

E AND R AMENDMENTS TO LB 865

Introduced by Enrollment and Review Committee: Nordquist, 7,
Chairperson

1 1. Strike the original sections and all amendments
2 thereto and insert the following new sections:

3 Section 1. Sections 1 to 12 of this act shall be known
4 and may be cited as the Livestock Animal Welfare Act.

5 Sec. 2. For purposes of the Livestock Animal Welfare Act:

6 (1) Abandon means to leave a livestock animal in one's
7 care, whether as owner or custodian, for any length of time without
8 making effective provision for the livestock animal's food, water,
9 or other care as is reasonably necessary for the livestock animal's
10 health;

11 (2) Animal welfare practice means veterinarian practices
12 and animal husbandry practices common to the livestock animal
13 industry, including transport of livestock animals from one
14 location to another;

15 (3) Bovine means a cow, an ox, or a bison;

16 (4) Cruelly mistreat means to knowingly and intentionally
17 kill or cause physical harm to a livestock animal in a manner that
18 is not consistent with animal welfare practices;

19 (5) Cruelly neglect means to fail to provide a livestock
20 animal in one's care, whether as owner or custodian, with food,
21 water, or other care as is reasonably necessary for the livestock
22 animal's health;

23 (6) Equine means a horse, pony, donkey, mule, hinny, or

1 llama;

2 (7) Euthanasia means the destruction of a livestock
3 animal by commonly accepted veterinary practices;

4 (8) Law enforcement officer means any member of the
5 Nebraska State Patrol, any county or deputy sheriff, any member
6 of the police force of any city or village, or any other public
7 official authorized by a city or village to enforce state or
8 local laws, rules, regulations, or ordinances. Law enforcement
9 officer also includes any inspector under the Commercial Dog and
10 Cat Operator Inspection Act to the extent that such inspector may
11 exercise the authority of a law enforcement officer under section
12 28-1012 while in the course of performing inspection activities
13 under the Commercial Dog and Cat Operator Inspection Act;

14 (9) Livestock animal means any bovine, equine, swine,
15 sheep, goats, domesticated cervine animals, ratite birds, or
16 poultry used for food or fiber; and

17 (10) Serious injury or illness includes any injury or
18 illness to any livestock animal which creates a substantial risk of
19 death or which causes broken bones, prolonged impairment of health,
20 or prolonged loss or impairment of the function of any bodily
21 organ.

22 Sec. 3. (1) A person who intentionally, knowingly, or
23 recklessly abandons or cruelly neglects a livestock animal is
24 guilty of a Class I misdemeanor unless the abandonment or cruel
25 neglect results in serious injury or illness or death of the
26 livestock animal, in which case it is a Class IV felony.

27 (2) A person who cruelly mistreats a livestock animal is

1 guilty of a Class I misdemeanor for the first offense and a Class
2 IV felony for any subsequent offense.

3 Sec. 4. A person commits indecency with a livestock
4 animal when such person subjects an animal to sexual penetration as
5 defined in section 28-318. Indecency with a livestock animal is a
6 Class III misdemeanor.

7 Sec. 5. (1) In addition to any other sentence given for
8 a violation of section 3 or 4 of this act, the sentencing court
9 may order the defendant to reimburse a public or private agency
10 for expenses incurred in conjunction with the care, impoundment,
11 or disposal of a livestock animal involved in the violation of
12 such section. Whenever the court believes that such reimbursement
13 is a proper sentence or at the prosecuting attorney's request,
14 the court shall order that the presentence investigation report
15 include documentation regarding the nature and amount of the
16 expenses incurred. The court may order that reimbursement be made
17 immediately, in specified installments, or within a specified
18 period of time, not to exceed five years after the date of
19 judgment.

20 (2) Even if reimbursement for expenses is not ordered
21 under subsection (1) of this section, the defendant shall be
22 liable for all expenses incurred by a public or private agency in
23 conjunction with the care, impoundment, or disposal of a livestock
24 animal. The expenses shall be a lien upon the livestock animal.

25 Sec. 6. (1) Any law enforcement officer who has reason
26 to believe that a livestock animal has been abandoned or is
27 being cruelly neglected or cruelly mistreated may seek a warrant

1 authorizing entry upon private property to inspect, care for, or
2 impound the livestock animal or livestock animals.

3 (2) Any law enforcement officer who has reason to believe
4 that a livestock animal has been abandoned or is being cruelly
5 neglected or cruelly mistreated may issue a citation to the owner
6 as prescribed in sections 29-422 to 29-429.

7 (3) Any livestock animal, equipment, device, or other
8 property or things involved in a violation of section 3 or 4
9 of this act shall be subject to seizure, and distribution or
10 disposition may be made in such manner as the court may direct.

11 (4) Any law enforcement officer acting under this section
12 shall not be liable for damage to property if such damage is not
13 the result of the officer's negligence.

14 Sec. 7. The Livestock Animal Welfare Act shall not apply
15 to:

16 (1) Care or treatment of a livestock animal or other
17 conduct by a veterinarian or veterinary technician licensed under
18 the Veterinary Medicine and Surgery Practice Act that occurs within
19 the scope of his or her employment, that occurs while acting in his
20 or her professional capacity, or that conforms to commonly accepted
21 veterinary practices;

22 (2) Euthanasia of a livestock animal or livestock animals
23 as conducted by the owner or by his or her agent or a veterinarian
24 upon the owner's request;

25 (3) Research activity carried on by any research facility
26 currently meeting the standards of the federal Animal Welfare Act,
27 7 U.S.C. 2131 et seq., as such act existed on January 1, 2010;

1 (4) Commonly accepted animal welfare practices with
2 respect to livestock animals and commercial livestock operations,
3 including their transport from one location to another and
4 nonnegligent actions taken by personnel or agents of the Department
5 of Agriculture or the United States Department of Agriculture in
6 the performance of duties prescribed by law;

7 (5) Commonly followed practices occurring in conjunction
8 with the slaughter of animals for food or byproducts;

9 (6) Commonly accepted animal training practices; and

10 (7) Commonly accepted practices occurring in conjunction
11 with sanctioned rodeos, animal racing, and pulling contests.

12 Sec. 8. (1) For purposes of this section:

13 (a) Employee means any employee of a governmental agency
14 dealing with livestock animal control or animal abuse; and

15 (b) Reasonably suspects means a basis for reporting
16 knowledge or a set of facts that would lead a person of ordinary
17 care and prudence to believe and conscientiously entertain a strong
18 suspicion that criminal activity is at hand or that a crime has
19 been committed.

20 (2) Any employee, while acting in his or her professional
21 capacity or within the scope of his or her employment, who
22 observes or is involved in an incident which leads the employee
23 to reasonably suspect that a livestock animal has been abandoned,
24 cruelly neglected, or cruelly mistreated shall report such to
25 the entity or entities that investigate such reports in that
26 jurisdiction.

27 (3) The report of an employee shall be made within two

1 working days of acquiring the information concerning the livestock
2 animal by facsimile transmission of a written report presented
3 in the form described in subsection (5) of this section or by
4 telephone. When an immediate response is necessary to protect the
5 health and safety of the livestock animal or others, the report of
6 an employee shall be made by telephone as soon as possible.

7 (4) Nothing in this section shall be construed to impose
8 a duty to investigate observed or reasonably suspected livestock
9 animal abandonment, cruel neglect, or cruel mistreatment. Any
10 person making a report under this section is immune from liability
11 except for false statements of fact made with malicious intent.

12 (5) A report made by an employee pursuant to this section
13 shall include:

14 (a) The reporter's name and title, business address, and
15 telephone number;

16 (b) The name, if known, of the livestock animal owner or
17 custodian, whether a business or individual;

18 (c) A description of the livestock animal or livestock
19 animals involved, person or persons involved, and location of the
20 livestock animal or livestock animals and the premises; and

21 (d) The date, the time, and a description of the
22 observation or incident which led the reporter to reasonably
23 suspect livestock animal abandonment, cruel neglect, or cruel
24 mistreatment and any other information the reporter believes may be
25 relevant.

26 (6) A report made by an employee pursuant to this section
27 may be made on preprinted forms prepared by the entity or entities

1 that investigate reports of livestock animal abandonment, livestock
2 animal cruel neglect, or livestock animal cruel mistreatment in
3 that jurisdiction. The form shall include space for the information
4 required under subsection (5) of this section.

5 (7) When two or more employees jointly have observed or
6 reasonably suspected livestock animal abandonment, livestock animal
7 cruel neglect, or livestock animal cruel mistreatment and there is
8 agreement between or among them, a report may be made by one person
9 by mutual agreement. Any such reporter who has knowledge that the
10 person designated to report has failed to do so shall thereafter
11 make the report.

12 (8) Any employee failing to report under this section
13 shall be guilty of an infraction.

14 Sec. 9. (1) If a person is convicted of a Class IV felony
15 under section 3 of this act, the sentencing court shall order such
16 person not to own or possess a livestock animal for at least five
17 years after the date of conviction, but such time restriction shall
18 not exceed fifteen years. Any person violating such court order
19 shall be guilty of a Class I misdemeanor.

20 (2) If a person is convicted of a Class I misdemeanor
21 under section 3 of this act or a Class III misdemeanor under
22 section 4 of this act, the sentencing court may order such person
23 not to own or possess any livestock animal after the date of
24 conviction, but such time restriction, if any, shall not exceed
25 five years. Any person violating such court order shall be guilty
26 of a Class IV misdemeanor.

27 (3) Any livestock animal involved in a violation of a

1 court order under subsection (1) or (2) of this section shall be
2 subject to seizure by law enforcement.

3 Sec. 10. (1) Any livestock animal health care
4 professional, while acting in his or her professional capacity or
5 within the scope of his or her employment, who observes or is
6 involved in an incident which leads the livestock animal health
7 care professional to reasonably suspect that a livestock animal
8 has been abandoned, cruelly neglected, or cruelly mistreated shall
9 report such treatment to an entity that investigates such reports
10 in the appropriate jurisdiction.

11 (2) Nothing in this section shall be construed to impose
12 a duty to investigate observed or reasonably suspected abandonment,
13 cruel neglect, or cruel mistreatment of a livestock animal. Any
14 person making a report under this section is immune from liability
15 except for false statements of fact made with malicious intent.

16 (3) For purposes of this section, a livestock animal
17 health care professional means a licensed veterinarian as defined
18 in section 38-3310 or a licensed veterinary technician as defined
19 in section 38-3311 whose practice involves care of livestock
20 animals.

21 Sec. 11. (1) No person shall intentionally trip or cause
22 to fall, or lasso or rope the legs of, any equine by any means
23 for the purpose of entertainment, sport, practice, or contest. The
24 intentional tripping or causing to fall, or lassoing or roping the
25 legs of, any equine by any means for the purpose of entertainment,
26 sport, practice, or contest shall not be considered a commonly
27 accepted practice occurring in conjunction with sanctioned rodeos,

1 animal racing, or pulling contests.

2 (2) Violation of this section is a Class I misdemeanor.

3 Sec. 12. (1) No person shall intentionally trip, cause to
4 fall, or drag any bovine by its tail by any means for the purpose
5 of entertainment, sport, practice, or contest. The intentional
6 tripping, causing to fall, or dragging of any bovine by its tail
7 by any means for the purpose of entertainment, sport, practice,
8 or contest shall not be considered a commonly accepted practice
9 occurring in conjunction with sanctioned rodeos, animal racing, or
10 pulling contests.

11 (2) Violation of this section is a Class I misdemeanor.

12 Sec. 13. Section 28-1008, Revised Statutes Supplement,
13 2009, is amended to read:

14 28-1008 For purposes of sections 28-1008 to 28-1017,
15 28-1019, and 28-1020:

16 (1) Abandon means to leave any animal in one's care,
17 whether as owner or custodian, for any length of time without
18 making effective provision for its food, water, or other care as is
19 reasonably necessary for the animal's health;

20 (2) Animal means any vertebrate member of the animal
21 kingdom. ~~The term~~ Animal does not include an uncaptured wild
22 creature or a livestock animal as defined in section 2 of this act;

23 ~~(3) Bovine means a cow, an ox, or a bison;~~

24 ~~(4)~~ (3) Cruelly mistreat means to knowingly and
25 intentionally kill, maim, disfigure, torture, beat, mutilate, burn,
26 scald, or otherwise inflict harm upon any animal;

27 ~~(5)~~ (4) Cruelly neglect means to fail to provide any

1 animal in one's care, whether as owner or custodian, with food,
2 water, or other care as is reasonably necessary for the animal's
3 health;

4 ~~(6) Equine means a horse, pony, donkey, mule, hinny, or~~
5 ~~llama;~~

6 ~~(7)~~ (5) Humane killing means the destruction of an
7 animal by a method which causes the animal a minimum of pain and
8 suffering;

9 ~~(8)~~ (6) Law enforcement officer means any member of
10 the Nebraska State Patrol, any county or deputy sheriff, any
11 member of the police force of any city or village, or any other
12 public official authorized by a city or village to enforce state
13 or local animal control laws, rules, regulations, or ordinances.
14 Law enforcement officer also includes any inspector under the
15 Commercial Dog and Cat Operator Inspection Act to the extent that
16 such inspector may exercise the authority of a law enforcement
17 officer under section 28-1012 while in the course of performing
18 inspection activities under the Commercial Dog and Cat Operator
19 Inspection Act;

20 ~~(9)~~ (7) Mutilation means intentionally causing permanent
21 injury, disfigurement, degradation of function, incapacitation, or
22 imperfection to an animal. Mutilation does not include conduct
23 performed by a veterinarian licensed to practice veterinary
24 medicine and surgery in this state or conduct that conforms to
25 accepted veterinary practices;

26 ~~(10)~~ (8) Police animal means a horse or dog owned or
27 controlled by the State of Nebraska for the purpose of assisting a

1 Nebraska state trooper in the performance of his or her official
2 enforcement duties;

3 ~~(11)~~ (9) Repeated beating means intentional successive
4 strikes to an animal by a person resulting in serious bodily injury
5 or death to the animal;

6 ~~(12)~~ (10) Serious injury or illness includes any injury
7 or illness to any animal which creates a substantial risk of death
8 or which causes broken bones, prolonged impairment of health, or
9 prolonged loss or impairment of the function of any bodily organ;
10 and

11 ~~(13)~~ (11) Torture means intentionally subjecting an
12 animal to extreme pain, suffering, or agony. Torture does not
13 include conduct performed by a veterinarian licensed to practice
14 veterinary medicine and surgery in this state or conduct that
15 conforms to accepted veterinary practices.

16 Sec. 14. Section 28-1013, Revised Statutes Supplement,
17 2009, is amended to read:

18 28-1013 Sections 28-1008 to 28-1017 and 28-1019 shall not
19 apply to:

20 (1) Care or treatment of an animal or other conduct by a
21 veterinarian or veterinary technician licensed under the Veterinary
22 Medicine and Surgery Practice Act that occurs within the scope
23 of his or her employment, that occurs while acting in his or
24 her professional capacity, or that conforms to commonly accepted
25 veterinary practices;

26 (2) Commonly accepted care or treatment of a police
27 animal by a law enforcement officer in the normal course of his or

1 her duties;

2 (3) Research activity carried on by any research facility
3 currently meeting the standards of the federal Animal Welfare Act,
4 7 U.S.C. 2131 et seq., as such act existed on January 1, ~~2003~~
5 2010;

6 (4) Commonly accepted practices of hunting, fishing, or
7 trapping;

8 ~~(5) Commonly accepted practices occurring in conjunction~~
9 ~~with sanctioned rodeos, animal racing, or pulling contests;~~

10 ~~(6)~~ (5) Humane killing of an animal by the owner or by
11 his or her agent or a veterinarian upon the owner's request;

12 ~~(7) Commonly accepted practices of animal husbandry with~~
13 ~~respect to farm animals and commercial livestock operations,~~
14 ~~including their transport from one location to another and~~
15 ~~nonnegligent actions taken by personnel or agents of the Nebraska~~
16 ~~Department of Agriculture or the United States Department of~~
17 ~~Agriculture in the performance of duties prescribed by law;~~

18 ~~(8)~~ (6) Use of reasonable force against an animal, other
19 than a police animal, which is working, including killing, capture,
20 or restraint, if the animal is outside the owned or rented property
21 of its owner or custodian and is injuring or posing an immediate
22 threat to any person or other animal;

23 ~~(9)~~ (7) Killing of house or garden pests; and

24 ~~(10) Commonly followed practices occurring in conjunction~~
25 ~~with the slaughter of animals for food or byproducts; and~~

26 ~~(11)~~ (8) Commonly accepted animal training practices.

27 Sec. 15. The Revisor of Statutes shall codify the

1 Livestock Animal Welfare Act in Chapter 54.

2 Sec. 16. Original sections 28-1008 and 28-1013, Revised
3 Statutes Supplement, 2009, are repealed.

4 Sec. 17. The following sections are outright repealed:
5 Sections 28-1009.02, 28-1009.03, 28-1013.01, and 28-1013.02,
6 Reissue Revised Statutes of Nebraska.

7 2. On page 1, line 3, after the first semicolon insert
8 "to eliminate penalties and provisions relating to bovines and
9 equines;".