

1 **GAME FOWL FIGHTING - AMENDMENTS**

2 2015 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Gene Davis**

5 House Sponsor: Francis D. Gibson

6	Cosponsors:	Jani Iwamoto	Stephen H. Urquhart
7	J. Stuart Adams	Peter C. Knudson	Todd Weiler
8	Jim Dabakis	Karen Mayne	
9	Luz Escamilla	Wayne L. Niederhauser	

11 **LONG TITLE**

12 **General Description:**

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

14 **Highlighted Provisions:**

15 This bill:

16 ▶ makes it a crime to engage in game fowl fighting or in certain conduct relating to
17 game fowl fighting; and

18 ▶ makes technical and conforming changes.

19 **Money Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 None

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **76-9-301**, as last amended by Laws of Utah 2008, Chapter 292

26 ENACTS:

27 **76-9-301.3**, Utah Code Annotated 1953

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

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

31 **76-9-301. Cruelty to animals.**

32 (1) As used in this section:

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

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

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

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

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

41 (ii) "Animal" does not include:

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

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

45 (II) the creature is:

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

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

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

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

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

56 (D) wildlife, as defined in Section [23-13-2](#), including protected and unprotected

57 wildlife, if the conduct toward the wildlife is in accordance with lawful hunting, fishing, or
58 trapping practices or other lawful practices.

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

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

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

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

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

64 (f) "Livestock" means:

65 (i) domesticated:

66 (A) cattle;

67 (B) sheep;

68 (C) goats;

69 (D) turkeys;

70 (E) swine;

71 (F) equines;

72 (G) camelidae;

73 (H) ratites; or

74 (I) bison;

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

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

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

80 (i) appropriate and essential food and water;

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

83 (iii) other essential care.

84 (h) "Torture" means intentionally or knowingly causing or inflicting extreme physical

85 pain to an animal in an especially heinous, atrocious, cruel, or exceptionally depraved manner.

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

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

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

92 (c) injures an animal;

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

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

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

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

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

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

101 (a) tortures an animal;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

140 (10) County and municipal governments may not prohibit the use of an electronic

141 locating or training collar.

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

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

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

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

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

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

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

159 Section 2. Section **76-9-301.3** is enacted to read:

160 **76-9-301.3. Game fowl fighting.**

161 (1) As used in this section:

162 (a) "Game fowl" means a fowl reared or used for fighting other fowl.

163 (b) "Promote" means to engage in promoting, producing, or staging events or activities
164 that involve game fowl fighting.

165 (2) It is unlawful for a person to:

166 (a) intentionally cause a game fowl to fight with or attack another game fowl for the
167 purpose of entertainment, sport, or contest; or

168 (b) promote any activity that involves game fowl fighting, including promoting an

169 activity that is a violation of Subsection (2)(a).

170 (3) A person who violates Subsection (2) is, upon conviction, guilty of:

171 (a) a class B misdemeanor for the first violation;

172 (b) a class A misdemeanor for the second violation; or

173 (c) a third degree felony for a third or subsequent violation.

174 (4) This section does not prohibit the lawful use of livestock by the livestock owner, an

175 employee or agent of the livestock owner, or a person in the lawful custody of livestock.