

LEGISLATURE OF NEBRASKA  
ONE HUNDRED THIRD LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 423**

Introduced by Agriculture Committee: Schilz, 47, Chairperson;  
Bloomfield, 17; Hansen, 42; Harr, 8; Johnson, 23;  
Wallman, 30; Brasch, 16; Carlson, 38; Davis, 43.

Read first time January 22, 2013

Committee: Agriculture

A BILL

1 FOR AN ACT relating to agriculture; to amend sections 54-901, 54-902,  
2 54-905, and 54-906, Reissue Revised Statutes of Nebraska;  
3 to change livestock animal seizure provisions; to provide  
4 certain authority for the Department of Agriculture under  
5 the Livestock Animal Welfare Act; to harmonize  
6 provisions; and to repeal the original sections.  
7 Be it enacted by the people of the State of Nebraska,

1                   Section 1. Section 54-901, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   54-901 Sections 54-901 to 54-912 and sections 3 and 6 of  
4 this act shall be known and may be cited as the Livestock Animal  
5 Welfare Act.

6                   Sec. 2. Section 54-902, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8                   54-902 For purposes of the Livestock Animal Welfare Act:

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

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

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

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

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

1                   (6) Director means the Director of Agriculture;  
2                   ~~(6)-(7)~~ Equine means a horse, pony, donkey, mule, hinny,  
3 or llama;  
4                   ~~(7)-(8)~~ Euthanasia means the destruction of a livestock  
5 animal by commonly accepted veterinary practices;  
6                   ~~(8)-(9)~~ Law enforcement officer means any member of the  
7 Nebraska State Patrol, any county or deputy sheriff, any member of  
8 the police force of any city or village, or any other public official  
9 authorized by a city or village to enforce state or local laws,  
10 rules, regulations, or ordinances; ~~Law enforcement officer also~~  
11 ~~includes any inspector under the Commercial Dog and Cat Operator~~  
12 ~~Inspection Act to the extent that such inspector may exercise the~~  
13 ~~authority of a law enforcement officer under section 28-1012 while in~~  
14 ~~the course of performing inspection activities under the Commercial~~  
15 ~~Dog and Cat Operator Inspection Act;~~  
16                   ~~(9)-(10)~~ Livestock animal means any bovine, equine,  
17 swine, sheep, goats, domesticated cervine animals, ratite birds, or  
18 poultry; ~~and~~  
19                   (11) Owner or custodian means any person owning, keeping,  
20 possessing, harboring, or knowingly permitting an animal to remain on  
21 or about any premises owned or occupied by such person; and  
22                   ~~(10)-(12)~~ Serious injury or illness includes any injury  
23 or illness to any livestock animal which creates a substantial risk  
24 of death or which causes broken bones, prolonged impairment of  
25 health, or prolonged loss or impairment of the function of any bodily

1 organ.

2           Sec. 3. The Legislature finds and declares that livestock  
3 animals mismanaged through acts of cruelty, neglect, and abandonment  
4 may present the potential for heightened disease and biosecurity risk  
5 and that the occurrence and resolution of incidents of livestock  
6 cruelty, neglect, or abandonment may be aided by the livestock health  
7 authorities and resources of the State Veterinarian and the  
8 Department of Agriculture to protect the health of livestock in  
9 Nebraska. It is the intent of the Legislature that to the extent  
10 feasible and practicable, the department may assist local authorities  
11 in the resolution of incidents of livestock cruelty, abandonment, or  
12 neglect under the Livestock Animal Welfare Act except that the  
13 department shall not assume any duties for enforcement of violations  
14 of the act nor responsibility for the care and disposition of  
15 affected livestock animals beyond the department's responsibility and  
16 authority regarding livestock health. In carrying out the  
17 department's authority under this section, the director shall:

18           (1) Commission animal cruelty investigation agents, as  
19 determined by the director, who shall be assigned by the director  
20 upon request of a law enforcement agency to advise and assist law  
21 enforcement officers regarding the condition, care, and disposition  
22 of seized livestock animals and to represent the State Veterinarian  
23 regarding any livestock health interests of the Department of  
24 Agriculture with respect to such animals. Animal cruelty  
25 investigation agents shall be licensed veterinarians who have

1 completed training or acquired certification as specified by the  
2 director. The director may determine classifications of commissions  
3 of agents. Such commissioned agents shall be agents of the state for  
4 purposes of the State Tort Claims Act when acting within the agent's  
5 commission. All commissions shall be approved by the director, and  
6 commissions shall expire on the anniversary date of issuance but may  
7 be renewed at the discretion of the director. The director shall  
8 furnish or contract for training and certification services to  
9 qualify agents for commission under this section; and

10 (2) Make available such other assistance within the  
11 department's expertise and capabilities to aid the appropriate  
12 disposition of livestock animals.

13 Sec. 4. Section 54-905, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 54-905 (1) In addition to any other sentence given for a  
16 violation of section 54-903 or 54-904, the sentencing court may order  
17 the defendant to reimburse a public or private agency for any  
18 unreimbursed expenses incurred in conjunction with the care,  
19 ~~impoundment, seizure,~~ or disposal of a livestock animal involved in  
20 the violation of such section. Whenever the court believes that such  
21 reimbursement is a proper sentence or at the prosecuting attorney's  
22 request, the court shall order that the presentence investigation  
23 report include documentation regarding the nature and amount of the  
24 expenses incurred. The court may order that reimbursement be made  
25 immediately, in specified installments, or within a specified period

1 of time, not to exceed five years after the date of judgment.

2 (2) Even if reimbursement for expenses is not ordered  
3 under subsection (1) of this section, the defendant shall be liable  
4 for all expenses incurred by a public or private agency in  
5 conjunction with the care, ~~impoundment,~~ seizure, or disposal of a  
6 livestock animal. The expenses shall be a lien upon the livestock  
7 animal.

8 Sec. 5. Section 54-906, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 54-906 (1) ~~Any~~ A law enforcement officer who has reason  
11 to believe that a livestock animal has been abandoned or is being  
12 cruelly neglected or cruelly mistreated may seek a warrant  
13 authorizing entry upon private property to inspect, care for, or  
14 impound the livestock animal. ~~or livestock animals.~~

15 (2) ~~Any~~ A law enforcement officer who has reason to  
16 believe that a livestock animal has been abandoned or is being  
17 cruelly neglected or cruelly mistreated may issue a citation to the  
18 owner or custodian as prescribed in sections 29-422 to 29-429.

19 (3) A law enforcement officer may specify in a custody  
20 agreement the terms and conditions by which the owner or custodian  
21 may maintain custody of the livestock animal to provide care for such  
22 animal at the expense of the owner. The custody agreement shall be  
23 signed by the owner or custodian of the livestock animal. A violation  
24 of the custody agreement may result in the seizure of the livestock  
25 animal.

1           ~~(3)-(4)~~ Any livestock animal, equipment, device, or other  
2 property or things involved in a violation of section 54-903 or  
3 54-904 shall be subject to seizure, and distribution or disposition  
4 may be made in such manner as the court may direct. Any livestock  
5 animal involved in a violation of section 54-903 or 54-904 shall be  
6 subject to seizure. Distribution or disposition shall be made under  
7 section 6 of this act as the court may direct. Any livestock animal  
8 seized under this subsection may be kept by the law enforcement  
9 officer on the property of the owner or custodian of such livestock  
10 animal.

11           (5) A law enforcement officer may euthanize or cause a  
12 livestock animal seized or kept pursuant to this section to be  
13 euthanized if the animal is experiencing extreme pain or suffering or  
14 is severely injured, disabled, or diseased past recovery for any  
15 useful purpose. The law enforcement officer shall notify the owner or  
16 custodian prior to the euthanization if practicable under the  
17 circumstances. An owner or custodian may request that a veterinarian  
18 of the owner's or custodian's choosing view the livestock animal and  
19 be present upon examination of the livestock animal, and no livestock  
20 animal shall be euthanized without reasonable accommodation to  
21 provide for the presence of the owner's or custodian's veterinarian  
22 when requested. However, attempted notification of the owner or  
23 custodian or the presence of the owner's or custodian's veterinarian  
24 shall not delay the euthanization for more than twenty-four hours.

25           ~~(4) Any~~ (6) A law enforcement officer acting under this

1 section shall not be liable for damage to property if such damage is  
2 not the result of the officer's negligence.

3           Sec. 6. (1) After a livestock animal has been seized, the  
4 agency that took custody of the livestock animal shall, within seven  
5 days after the date of seizure, file a complaint with the district  
6 court in the county in which the animal was seized for a hearing to  
7 determine the disposition and the cost for the care of the livestock  
8 animal. Notice of such hearing shall be given to the owner or  
9 custodian from whom such livestock animal was seized and to any  
10 holder of a lien or security interest of record in such animal,  
11 specifying the date, time, and place of such hearing. Such notice  
12 shall be served by personal or residential service or by certified  
13 mail. If such notice cannot be served by such methods, service may be  
14 made by publication in the county where such livestock animal was  
15 seized. Such publication shall be made after application and order of  
16 the court. The hearing shall be held as soon as practicable and not  
17 more than ten business days after the date of application for the  
18 hearing unless otherwise determined and ordered by the court.

19           (2) If the court finds that probable cause exists that  
20 the livestock animal has been abandoned or cruelly neglected or  
21 mistreated the court may:

22           (a) Order immediate forfeiture of the livestock animal to  
23 the agency that took custody of the livestock animal and authorize  
24 appropriate disposition of the livestock animal, including sale at  
25 public auction, adoption, donation to a suitable shelter, humane



1 destruction, or any other manner of disposition approved by the  
2 court. With respect to sale of a livestock animal, the proceeds shall  
3 first be applied to the cost of sale and then to the expenses for the  
4 care of the livestock animal and the remaining proceeds, if any,  
5 shall be paid to the holder of a lien or security interest of record  
6 in such and then to the owner of the livestock animal;

7           (b) Issue an order to the owner or custodian setting  
8 forth the conditions under which custody of the livestock animal  
9 shall be returned to the owner or custodian from whom the livestock  
10 animal was seized or to any other person claiming an interest in the  
11 livestock animal. Such order may include any management actions  
12 deemed necessary and prudent by the court, including culling by sale,  
13 humane disposal, or forfeiture and securing necessary care, including  
14 veterinary care, sufficient for the maintenance of any remaining  
15 livestock animal; or

16           (c) Order the person from whom the livestock was seized  
17 to post a bond or security in an amount determined by the court that  
18 is sufficient to reimburse all reasonable costs of care for the  
19 livestock animal incurred by the agency from the date of seizure.  
20 Reasonable costs of care include, but are not limited to, veterinary  
21 care, feed and forage, and boarding costs. The bond or security shall  
22 be placed with the agency that took custody of the livestock animal.  
23 The agency shall provide an accounting of expenses to the court when  
24 the livestock animal is no longer in the custody of the agency or  
25 upon request by the court. The agency may petition the court for a

1 subsequent bond hearing under this subsection at any time. The bond  
2 hearing shall be held as soon as practicable and not more than ten  
3 business days after the date of application for the bond hearing  
4 unless otherwise determined and ordered by the court. When all  
5 expenses covered by the bond or security are exhausted and subsequent  
6 bond or security has not been posted, the livestock animal shall be  
7 forfeited to the agency.

8 (3) If custody of a livestock animal is returned to the  
9 owner or custodian of the livestock animal prior to seizure, any bond  
10 or security not used for the care of the livestock animal during the  
11 time the animal was held by the agency shall be returned to the  
12 owner.

13 (4) Nothing in this section shall prevent the euthanasia  
14 of a seized livestock animal at any time as determined necessary by a  
15 law enforcement officer or as authorized by court order.

16 (5) An appeal may be entered within ten days after a  
17 hearing under this section. Any person filing an appeal shall post a  
18 bond or security sufficient to pay reasonable costs of care of the  
19 livestock animal for thirty days. Such payment will be required for  
20 each succeeding thirty-day period until the appeal is final.

21 (6) If the owner or custodian from whom the livestock  
22 animal was seized is found not guilty in an associated criminal  
23 proceeding, all funds paid for the expenses of the livestock animal  
24 shall be returned to such person.

25 (7) This section shall not preempt any ordinance of a

1 city of the metropolitan class.

2                   Sec. 7. Original sections 54-901, 54-902, 54-905, and  
3 54-906, Reissue Revised Statutes of Nebraska, are repealed.