

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 252

FINAL READING

Introduced by Cornett, 45; Cook, 13; Lautenbaugh, 18.

Read first time January 14, 2009

Committee: Judiciary

A BILL

1 FOR AN ACT relating to crimes and offenses; to amend sections
2 28-1006, 28-1007, and 28-1019, Reissue Revised Statutes
3 of Nebraska, and section 28-101, Revised Statutes
4 Supplement, 2009; to prohibit the possession of animal
5 fighting paraphernalia; to provide a penalty; to provide
6 for seizure of property; to provide for applicability;
7 to harmonize provisions; and to repeal the original
8 sections.

9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-101, Revised Statutes Supplement,
2 2009, is amended to read:

3 28-101 Sections 28-101 to 28-1356 and section 2 of this
4 act shall be known and may be cited as the Nebraska Criminal Code.

5 Sec. 2. (1) No person shall knowingly or intentionally
6 own or possess animal fighting paraphernalia with the intent to
7 commit a violation of section 28-1005.

8 (2) (a) For purposes of this section, except as
9 provided in subdivision (b) of this subsection, animal fighting
10 paraphernalia means equipment, products, and materials of any
11 kind that are used, intended for use, or designed for use in
12 the training, preparation, conditioning, or furtherance of the
13 pitting of an animal against another as defined in section 28-1004.
14 Animal fighting paraphernalia includes, but is not limited to, the
15 following:

16 (i) A breaking stick, which means a device designed for
17 insertion behind the molars of a dog for the purpose of breaking
18 the dog's grip on another animal or object;

19 (ii) A cat mill, which means a device that rotates around
20 a central support with one arm designed to secure a dog and one arm
21 designed to secure a cat, rabbit, or other small animal beyond the
22 grasp of the dog;

23 (iii) A treadmill, which means an exercise device
24 consisting of an endless belt on which the animal walks or runs
25 without changing place;

1 (iv) A fighting pit, which means a walled area designed
2 to contain an animal fight;

3 (v) A springpole, which means a biting surface attached
4 to a stretchable device, suspended at a height sufficient to
5 prevent a dog from reaching the biting surface while touching the
6 ground;

7 (vi) A heel, which means any edged or pointed instrument
8 designed to be attached to the leg of a fowl;

9 (vii) A boxing glove or muff, which means a fitted
10 protective covering for the spurs of a fowl; and

11 (viii) Any other instrument commonly used in the
12 furtherance of pitting an animal against another.

13 (b) Animal fighting paraphernalia does not include
14 equipment, products, or materials of any kind used by a
15 veterinarian licensed to practice veterinary medicine and surgery
16 in this state.

17 (3) Any person violating subsection (1) of this section
18 is guilty of a Class I misdemeanor.

19 Sec. 3. Section 28-1006, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 28-1006 (1) It shall be the duty of the sheriff, a police
22 officer, or the Nebraska State Patrol to make prompt investigation
23 of and arrest for any violation of section 28-1005 or section 2 of
24 this act.

25 (2) Any animal, equipment, device, or other property or

1 things involved in any violation of section 28-1005 or section 2
2 of this act shall be subject to seizure, and disposition may be
3 made in accordance with the method of disposition directed for
4 contraband in section 29-820.

5 (3) Any animal involved in any violation of section
6 28-1005 or section 2 of this act shall be subject to seizure.
7 Distribution or disposition may be made in such manner as the court
8 may direct. The court may give preference to adoption alternatives
9 through humane societies or comparable institutions and to the
10 protection of such animal's welfare. For a humane society or
11 comparable institution to be considered as an adoption alternative
12 under this subsection, it must first be licensed by the Department
13 of Agriculture as having passed the inspection requirements in the
14 Commercial Dog and Cat Operator Inspection Act and paid the fee
15 for inspection under the act. The court may prohibit an adopting
16 or purchasing party from selling such animal for a period not to
17 exceed one year.

18 (4) In addition to any other sentence given for a
19 violation of section 28-1005 or section 2 of this act, the
20 sentencing court may order the defendant to reimburse a public
21 or private agency for expenses incurred in conjunction with the
22 care, impoundment, or disposal, including adoption, of an animal
23 involved in the violation of ~~such~~ section 28-1005 or section 2
24 of this act. Whenever the court believes that such reimbursement
25 may be a proper sentence or the prosecuting attorney requests,

1 the court shall order that the presentence investigation report
2 include documentation regarding the nature and amount of the
3 expenses incurred. The court may order that reimbursement be made
4 immediately, in specified installments, or within a specified
5 period of time, not to exceed five years after the date of
6 judgment.

7 Sec. 4. Section 28-1007, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 28-1007 Sections 28-1004 to 28-1006 and section 2 of this
10 act shall not be construed to amend or in any manner change the
11 authority of the Game and Parks Commission under the Game Law,
12 to prohibit any conduct authorized or permitted in the Game Law,
13 or to prohibit the training of ~~dogs~~ animals for any purpose not
14 prohibited by law.

15 Sec. 5. Section 28-1019, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 28-1019 (1) (a) If a person is convicted of a Class IV
18 felony under section 28-1005 or 28-1009, the sentencing court shall
19 order such person not to own, possess, or reside with any animal
20 for at least five years after the date of conviction, but such time
21 restriction shall not exceed fifteen years. Any person violating
22 such court order shall be guilty of a Class I misdemeanor.

23 (b) If a person is convicted of a Class I misdemeanor
24 under subdivision (2) (a) of section 28-1009 or section 2 of
25 this act or a Class III misdemeanor under section 28-1010, the

1 sentencing court may order such person not to own, possess,
2 or reside with any animal after the date of conviction, but
3 such time restriction, if any, shall not exceed five years. Any
4 person violating such court order shall be guilty of a Class IV
5 misdemeanor.

6 (c) Any animal involved in a violation of a court order
7 under subdivision (a) or (b) of this subsection shall be subject to
8 seizure by law enforcement.

9 (2) This section shall not apply to any person convicted
10 under section 28-1005 or 28-1009 or section 2 of this act if a
11 licensed physician confirms in writing that ownership or possession
12 of or residence with an animal is essential to the health of such
13 person.

14 Sec. 6. Original sections 28-1006, 28-1007, and 28-1019,
15 Reissue Revised Statutes of Nebraska, and section 28-101, Revised
16 Statutes Supplement, 2009, are repealed.