

# HB0210S01 compared with HB0210

~~{deleted text}~~ shows text that was in HB0210 but was deleted in HB0210S01.

inserted text shows text that was not in HB0210 but was inserted into HB0210S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will not be completely accurate. Therefore, you need to read the actual bill. This automatically generated document could experience abnormalities caused by: limitations of the compare program; bad input data; the timing of the compare; and other potential causes.

Representative Curtis Oda proposes the following substitute bill:

## ANIMAL CRUELTY AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Curtis Oda**

Senate Sponsor: \_\_\_\_\_

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### LONG TITLE

#### General Description:

This bill amends provisions of the Utah Criminal Code relating to animal cruelty and animal torture.

#### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ removes "pests" from the definition of an animal~~;~~
- ▶ ~~provides that "torture" does not include shooting an animal with the intent to humanely kill the animal;~~
- ▶ ~~provides that it is a defense to prosecution for~~ if the pests are exterminated or controlled in accordance with recognized pest extermination or control practices;
- ▶ adds as an element of the crime of animal cruelty ~~if~~ that the conduct of the actor

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towards the animal was not reasonable and necessary to protect the actor or another person from injury or death or to protect certain property from damage or loss;

- ▶ provides that the provisions of this bill do not affect or prohibit the humane shooting ~~for killing~~ of an animal in an unincorporated area of a county if the person doing the shooting ~~for killing~~ has a reasonable belief that the animal is a feral animal; and
- ▶ makes technical changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

**76-9-301**, as last amended by Laws of Utah 2008, Chapter 292

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **76-9-301** is amended to read:

**76-9-301. Cruelty to animals.**

(1) As used in this section:

(a) (i) "Abandon" means to intentionally deposit, leave, or drop off any live animal:

(A) without providing for the care of that animal, in accordance with accepted animal husbandry practices or customary farming practices; or

(B) in a situation where conditions present an immediate, direct, and serious threat to the life, safety, or health of the animal.

(ii) "Abandon" does not include returning wildlife to its natural habitat.

(b) (i) "Animal" means, except as provided in Subsection (1)(b)(ii), a live, nonhuman vertebrate creature.

(ii) "Animal" does not include:

(A) a live, nonhuman vertebrate creature, if:

(I) the conduct toward the creature, and the care provided to the creature, is in accordance with accepted animal husbandry practices; and

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(II) the creature is:

(Aa) owned or kept by a zoological park that is accredited by, or a member of, the American Zoo and Aquarium Association;

(Bb) kept, owned, or used for the purpose of training hunting dogs or raptors; or

(Cc) temporarily in the state as part of a circus or traveling exhibitor licensed by the United States Department of Agriculture under 7 U.S.C. 2133;

(B) a live, nonhuman vertebrate creature that is owned, kept, or used for rodeo purposes, if the conduct toward the creature, and the care provided to the creature, is in accordance with accepted rodeo practices;

(C) livestock, if the conduct toward the creature, and the care provided to the creature, is in accordance with accepted animal husbandry practices or customary farming practices; ~~or~~

(D) wildlife, as defined in Section 23-13-2, including protected and unprotected wildlife, if the conduct toward the wildlife is in accordance with lawful hunting, fishing, or trapping practices or other lawful practices~~[-]; or~~

(E) a pest, as defined in the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136, as amended, ~~if the pest is exterminated or controlled consistent with recognized pest extermination or control practices.~~

(c) "Companion animal" means an animal that is a domestic dog or a domestic cat.

(d) "Custody" means ownership, possession, or control over an animal.

(e) "Feral" is as defined in Section 23-13-2.

~~(f)~~ (f) "Legal privilege" means an act that:

(i) is authorized by state law, including Division of Wildlife Resources rules; and

(ii) is not in violation of a local ordinance.

~~(g)~~ (g) "Livestock" means:

(i) domesticated:

(A) cattle;

(B) sheep;

(C) goats;

(D) turkeys;

(E) swine;

(F) equines;

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(G) camelidae;

(H) ratites; or

(I) bison;

(ii) domesticated elk, as defined in Section 4-39-102; or

(iii) any domesticated nonhuman vertebrate creature, domestic furbearer, or domestic poultry, raised, kept, or used for agricultural purposes.

~~[(g)]~~ (h) "Necessary food, water, care, or shelter" means the following, taking into account the species, age, and physical condition of the animal:

(i) appropriate and essential food and water;

(ii) adequate protection, including appropriate shelter, against extreme weather conditions; and

(iii) other essential care.

~~[(h)]~~ (i) ~~[(i)]~~ "Torture" means intentionally or knowingly causing or inflicting extreme physical pain to an animal in an especially heinous, atrocious, cruel, or exceptionally deprived manner.

~~{~~ ~~——~~ ~~(ii) "Torture" does not include shooting an animal with the intent to humanely kill the animal.~~

~~†~~ (2) Except as provided in Subsection (4) or (6), a person is guilty of cruelty to an animal if:

~~(a)~~ the person, without legal privilege to do so, intentionally, knowingly, recklessly, or with criminal negligence:

~~[(a)]~~ ~~(i)~~ fails to provide necessary food, water, care, or shelter for an animal in the person's custody;

~~[(b)]~~ ~~(ii)~~ abandons an animal in the person's custody;

~~[(c)]~~ ~~(iii)~~ injures an animal;

~~[(d)]~~ ~~(iv)~~ causes any animal, not including a dog, to fight with another animal of like kind for amusement or gain; or

~~[(e)]~~ ~~(v)~~ causes any animal, including a dog, to fight with a different kind of animal or creature for amusement or gain~~[-]; and~~

~~(b) the person's conduct is not reasonable and necessary to protect;~~

~~(i) the actor or another person from injury or death; or~~

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(ii) property from damage or loss if the property is:

(A) an animal; or

(B) other property that is \$50 or more in value.

(3) Except as provided in Section 76-9-301.7, a violation of Subsection (2) is:

- (a) a class B misdemeanor if committed intentionally or knowingly; and
- (b) a class C misdemeanor if committed recklessly or with criminal negligence.

(4) A person is guilty of aggravated cruelty to an animal if the person:

- (a) tortures an animal;
- (b) administers, or causes to be administered, poison or a poisonous substance to an

animal; or

(c) kills an animal or causes an animal to be killed without having a legal privilege to do so.

(5) Except as provided in Subsection (6) or Section 76-9-301.7, a violation of Subsection (4) is:

- (a) a class A misdemeanor if committed intentionally or knowingly;
- (b) a class B misdemeanor if committed recklessly; and
- (c) a class C misdemeanor if committed with criminal negligence.

(6) A person is guilty of a third degree felony if the person intentionally or knowingly tortures a companion animal.

(7) It is a defense to prosecution under this section that the conduct of the actor towards the animal was:

- (a) by a licensed veterinarian using accepted veterinary practice;
- (b) directly related to bona fide experimentation for scientific research, provided that if the animal is to be destroyed, the manner employed will not be unnecessarily cruel unless directly necessary to the veterinary purpose or scientific research involved;

(c) permitted under Section 18-1-3;

(d) by a person who humanely destroys any animal found suffering past recovery for any useful purpose; ~~{}~~ or ~~{}~~

(e) by a person who humanely destroys any apparently abandoned animal found on the person's property ~~{}~~. ~~{}~~ or ~~{}~~

~~{~~ ~~(f) reasonable and necessary to protect the actor or another person from injury or death.~~

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‡ (8) For purposes of Subsection (7)(d), before destroying the suffering animal, the person who is not the owner of the animal shall obtain:

(a) the judgment of a veterinarian of the animal's nonrecoverable condition;

(b) the judgment of two other persons called by the person to view the unrecoverable condition of the animal in the person's presence;

(c) the consent from the owner of the animal to the destruction of the animal; or

(d) a reasonable conclusion that the animal's suffering is beyond recovery, through the person's own observation, if the person is in a location or circumstance where the person is unable to contact another person.

(9) This section does not affect or prohibit:

(a) the training, instruction, and grooming of animals, if the methods used are in accordance with accepted animal husbandry practices or customary farming practices;

(b) the use of an electronic locating or training collar by the owner of an animal for the purpose of lawful animal training, lawful hunting practices, or protecting against loss of that animal; ~~{}~~ or ~~{}~~

(c) the lawful hunting of, fishing for, or trapping of, wildlife[-]; or

(d) the humane shooting ~~for killing~~ of an animal ~~in an unincorporated area of a county~~ if the person doing the shooting ~~for killing~~ has a reasonable belief that the animal is a feral animal.

(10) County and municipal governments may not prohibit the use of an electronic locating or training collar.

(11) Upon conviction under this section, the court may in its discretion, in addition to other penalties:

(a) order the defendant to be evaluated to determine the need for psychiatric or psychological counseling, to receive counseling as the court determines to be appropriate, and to pay the costs of the evaluation and counseling;

(b) require the defendant to forfeit any rights the defendant has to the animal subjected to a violation of this section and to repay the reasonable costs incurred by any person or agency in caring for each animal subjected to violation of this section;

(c) order the defendant to no longer possess or retain custody of any animal, as specified by the court, during the period of the defendant's probation or parole or other period

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as designated by the court; and

(d) order the animal to be placed for the purpose of adoption or care in the custody of a county and municipal animal control agency, an animal welfare agency registered with the state, sold at public auction, or humanely destroyed.

(12) This section does not prohibit the use of animals in lawful training.

(13) A veterinarian who, acting in good faith, reports a violation of this section to law enforcement may not be held civilly liable for making the report.

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### **Legislative Review Note**

~~as of 12-29-10 8:34 AM~~

~~Office of Legislative Research and General Counsel~~