

HB0359S03 compared with HB0359S02

~~text~~ shows text that was in HB0359S02 but was deleted in HB0359S03.

text shows text that was not in HB0359S02 but was inserted into HB0359S03.

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~~Representative Norman~~Senator Michael K~~Thurston~~McKell proposes the following substitute bill:

ANIMAL CARE AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Norman K Thurston

Senate Sponsor: ~~_____~~David P. Hinkins

LONG TITLE

General Description:

This bill addresses the care of animals.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ authorizes the department to adopt a fee schedule to cover administrative costs for enforcement of animal care violations;
- ▶ authorizes the department to impose civil penalties on a person for certain violations;
- ▶ establishes requirements for animal care; and
- ▶ criminalizes a violation of the animal care requirements.

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Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

76-9-301, as last amended by Laws of Utah 2021, Chapter 57

ENACTS:

4-2-901, Utah Code Annotated 1953

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

Section 1. Section **4-2-901** is enacted to read:

Part 9. Pet Animal Care

4-2-901. Animal care violations.

(1) If resources are available, the department may, in accordance with this section, respond to a complaint that a dog breeder or an animal care facility, as those terms are defined in Section 76-9-301, has violated Subsection 76-9-301(2)(a) or (7).

(2) (a) If the department determines that a person is in violation of a provision of this part, the department shall provide the person with written notice that:

(i) describes each violation identified by the department;

(ii) states a reasonable deadline by which the person is required to cure the violation;

and

(iii) explains the penalty that may be imposed if the person fails to cure the violation before the stated deadline.

(b) If a person who receives a notice issued under Subsection (2)(a) does not cure the violation identified in the notice before the deadline stated in the notice, the department may, in addition to any applicable criminal penalty described in Section 76-9-301:

(i) impose a civil fine of up to \$1,000 per violation;

(ii) seek a temporary restraining order;

(iii) seek an injunction;

(iv) seek an order of seizure or condemnation for an animal that is the subject of the

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violation; or

(v) report the circumstances to law enforcement or a prosecutor.

(c) The department is not required to issue a notice described in Subsection (2)(a) for a repeated occurrence of the same violation.

(d) The department shall deposit a fine collected under this section in the General Fund as a dedicated credit to be used by the department for enforcement of this section.

Section 2. 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

(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,

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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.

(c) "Animal care facility" means an animal rescue, animal sanctuary, or animal shelter.

(d) "Animal rescue" means a person that:

(i) accepts a companion animal for the purpose of finding a permanent home for that animal;

(ii) does not maintain a central facility for keeping the companion animal; and

(iii) uses a system of temporarily fostering the companion animal in a private home or boarding facility.

(e) "Animal sanctuary" means a nonprofit entity, other than a government entity, that:

(i) harbors companion animals; and

(ii) is used exclusively for the purpose of indefinitely caring for, rehabilitating, or housing companion animals.

(f) (i) "Animal shelter" means a public or private facility for the impoundment or care of companion animals that is operated by:

(A) a person;

(B) a humane society;

(C) a society for the prevention of cruelty to animals; or

(D) a nonprofit organization.

(ii) "Animal shelter" does not include an animal rescue.

(g) "Boarding facility" means a facility where a companion animal is kept for the purpose of caring for the companion animal.

~~(e)~~ (h) "Companion animal" means an animal that is a domestic dog or a domestic cat.

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

(j) (i) "Dog breeder" means a person who breeds dogs for the purposes of selling, trading, bartering, or otherwise transferring dogs to another person for profit.

(ii) "Dog breeder" does not include a person:

(A) who produces no more than one litter per calendar year, where there is only one

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person breeding dogs from the facility or private residence; or

(B) who breeds exclusively livestock guardian dogs as defined in Section 76-6-111, ~~for~~ dogs raised to work on a farm or ranch, or dogs listed in the American Kennel Club's sporting group.

(k) "Facility" means a location other than a private residence.

~~(e)~~ (l) "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.

~~(f)~~ (m) "Livestock" means:

(i) domesticated:

(A) cattle;

(B) sheep;

(C) goats;

(D) turkeys;

(E) swine;

(F) equines;

(G) camelidae;

(H) ratites; or

(I) bison;

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

(iii) a livestock guardian dog, as defined in Section 76-6-111; or

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

~~(g)~~ (n) "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)~~ (o) "Torture" means intentionally or knowingly causing or inflicting extreme physical pain to an animal in an especially heinous, atrocious, cruel, or exceptionally depraved

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manner.

(2) Except as provided in Subsection (4) or (6), a person is guilty of cruelty to an animal if the person, without legal privilege to do so, intentionally, knowingly, recklessly, or with criminal negligence:

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

(b) abandons an animal in the person's custody;

(c) injures an animal;

(d) causes any animal, not including a dog or game fowl, to fight with another animal of like kind for amusement or gain; or

(e) causes any animal, including a dog or game fowl, to fight with a different kind of animal or creature for amusement or gain.

(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) (a) A dog breeder or animal care facility:

(i) shall ensure that a pregnant dog receives reasonable veterinary care, including at least one prenatal or postpartum visit with a licensed veterinarian;

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(ii) shall keep records documenting the health, behavioral issues, and medical care for an animal in the dog breeder's or animal care facility's possession;

(iii) shall ensure that no female dog produces more than one litter in any twelve-month period;

(iv) may not violate Subsection (2); and

(v) shall take adequate measures, including vaccination and sanitation, to prevent the spread of canine disease.

(b) A dog breeder or animal care facility may not sell a dog that is under ~~eight~~seven weeks of age or that is not properly weaned.

(c) An animal care facility shall:

(i) make a good-faith effort to identify an animal's owner at the time the animal care facility acquires the animal; and

(ii) continue keeping records of that effort until the animal's owner has been found or the animal is no longer in the animal care facility's possession.

(d) In addition to any other penalty described in this section, a dog breeder's or an animal care facility's violation of the requirements described in this Subsection (7) is an infraction subject to a fine of \$750.

~~[(7)]~~ (8) 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.

~~[(8)]~~ (9) For purposes of Subsection ~~[(7)(d);~~ ~~[(8)(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;

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(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)]~~ (10) 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.

~~[(10)]~~ (11) County and municipal governments may not prohibit the use of an electronic locating or training collar.

~~[(11)]~~ (12) 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 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 or municipal animal control agency or an animal welfare agency registered with the state to be sold at public auction or humanely destroyed.

~~[(12)]~~ (13) This section does not prohibit the use of animals in lawful training.

~~[(13)]~~ (14) A veterinarian who, acting in good faith, reports a violation of this section

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to law enforcement may not be held civilly liable for making the report.

Section 3. **Effective date.**

This bill takes effect on July 1, 2023.