

TETHERING OF ANIMALS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gene Davis

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Utah Criminal Code regarding animal cruelty.

Highlighted Provisions:

This bill:

▶ prohibits the ~~§~~ [tethering] restraining ~~§~~ of a dog ~~§~~ by a tether ~~§~~ for more than 10 hours in a 24-hour period ~~§~~ and applies this offense only in a first or second class county ~~§~~ ;

▶ prohibits ~~§~~ [tethering] use of a tether ~~§~~ that causes harm to the dog ~~§~~ and applies this offense only in a first or second class county ~~§~~ ; and

▶ defines a tether.

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

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:

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

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

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

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

35 (ii) "Animal" does not include:

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

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

39 (II) the creature is:

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

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

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

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

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

50 (D) wildlife, as defined in Section 23-13-2, including protected and unprotected
51 wildlife, if the conduct toward the wildlife is in accordance with lawful hunting, fishing, or
52 trapping practices or other lawful practices.

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

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

55 (e) "Legal privilege" means an act that:

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

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

58 (f) "Livestock" means:

- 59 (i) domesticated:
- 60 (A) cattle;
- 61 (B) sheep;
- 62 (C) goats;
- 63 (D) turkeys;
- 64 (E) swine;
- 65 (F) equines;
- 66 (G) camelidae;
- 67 (H) ratites; or
- 68 (I) bison;
- 69 (ii) domesticated elk, as defined in Section 4-39-102; or
- 70 (iii) any domesticated nonhuman vertebrate creature, domestic furbearer, or domestic
- 71 poultry, raised, kept, or used for agricultural purposes.
- 72 (g) "Necessary food, water, care, or shelter" means the following, taking into account
- 73 the species, age, and physical condition of the animal:
- 74 (i) appropriate and essential food and water;
- 75 (ii) adequate protection, including appropriate shelter, against extreme weather
- 76 conditions; and
- 77 (iii) other essential care.
- 78 (h) "Tether" means any chain, rope, cable, or other device attached to a fixed object
- 79 and used for restraining a dog.
- 80 ~~[(h)]~~ (i) "Torture" means intentionally or knowingly causing or inflicting extreme
- 81 physical pain to an animal in an especially heinous, atrocious, cruel, or exceptionally deprived
- 82 manner.
- 83 (2) Except as provided in Subsection (4) or (6), a person is guilty of cruelty to an
- 84 animal if the person, without legal privilege to do so, intentionally, knowingly, recklessly, or
- 85 with criminal negligence:
- 86 (a) fails to provide necessary food, water, care, or shelter for an animal in the person's
- 87 custody;
- 88 (b) abandons an animal in the person's custody;
- 89 (c) injures an animal;

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

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

94 (f) ~~§~~ **→ [uses] in counties of the first or second class, restrains a dog by use of ←§** a
94a tether that is not:

95 (i) of sufficient weight or strength to restrain the dog;

96 (ii) of an appropriate design for the ~~§~~ → [breed,] ←§ age, size, and weight of the dog for
96a which
97 the tether is used; or

98 (iii) attached to the dog by a collar, halter, or harness in a manner that protects the dog
99 from injury or entanglement with objects or other animals;

100 (g) ~~§~~ **→ in counties of the first or second class, [tethers] restrains ←§** a dog ~~§~~ **→ by**
100a means of a tether ←§ in any manner that could reasonably be expected to:

101 (i) cause injury or damage to the dog;

102 (ii) endanger the dog due to restrictions to the dog's movement; or

103 (iii) not provide sufficient length of tether to allow the dog adequate space for
104 reasonable exercise and to make normal postural movements, including sitting, laying down,
105 and turning around; or

106 (h) ~~§~~ **→ [tethers] in counties of the first or second class, restrains ←§** a dog ~~§~~ **→ by use**
106a of a tether ←§ for longer than 10 hours within a 24-hour period.

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

108 (a) a class B misdemeanor if committed intentionally or knowingly; and

109 (b) a class C misdemeanor if committed recklessly or with criminal negligence.

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

111 (a) tortures an animal;

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

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

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

118 (a) a class A misdemeanor if committed intentionally or knowingly;

119 (b) a class B misdemeanor if committed recklessly; and

120 (c) a class C misdemeanor if committed with criminal negligence.

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

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

125 (a) by a licensed veterinarian using accepted veterinary practice;

126 (b) directly related to bona fide experimentation for scientific research, provided that if
127 the animal is to be destroyed, the manner employed will not be unnecessarily cruel unless
128 directly necessary to the veterinary purpose or scientific research involved;

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

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

132 (e) by a person who humanely destroys any apparently abandoned animal found on the
133 person's property.

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

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

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

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

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

143 (9) This section does not affect or prohibit:

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

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

149 (c) the lawful hunting of, fishing for, or trapping of, wildlife.

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

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

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

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

160 (c) order the defendant to no longer possess or retain custody of any animal, as
161 specified by the court, during the period of the defendant’s probation or parole or other period
162 as designated by the court; and

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

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

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



Legislative Review Note
as of 2-6-13 10:55 AM

Office of Legislative Research and General Counsel