

SENATE BILL NO. 396—SENATORS TOWNSEND AND TITUS

MARCH 12, 1999

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to certain animals. (BDR 15-987)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State or on Industrial Insurance: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to animals; making certain acts regarding the treatment of certain animals unlawful; increasing the penalties for certain mistreatment of animals; clarifying the definition of service animal; providing a penalty; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** NRS 206.150 is hereby amended to read as follows:
2 206.150 1. Except as *otherwise* provided in ~~subsection 2,~~
3 *subsections 2 and 3*, any person who willfully and maliciously kills, maims
4 or disfigures any animal belonging to another, or exposes any poison or
5 noxious substance with intent that it should be taken by the animal is guilty
6 of a public offense proportionate to the value of the loss resulting therefrom
7 but in no event less than a gross misdemeanor.
8 2. *Except as otherwise provided in NRS 205.220, a person who*
9 *willfully and maliciously kills an estray or one or more head of livestock,*
10 *without the authority to do so, is guilty of a category C felony and shall*
11 *be punished as provided in NRS 193.130.*
12 3. The provisions of subsection 1 do not apply to any person who kills
13 a dog pursuant to NRS 575.020.
14 4. *As used in this section:*
15 (a) *“Estray” means any livestock running at large upon public or*
16 *private lands in this state, whose owner is unknown in the section where*
17 *the animal is found.*
18 (b) *“Livestock” has the meaning ascribed to it in NRS 205.219.*

1 **Sec. 2.** NRS 426.097 is hereby amended to read as follows:
2 426.097 "Service animal" means an animal which has been or is being
3 trained to provide a specialized service to a handicapped person ~~[-] by a~~
4 *school that is approved by the division to train such an animal.*

5 **Sec. 3.** NRS 426.790 is hereby amended to read as follows:
6 426.790 1. It is unlawful for any person to beat, harass, intimidate or
7 interfere with a guide dog, hearing dog, helping dog or other service
8 animal.

9 2. Any person who violates subsection 1 ~~[-] shall be punished by~~
10 ~~imprisonment in the county jail for not more than 6 months, or by a fine of~~
11 ~~not less than \$100 nor more than \$500, or by both fine and imprisonment.]~~
12 *is guilty of a category E felony and shall be punished as provided in NRS*
13 *193.130.*

14 **Sec. 4.** NRS 504.490 is hereby amended to read as follows:

15 504.490 1. Any person, not authorized to do so, who:

16 ~~[-] (a)~~ Removes or attempts to remove a wild horse from the public
17 lands;

18 ~~[-] (b)~~ Converts a wild horse to private use;

19 ~~[-] (c)~~ Harasses a wild horse , *except as otherwise provided in*
20 *subsection 2,* or kills a wild horse;

21 ~~[-] (d)~~ Uses an aircraft or a motor vehicle to hunt any wild horse;

22 ~~[-] (e)~~ Pollutes or causes the pollution of a watering hole on public
23 land to trap, wound, kill or maim a wild horse;

24 ~~[-] (f)~~ Makes or causes the remains of a wild horse to be made into any
25 commercial product;

26 ~~[-] (g)~~ Sells a wild horse which strays onto private property; or

27 ~~[-] (h)~~ Willfully violates a regulation adopted by the commission for
28 the preservation of wild horses,
29 is guilty of a gross misdemeanor.

30 2. *A person who willfully and maliciously kills a wild horse is guilty*
31 *of a category C felony and shall be punished as provided in NRS*
32 *193.130.*

33 **Sec. 5.** Chapter 574 of NRS is hereby amended by adding thereto a
34 new section to read as follows:

35 1. *Except as otherwise provided in subsection 5, it is unlawful for a*
36 *person to:*

37 (a) *Willfully or maliciously taunt, torment, tease, beat, strike or*
38 *administer a desensitizing drug, chemical or substance to a police*
39 *animal;*

40 (b) *Interfere with a police animal or a handler thereof in the*
41 *performance of duties assigned to the police animal or handler; or*

42 (c) *Willfully or maliciously torture, mutilate, injure, disable, kill or*
43 *poison a police animal.*

1 2. A person who is convicted of violating paragraph (a) or (b) of
2 subsection 1 is guilty of a misdemeanor.

3 3. A person who is convicted of violating paragraph (c) of subsection
4 1 is guilty of:

5 (a) A gross misdemeanor; or

6 (b) A category D felony if the police animal is totally disabled or killed
7 and shall be punished as provided in NRS 193.130.

8 4. In addition to imposing punishment for a violation of this section,
9 if the police animal is totally disabled or killed, a court may require a
10 person to pay restitution to the agency that owns the animal, including,
11 without limitation, payment for veterinary services and the cost of
12 replacing the animal.

13 5. The provisions of subsections 1 to 4, inclusive, do not apply to a
14 peace officer or veterinarian or euthanasia technician licensed pursuant
15 to chapter 638 of NRS who euthanizes a police animal in an emergency
16 if the animal is critically wounded and would otherwise endure undue
17 suffering and pain.

18 **Sec. 6.** NRS 574.050 is hereby amended to read as follows:

19 574.050 As used in NRS 574.050 to 574.200, inclusive ~~§~~, and
20 section 5 of this act:

21 1. "Animal" does not include the human race, but includes every other
22 living creature.

23 2. *"Police animal" means an animal which is owned by a state or*
24 *local governmental agency and which is used by a peace officer in*
25 *performing his duties as a peace officer.*

26 3. "Torture" or "cruelty" includes every act, omission or neglect,
27 whereby unjustifiable physical pain, suffering or death is caused or
28 permitted.

29 **Sec. 7.** NRS 574.055 is hereby amended to read as follows:

30 574.055 1. Any peace officer or officer of a society for the
31 prevention of cruelty to animals who is authorized to make arrests pursuant
32 to NRS 574.040 shall, upon discovering any animal which is being treated
33 cruelly, take possession of it and provide it with shelter and care or, upon
34 obtaining written permission from the owner of the animal, may destroy it
35 in a humane manner.

36 2. When an officer takes possession of an animal, he shall give to the
37 owner, if the owner can be found, a notice containing a written statement of
38 the reasons for the taking, the location where the animal will be cared for
39 and sheltered, and the fact that there is a limited lien on the animal for the
40 cost of shelter and care. If the owner is not present at the taking and the

1 officer cannot find the owner after a reasonable search, he shall post the
2 notice on the property from which he takes the animal. If the identity and
3 address of the owner are later determined, the notice must be mailed to the
4 owner immediately after the determination is made.

5 3. An officer who takes possession of an animal pursuant to this section
6 has a lien on the animal for the reasonable cost of care and shelter furnished
7 to the animal and, if applicable, for its humane destruction. The lien does
8 not extend to the cost of care and shelter for more than 2 weeks.

9 4. Upon proof that the owner has been notified in accordance with
10 subsection 2 or, if he has not been found or identified, that the required
11 notice has been posted on the property where the animal was found, a court
12 of competent jurisdiction may, after providing an opportunity for a hearing,
13 order the animal sold at auction, humanely destroyed or continued in the
14 care of the officer for such disposition as the officer sees fit.

15 5. An officer who seizes an animal pursuant to this section is not liable
16 for any action arising out of the taking or humane destruction of the animal.

17 6. This section does not apply to any animal which is located on land
18 being employed for an agricultural use as defined in NRS 361A.030 unless
19 the owner of the animal or the person charged with the care of the animal is
20 in violation of *paragraph (b) of* subsection ~~2~~ 1 of NRS 574.100 and the
21 impoundment is accomplished with the concurrence and supervision of the
22 sheriff or his designee, a licensed veterinarian and the district brand
23 inspector or his designee. In such a case, the sheriff shall direct that the
24 impoundment occur no later than 48 hours after the veterinarian determines
25 that a violation of *paragraph (b) of* subsection ~~2~~ 1 of NRS 574.100
26 exists.

27 7. The owner of an animal impounded in accordance with subsection 6
28 must, before the animal is released to his custody, pay the charges approved
29 by the sheriff as reasonably related to the impoundment, including the
30 charges for the animal's food and water. If the owner is unable or refuses to
31 pay the charges, the division of agriculture of the department of business
32 and industry shall sell the animal. The division shall pay to the owner the
33 proceeds of the sale remaining after deducting the charges reasonably
34 related to the impoundment.

35 **Sec. 8.** NRS 574.100 is hereby amended to read as follows:

36 574.100 1. Except in any case involving a willful or malicious act for
37 which a greater penalty is provided by NRS 206.150, ~~if a person who:~~

38 ~~—1.—Overdrives, overloads, tortures or cruelly beats or unjustifiably~~
39 ~~injures, maims, mutilates or kills any~~ *it is unlawful for a person to:*

40 *(a) Overdrive, overload, torture, cruelly beat, unjustifiably injure,*
41 *maim, mutilate or kill an* animal, whether belonging to himself or to
42 another;

~~{2.—Deprives any}~~

(b) Deprive an animal of necessary sustenance, food or drink, or
~~{neglects or refuses}~~ *neglect or refuse* to furnish it such sustenance or
drink;

~~{3.—Causes, procures or permits any}~~

(c) Cause, procure or allow an animal to be overdriven, overloaded,
tortured, cruelly beaten, or unjustifiably injured, maimed, mutilated or
killed, or to be deprived of necessary food or drink;

~~{4.—Willfully sets on foot, instigates, engages}~~

(d) Set foot, instigate, engage in, or in any way ~~{furthers}~~ *further* an act
of cruelty to any animal, or any act tending to produce such cruelty; or

~~{5.—Abandons}~~

(e) Abandon an animal in circumstances other than those prohibited in
NRS 574.110 . ~~;~~

~~is guilty of a misdemeanor.}~~

2. A person convicted of violating the provisions of subsection 1:

*(a) For the first offense within the immediately preceding 7 years, is
guilty of a misdemeanor and shall be sentenced to:*

*(1) Imprisonment in the city or county jail or detention facility for
not less than 2 days, but not more than 6 months; and*

*(2) Perform not less than 48 hours, but not more than 120 hours, of
community service.*

*The person shall be further punished by a fine of not less than \$200, but
not more than \$1,000. A term of imprisonment imposed pursuant to this
paragraph may be served intermittently at the discretion of the judge or
justice of the peace, except that each period of confinement must be not
less than 4 consecutive hours and must occur either at a time when the
person is not required to be at his place of employment or on a weekend.*

*(b) For the second offense within the immediately preceding 7 years,
is guilty of a misdemeanor and shall be sentenced to:*

*(1) Imprisonment in the city or county jail or detention facility for
not less than 10 days, but not more than 6 months; and*

*(2) Perform not less than 100 hours, but not more than 200 hours,
of community service.*

*The person shall be further punished by a fine of not less than \$500, but
not more than \$1,000.*

*(c) For the third and any subsequent offense within the immediately
preceding 7 years, is guilty of a category C felony and shall be punished
as provided in NRS 193.130.*

1 **3. In addition to any other fine or penalty provided in subsection 2, a**
2 **court shall order a person convicted of violating subsection 1 to pay**
3 **restitution for all costs associated with the care and impoundment of any**
4 **mistreated animal under subsection 1, including, without limitation,**
5 **money expended for veterinary treatment, feed and housing.**

6 **4. The court may order the person convicted of violating subsection 1**
7 **to surrender ownership or possession of the mistreated animal.**

8 **Sec. 9.** NRS 651.075 is hereby amended to read as follows:

9 651.075 1. It is unlawful for a place of public accommodation to:

10 (a) Refuse admittance or service to a person with a visual, aural or
11 physical disability because he is accompanied by a guide dog, hearing dog,
12 helping dog or other service animal;

13 (b) Refuse admittance or service to a person training such an animal;

14 (c) Refuse to permit an employee of the place of public accommodation
15 who is training such an animal to bring the animal into:

16 (1) The place of public accommodation; or

17 (2) Any area within the place of public accommodation to which
18 employees of the place have access, regardless of whether the area is open
19 to the public; or

20 (d) Charge an additional fee for such an animal.

21 2. A place of accommodation may require proof that an animal is a
22 guide dog, hearing dog, helping dog or other service animal, or that a
23 person is training such an animal. This requirement may be satisfied, by
24 way of example and not of limitation, by exhibition of the identification
25 card normally presented to a trainer of such an animal or to a person with a
26 visual, aural or physical disability upon his graduation from a school for
27 guide dogs, school for hearing dogs, ~~for~~ school for helping dogs ~~or~~ **or**
28 **other school that is approved by the rehabilitation division of the**
29 **department of employment, training and rehabilitation to train a service**
30 **animal to provide a specialized service to a handicapped person.**

31 3. A guide dog, hearing dog, helping dog or other service animal may
32 not be presumed dangerous by reason of the fact it is not muzzled.

33 4. This section does not relieve a person with a disability or a person
34 who trains such an animal from liability for damage caused by his guide
35 dog, hearing dog, helping dog or other service animal.

36 5. Persons with disabilities who are accompanied by guide dogs,
37 hearing dogs, helping dogs or other service animals are subject to the same
38 conditions and limitations that apply to persons who are not so disabled and
39 accompanied.

1 6. For the purposes of this section, the terms “guide dog,” “hearing
2 dog,” “helping dog” and “service animal” have the meanings ascribed to
3 them respectively in NRS 426.075, 426.081, 426.083 and 426.097.

4 **Sec. 10.** The amendatory provisions of this act do not apply to
5 offenses that were committed before October 1, 1999.

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