

INJURED WILDLIFE AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: David E. Lifferth

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends a defense to the crime of cruelty to animals.

Highlighted Provisions:

This bill:

- ▶ adds a defense for humane destruction of an animal injured in a motor vehicle accident; 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 2015, Chapter 329

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:



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) "Torture" means intentionally or knowingly causing or inflicting extreme physical
- 79 pain to an animal in an especially heinous, atrocious, cruel, or exceptionally depraved manner.
- 80 (2) Except as provided in Subsection (4) or (6), a person is guilty of cruelty to an
- 81 animal if the person, without legal privilege to do so, intentionally, knowingly, recklessly, or
- 82 with criminal negligence:
- 83 (a) fails to provide necessary food, water, care, or shelter for an animal in the person's
- 84 custody;
- 85 (b) abandons an animal in the person's custody;
- 86 (c) injures an animal;
- 87 (d) causes any animal, not including a dog or game fowl, to fight with another animal
- 88 of like kind for amusement or gain; or
- 89 (e) causes any animal, including a dog or game fowl, to fight with a different kind of

90 animal or creature for amusement or gain.

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

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

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

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

95 (a) tortures an animal;

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

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

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

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

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

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

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

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

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

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

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

114 (d) by a person who humanely destroys any animal found suffering past recovery for
115 any useful purpose; [or]

116 (e) by a person who humanely destroys any apparently abandoned animal found on the
117 person's property[-]; or

118 (f) by a person who destroys an animal that is seriously injured in a motor vehicle
119 accident in order to prevent the animal from suffering needlessly, if the person has the means,
120 skill, and intent to destroy the animal humanely.

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

- 124 (a) the judgment of a veterinarian of the animal's nonrecoverable condition;
- 125 (b) the judgment of two other persons called by the person to view the unrecoverable
126 condition of the animal in the person's presence;
- 127 (c) the consent from the owner of the animal to the destruction of the animal; or
- 128 (d) a reasonable conclusion that the animal's suffering is beyond recovery, through the
129 person's own observation, if the person is in a location or circumstance where the person is
130 unable to contact another person.

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

- 132 (a) the training, instruction, and grooming of animals, if the methods used are in
133 accordance with accepted animal husbandry practices or customary farming practices;
- 134 (b) the use of an electronic locating or training collar by the owner of an animal for the
135 purpose of lawful animal training, lawful hunting practices, or protecting against loss of that
136 animal; or
- 137 (c) the lawful hunting of, fishing for, or trapping of, wildlife.

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

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

- 142 (a) order the defendant to be evaluated to determine the need for psychiatric or
143 psychological counseling, to receive counseling as the court determines to be appropriate, and
144 to pay the costs of the evaluation and counseling;
- 145 (b) require the defendant to forfeit any rights the defendant has to the animal subjected
146 to a violation of this section and to repay the reasonable costs incurred by any person or agency
147 in caring for each animal subjected to violation of this section;
- 148 (c) order the defendant to no longer possess or retain custody of any animal, as
149 specified by the court, during the period of the defendant's probation or parole or other period
150 as designated by the court; and
- 151 (d) order the animal to be placed for the purpose of adoption or care in the custody of a

152 county or municipal animal control agency or an animal welfare agency registered with the
153 state to be sold at public auction or humanely destroyed.

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

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

Legislative Review Note
Office of Legislative Research and General Counsel