

SENATE BILL NO. 223—SENATORS BREEDEN,
PARKS; AND MANENDO

MARCH 7, 2011

JOINT SPONSOR: ASSEMBLYMAN SEGERBLOM

Referred to Committee on Natural Resources

SUMMARY—Revises provisions relating to cruelty to animals.
(BDR 50-760)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: 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; authorizing a person to report an act of cruelty against an animal; requiring such a report to be kept confidential under certain circumstances; making certain willful and malicious acts of cruelty to certain animals punishable as a felony; clarifying that a retailer, dealer or operator who separates a dog or cat from its mother is guilty of a misdemeanor under certain circumstances; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law prohibits a person from committing an act of cruelty against an
2 animal. (NRS 574.100) "Cruelty" is defined to include any act, omission or neglect,
3 whereby unjustifiable physical pain, suffering or death is caused or permitted.
4 (NRS 574.050) For a first or second offense within 7 years, existing law provides
5 that a person who commits an act of cruelty against an animal is guilty of a
6 misdemeanor. For a third or subsequent offense within 7 years, existing law
7 provides that such a person is guilty of a category C felony. (NRS 574.100)
8 Existing law also prohibits a person from committing certain acts against a dog that
9 is owned by another person and that is used in an exhibition, show, contest or other
10 event in which the skill, breeding or stamina of the dog is judged or examined.
11 Specifically, a person who willfully, unjustifiably and maliciously tampers or
12 interferes with such a dog is guilty of a category D felony. A person who willfully
13 and unjustifiably abuses or injures such a dog is guilty of a category D felony and
14 may be further punished by a fine of not more than \$10,000. A person who



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willfully and unjustifiably kills such a dog is guilty of a category C felony. (NRS 574.107) **Section 1** of this bill: (1) authorizes a person to report an act of cruelty against an animal to any peace officer, officer of a society for the prevention of cruelty to animals or animal control officer; (2) provides that the report is confidential; and (3) prohibits releasing any information concerning the report except for the purposes of a criminal investigation or prosecution. **Section 4** of this bill provides that a person who willfully and maliciously commits certain acts of cruelty against an animal kept for companionship or pleasure or against any cat or dog is guilty of a category D felony, except that the person is guilty of a category C felony if the act of cruelty is committed against the animal in order to threaten, intimidate or terrorize another person.

Existing law prohibits a retailer, dealer or operator from separating a dog or cat from its mother until it is 8 weeks of age or is accustomed to taking food or nourishment other than by nursing, whichever is later. (NRS 574.500) Although no penalty is specifically provided for violating that prohibition, existing law provides that whenever the performance of any act is prohibited by any statute, and no penalty for the violation of such statute is imposed, a person who commits that act is guilty of a misdemeanor. (NRS 193.170) **Section 6** of this bill clarifies that a person who separates a dog or cat from its mother before it is 8 weeks old or is accustomed to taking food or nourishment other than by nursing is guilty of a misdemeanor.

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

Section 1. Chapter 574 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Any person who knows or has reasonable cause to believe that an animal has been subjected to an act of cruelty in violation of NRS 574.100 may report the act of cruelty to any:

(a) Peace officer;

(b) Officer of a society for the prevention of cruelty to animals who is authorized to make arrests pursuant to NRS 574.040; or

(c) Animal control officer.

2. Any report made pursuant to subsection 1 is confidential.

3. Any person, law enforcement agency, society for the prevention of cruelty to animals or animal control agency that willfully releases data or information concerning the reports, except for the purposes of a criminal investigation or prosecution, is guilty of a misdemeanor.

Sec. 2. NRS 574.050 is hereby amended to read as follows:

574.050 As used in NRS 574.050 to 574.200, inclusive **H** ,
and section 1 of this act:

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

2. "First responder" means a person who has successfully completed the national standard course for first responders.



3. "Police animal" means an animal which is owned or used by a state or local governmental agency and which is used by a peace officer in performing his or her duties as a peace officer.

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

Sec. 3. NRS 574.055 is hereby amended to read as follows:

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

2. If an officer takes possession of an animal, the officer shall give to the owner, if the owner can be found, a notice containing a written statement of the reasons for the taking, the location where the animal will be cared for and sheltered, and the fact that there is a limited lien on the animal for the cost of shelter and care. If the owner is not present at the taking and the officer cannot find the owner after a reasonable search, the officer shall post the notice on the property from which the officer takes the animal. If the identity and address of the owner are later determined, the notice must be mailed to the owner immediately after the determination is made.

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

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

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

6. The provisions of this section do not apply to any animal which is located on land being employed for an agricultural use as defined in NRS 361A.030 unless the owner of the animal or the person charged with the care of the animal is in violation of paragraph ~~(b)~~ (c) of subsection 1 of NRS 574.100 and the impoundment is accomplished with the concurrence and supervision of the sheriff or the sheriff's designee, a licensed veterinarian and



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1 the district brand inspector or the district brand inspector's designee.
2 In such a case, the sheriff shall direct that the impoundment occur
3 not later than 48 hours after the veterinarian determines that a
4 violation of paragraph ~~[(b)]~~ (c) of subsection 1 of NRS 574.100
5 exists.

6 7. The owner of an animal impounded in accordance with the
7 provisions of subsection 6 must, before the animal is released to the
8 owner's custody, pay the charges approved by the sheriff as
9 reasonably related to the impoundment, including the charges for
10 the animal's food and water. If the owner is unable or refuses to pay
11 the charges, the State Department of Agriculture shall sell the
12 animal. The Department shall pay to the owner the proceeds of
13 the sale remaining after deducting the charges reasonably related to
14 the impoundment.

15 **Sec. 4.** NRS 574.100 is hereby amended to read as follows:

16 574.100 1. A person shall not:

17 (a) ~~[(Overdrive,)]~~ ***Torture or unjustifiably maim, mutilate or kill:***

18 ***(1) An animal kept for companionship or pleasure, whether***
19 ***belonging to the person or to another; or***

20 ***(2) Any cat or dog;***

21 ***(b) Except as otherwise provided in paragraph (a), overdrive,***
22 ***overload, torture, cruelly beat or unjustifiably injure, maim, mutilate***
23 ***or kill an animal, whether belonging to the person or to another;***

24 ~~[(b)]~~ (c) Deprive an animal of necessary sustenance, food or
25 drink, or neglect or refuse to furnish it such sustenance or drink;

26 ~~[(e)]~~ (d) Cause, procure or allow an animal to be overdriven,
27 overloaded, tortured, cruelly beaten, or unjustifiably injured,
28 maimed, mutilated or killed or to be deprived of necessary food or
29 drink;

30 ~~[(d)]~~ (e) Instigate, engage in, or in any way further an act of
31 cruelty to any animal, or any act tending to produce such cruelty; or

32 ~~[(e)]~~ (f) Abandon an animal in circumstances other than those
33 prohibited in NRS 574.110.

34 2. Except as otherwise provided in subsections 3 and 4 and
35 NRS 574.210 to 574.510, inclusive, a person shall not restrain a
36 dog:

37 (a) Using a tether, chain, tie, trolley or pulley system or other
38 device that:

39 (1) Is less than 12 feet in length;

40 (2) Fails to allow the dog to move at least 12 feet or, if the
41 device is a pulley system, fails to allow the dog to move a total of 12
42 feet; or

43 (3) Allows the dog to reach a fence or other object that may
44 cause the dog to become injured or die by strangulation after



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1 jumping the fence or object or otherwise becoming entangled in the
2 fence or object;

3 (b) Using a prong, pinch or choke collar or similar restraint; or

4 (c) For more than 14 hours during a 24-hour period.

5 3. Any pen or other outdoor enclosure that is used to maintain
6 a dog must be appropriate for the size and breed of the dog. If any
7 property that is used by a person to maintain a dog is of insufficient
8 size to ensure compliance by the person with the provisions of
9 paragraph (a) of subsection 2, the person may maintain the dog
10 unrestrained in a pen or other outdoor enclosure that complies with
11 the provisions of this subsection.

12 4. The provisions of subsections 2 and 3 do not apply to a dog
13 that is:

14 (a) Tethered, chained, tied, restrained or placed in a pen or
15 enclosure by a veterinarian, as defined in NRS 574.330, during the
16 course of the veterinarian's practice;

17 (b) Being used lawfully to hunt a species of wildlife in this State
18 during the hunting season for that species;

19 (c) Receiving training to hunt a species of wildlife in this State;

20 (d) In attendance at and participating in an exhibition, show,
21 contest or other event in which the skill, breeding or stamina of the
22 dog is judged or examined;

23 (e) Being kept in a shelter or boarding facility or temporarily in
24 a camping area;

25 (f) Temporarily being cared for as part of a rescue operation or
26 in any other manner in conjunction with a bona fide nonprofit
27 organization formed for animal welfare purposes;

28 (g) Living on land that is directly related to an active agricultural
29 operation, if the restraint is reasonably necessary to ensure the safety
30 of the dog. As used in this paragraph, "agricultural operation"
31 means any activity that is necessary for the commercial growing and
32 harvesting of crops or the raising of livestock or poultry; or

33 (h) With a person having custody or control of the dog, if the
34 person is engaged in a temporary task or activity with the dog for
35 not more than 1 hour.

36 5. *A person who willfully and maliciously violates paragraph*
37 *(a) of subsection 1:*

38 *(a) Except as otherwise provided in paragraph (b), is guilty of*
39 *a category D felony and shall be punished as provided in*
40 *NRS 193.130.*

41 *(b) If the act is committed in order to threaten, intimidate or*
42 *terrorize another person, is guilty of a category C felony and shall*
43 *be punished as provided in NRS 193.130.*

44 6. *Except as otherwise provided in subsection 5, a person who*
45 *violates subsection 1, 2 or 3:*



(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 the person's 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.

~~6-1~~ 7. In addition to any other fine or penalty provided in subsection 5 ~~4~~ or 6, a court shall order a person convicted of violating subsection 1, 2 or 3 to pay restitution for all costs associated with the care and impoundment of any mistreated animal under subsection 1, 2 or 3, including, without limitation, money expended for veterinary treatment, feed and housing.

~~7-1~~ 8. The court may order the person convicted of violating subsection 1, 2 or 3 to surrender ownership or possession of the mistreated animal.

~~8-1~~ 9. The provisions of this section do not apply with respect to an injury to or the death of an animal that occurs accidentally in the normal course of:

(a) Carrying out the activities of a rodeo or livestock show; or

(b) Operating a ranch.

Sec. 5. NRS 574.200 is hereby amended to read as follows:

574.200 The provisions of NRS 574.050 to 574.510, inclusive, **and section 1 of this act** do not:

1. Interfere with any of the fish and game laws contained in title 45 of NRS or any laws for the destruction of certain birds.

2. Interfere with the right to destroy any venomous reptiles or animals, or any animal known as dangerous to life, limb or property.



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3. Interfere with the right to kill all animals and fowl used for food.

4. Prohibit or interfere with any properly conducted scientific experiments or investigations which are performed under the authority of the faculty of some regularly incorporated medical college or university of this State.

5. Interfere with any scientific or physiological experiments conducted or prosecuted for the advancement of science or medicine.

6. Prohibit or interfere with established methods of animal husbandry, including the raising, handling, feeding, housing and transporting of livestock or farm animals.

Sec. 6. NRS 574.500 is hereby amended to read as follows:

574.500 **1.** A retailer, dealer or operator shall not separate a dog or cat from its mother until it is 8 weeks of age or accustomed to taking food or nourishment other than by nursing, whichever is later.

2. *A person who violates the provisions of this section is guilty of a misdemeanor.*

