protection under existing law AS 11.60.140 for these kinds of traditional practices:

(b) It is a defense to a prosecution under (a)(1) or (2) of this section that the conduct of the defendant (1) conformed to accepted veterinary practice; (2) was part of scientific research governed by accepted standards; or (3) was necessarily incident to lawful hunting or trapping activities.

State Veterinarian Bert Gore and Ed Kern from the Division of Agriculture confirmed that castration, dehorning, docking, branding, euthanasia, etc., are "accepted veterinary practices" and do not have to be performed by veterinarians. Ann Carpeneti of the Department of Law agreed. Additionally, the American Veterinarian Medical Association lists "accepted practices" in their AMVA Policy Statements and Guidelines. Hunters and trappers are also protected under the current statutory language. Section 1 of HB 386 did not change these protections.

Throughout the testimony and hearings on HB 386, any objections voiced by legislators and members of the public were almost entirely related to Section 2. Mainly, farmers were concerned about giving more powers to local governments when it came to the regulation of their animals. Section 2 was debated and amended and eventually, it was apparently the problems with Section 2 that killed the bill.

SB 284 is basically identical to Section 1 of HB 386, with a few wording changes suggested by the Department of Law to clarify the intent of the legislation. Section 2 from HB 386 is not included in this current bill.

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