

SB0165S01 compared with SB0165

~~{deleted text}~~ shows text that was in SB0165 but was deleted in SB0165S01.

inserted text shows text that was not in SB0165 but was inserted into SB0165S01.

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Senator Gene Davis proposes the following substitute bill:

ANIMAL ~~{CRUELTY}~~TREATMENT MODIFICATIONS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gene Davis

House Sponsor: _____

LONG TITLE

General Description:

This bill ~~{amends cruelty to animal provisions}~~concerns the treatment of animals.

Highlighted Provisions:

This bill:

- ▶ creates and modifies definitions;
- ▶ modifies the offense of cruelty to animals;~~{}~~
- ▶ modifies civil liability for reporting animal cruelty under certain conditions; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

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Utah Code Sections Affected:

AMENDS:

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

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 adequate care of [~~that~~] the 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~~] the wildlife's natural habitat.

(b) "Adequate care" means the provision of sufficient food, water, shelter, sanitary conditions, exercise, and veterinary medical attention necessary to maintain an animal in a state of good health, taking into account:

(i) the animal's species, age, and physical condition; and

(ii) accepted veterinary medicine practices, good animal husbandry practices, or customary farming practices.

[~~(b)~~] (c) (i) "Animal" means, except as provided in Subsection (1)[~~(b)~~](c)(ii), a live, nonhuman vertebrate [~~creature~~] member of the biological kingdom Animalia.

(ii) "Animal" does not include:

(A) a live, nonhuman vertebrate [~~creature~~] member of the biological kingdom Animalia, if:

(I) the conduct toward the [~~creature~~] nonhuman vertebrate, and the care provided to the [~~creature~~] nonhuman vertebrate, is in accordance with [~~accepted~~] good animal husbandry practices; and

(II) the [~~creature~~] nonhuman vertebrate is:

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

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(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~~] member of the biological kingdom Animalia that is owned, kept, or used for rodeo purposes, if the conduct toward the [~~creature~~] nonhuman vertebrate, and the care provided to the [~~creature~~] nonhuman vertebrate, is in accordance with accepted rodeo practices;

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

(D) a production animal, if the conduct toward the production animal, and the adequate care provided to the production animal, is in accordance with good animal husbandry practices or customary farming practices; or

[~~(D)~~] (E) 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.

[~~(e)~~] (d) (i) "Companion animal" means an animal that is [~~a domestic dog or a domestic cat~~] kept solely as a pet and is not used as a production animal.

(ii) "Companion animal" includes a domestic dog, cat, rabbit, bird, or other animal.

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

(f) (i) "Good animal husbandry practices" means animal husbandry practices in accordance with accepted veterinary medicine practices or humane animal husbandry practices.

(ii) "Good animal husbandry practices" includes dehorning of cattle, docking of sheep or swine, ~~and~~ castration or neutering of livestock, and related livestock procedures in accordance with accepted veterinary medicine practices or ~~humane~~ accepted animal husbandry practices.

[~~(e)~~] (g) "Legal privilege" means an act that:

(i) is authorized by state law, including Division of Wildlife Resources rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

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

[~~(f)~~] (h) "Livestock" means:

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(i) domesticated:

(A) cattle;

(B) sheep;

(C) goats;

(D) turkeys;

(E) swine;

(F) equines;

(G) camelidae;

(H) cervidae;

~~[(H)]~~ (I) ratites; or

~~[(H)]~~ (J) 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]~~ member of the biological kingdom Animalia, domestic furbearer, or domestic poultry, raised, kept, or used for agricultural purposes.

~~[(g) "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.]~~

(i) "Livestock guardian dog" means the same as that term is defined in Section 76-6-111.

(j) (i) "Production animal" means a live, nonhuman vertebrate member of the biological kingdom Animalia used for the purpose of producing, or being sold to another for the purpose of producing, food, fiber, or other commercial product.

(ii) "Production animal" includes:

(A) cattle;

(B) sheep;

(C) goats;

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(D) swine;

(E) poultry;

(F) ratites;

(G) equines;

(H) domestic cervidae;

(I) cameliadae;

(J) a ~~guard dog~~;

~~(K) a stock dog;~~

~~(L) working farm or stock dog that protects crops or herds or protects livestock or production animals;~~

(K) a livestock guardian dog; and

~~(M)~~ (L) a furbearing animal kept for the purpose of commercial fur production.

(k) "Sanitary conditions" means a space free from a health hazard, including excessive animal waste, animal overcrowding, or a condition that could endanger an animal's health, unless that condition results from reasonable and customary farming practices or good animal husbandry practices.

(l) (i) "Shelter," as the term relates to an animal, means a barn, dog house, or other enclosed structure:

(A) sufficient to maintain an animal in a state of good health and to protect the animal from the elements and weather conditions;

(B) suitable for the age, species, and physical condition of the animal; and

(C) sufficiently maintained to protect the animal from injury or weather conditions.

(ii) "Shelter," as the term relates to an animal, does not include:

(A) a crawl space, including under a building, part of a building, a stoop, a deck, or a step;

(B) the space under a vehicle;

(C) the interior of a vehicle, if the animal is kept in the vehicle in a manner or for a length of time that is likely to be detrimental to the animal's safety;

(D) an animal carrier or crate that is designed for temporary transport or temporary housing;

(E) a structure made of cardboard or another material that is easily degradable;

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(F) a structure with a wire floor or chain link floor, unless the animal is a bird; or

(G) a space that is surrounded by waste, debris, obstructions, or impediments that could adversely affect an animal's health.

(iii) "Shelter," as the term relates to a ~~production animal, means a type of shelter consistent~~ live, nonhuman vertebrate that is not an animal means a living condition in accordance with good animal husbandry practices or customary and reasonable farming practices.

(iv) "Shelter," as the term relates to a production animal does not include a living condition described in Subsection (1)(l)(i).

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

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

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

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

(c) injures an animal;

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

(e) causes ~~any~~ an animal, including a dog or game fowl, to fight with a different kind of animal or ~~creature~~ nonhuman vertebrate member of the biological kingdom Animalia 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~~ An actor 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

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(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]~~ An actor is guilty of a third degree felony if the ~~[person]~~ actor intentionally or knowingly tortures or kills 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]~~ an actor who humanely destroys ~~[any]~~ an animal found suffering past recovery for any useful purpose; or

(e) by ~~[a person]~~ an actor who humanely destroys ~~[any]~~ an apparently abandoned animal found on the ~~[person's]~~ actor's property.

(8) For purposes of Subsection (7)(d), before destroying the suffering animal, the ~~[person]~~ actor 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]~~ individuals called by the ~~[person]~~ actor to view the unrecoverable condition of the animal in the ~~[person's]~~ actor'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]~~ actor's own observation, if the ~~[person]~~ actor is in a location or circumstance ~~[where the person]~~ in which the actor is unable to contact another ~~[person]~~ individual.

(9) This section does not affect or prohibit:

(a) the training, instruction, and grooming of animals, if the methods used are in

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accordance with [~~accepted~~] good 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) 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~~] the court's discretion[;] and 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) prohibit the defendant from residing with an animal; or

[~~(d)~~] (e) 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) 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, a county or municipal animal control agency, or an animal welfare agency may not be held civilly liable for making the report.