

Amendment No. 339

Assembly Amendment to Assembly Bill No. 170	(BDR 14-762)
Proposed by: Assembly Committee on Natural Resources	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.



ASSEMBLY BILL NO. 170—ASSEMBLYWOMAN MARTINEZ

FEBRUARY 23, 2021

Referred to Committee on Natural Resources

SUMMARY—Revises provisions governing animals. (BDR 14-762)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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; requiring the State Department of Agriculture to create certain written notices relating to impounded animals; requiring county or city jails or detention facilities to post and maintain such notices; authorizing certain employees of animal shelters to enforce certain provisions in existing law; requiring certain notices of a right to request a hearing to be provided upon the lawful issuance of a citation or arrest for certain offenses relating to cruelty to animals; providing for a hearing to make certain determinations relating to an impounded animal; authorizing an animal rescue organization, an animal shelter and certain other persons to sell at auction, humanely destroy or continue to care for certain animals; ~~requiring the State Department of Agriculture to create and maintain certain written notices relating to impounded animals;~~ providing that any evidence derived from testimony during certain hearings is inadmissible during certain subsequent proceedings, except for purposes of impeachment or rebuttal; providing that municipal courts have jurisdiction of hearings related to certain citations or arrests for animal cruelty; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law provides that if a person is lawfully arrested and detained, other than
2 for a violation of certain acts which constitute engaging in cruelty to animals, and the
3 county, city or local government impounds any animal owned or possessed by the
4 person, the county, city or local government may under certain circumstances, within 10
5 days after the arrest: (1) allow another person who is able to provide adequate care and
6 shelter to care temporarily for the animal; or (2) take possession of the animal. Existing
7 law requires the State to create and maintain a written notice which: (1) informs the
8 person or the public that an animal owned or possessed by the person may have been
9 impounded; (2) provides the current contact information of each animal shelter in each
10 county, city or other local government responsible for impounding the animal; (3) is
11 made available in certain languages; (4) is provided to each county or city jail or
12 detention facility; and (5) is posted in a conspicuous place in each county or city jail or

13 detention facility. (NRS 171.1539) Section 1 of this bill requires the State Department of
 14 Agriculture to create the written notice. Section 1 requires each county or city jail or
 15 detention facility to: (1) post the written notice in a conspicuous place in the county or
 16 city jail or detention facility; and (2) maintain the written notice.

17 Existing law authorizes any board of county commissioners or governing body of a
 18 city to designate certain persons, including animal control officers, to prepare, sign and
 19 serve written citations on persons accused of violating a county or city ordinance. (NRS
 20 171.17751) Section 1.3 of this act authorizes an animal control officer employed or
 21 officially designated by a board of county commissioners or governing body of a city to
 22 prepare, sign and serve written citations on persons to enforce existing law that
 23 prohibits: (1) leaving a pet unattended in a parked or standing motor vehicle in certain
 24 situations; and (2) cruelty to animals. Section 1.3 provides that such an animal control
 25 officer may include an employee of an animal shelter who is officially designated by a
 26 board of county commissioners or governing body of a city to enforce such existing laws.

27 If a person is lawfully arrested for instigating or attending fights between animals or for
 28 torturing, overdriving, injuring or abandoning an animal and an animal owned or possessed by
 29 the person is impounded by the county, city or other local government in connection with the
 30 arrest, existing law requires certain notices to be provided to the person, including notice of
 31 his or her right to request a hearing to determine whether the person is the owner of the animal
 32 and whether the person is able to provide adequate care and shelter to the animal. Existing law
 33 requires a person to request such a hearing within 5 days after receipt of the notice. If the
 34 person makes such a request, existing law requires the court to hold such a hearing within 15
 35 judicial days after receiving notice of the request. (NRS 574.203) **Section 3** of this bill
 36 requires that a notice of the right to request a hearing also be provided if the person is lawfully
 37 issued a citation for such violations and clarifies that the hearing occurs in a court of
 38 competent jurisdiction. **Section 2** of this bill similarly makes a conforming change to clarify
 39 that the hearing occurs in a court of competent jurisdiction. Furthermore, **section 3** provides
 40 that the hearing is to determine by ~~[a preponderance of the]~~ **clear and convincing** evidence
 41 whether the person who is issued a citation or arrested for the violations: (1) is the owner of
 42 the impounded animal; **and** (2) ~~[committed the applicable violation; and (3) if applicable,]~~
 43 is able and fit to provide adequate care and shelter to the animal. **Section 3 additionally**
 44 **provides that any evidence derived from testimony made during a hearing is**
 45 **inadmissible during certain subsequent proceedings, except for the purposes of**
 46 **impeachment or rebuttal. Section 1.7 of this bill provides that a municipal court has**
 47 **jurisdiction over such hearings.**

48 Existing law provides that, if a person who has received a notice of his or her right to
 49 request a hearing does not request a hearing or the owner of the impounded animal has not
 50 been identified within 5 days of the arrest, the county, city or other local government shall
 51 transfer ownership of the animal to an animal rescue organization, animal shelter or another
 52 person who is able to provide adequate care and shelter to the animal. (NRS 574.203) **Section**
 53 **3** authorizes the animal rescue organization, animal shelter or person to whom the ownership
 54 of the animal is transferred to sell the animal at auction, humanely destroy the animal or
 55 continue to care for the animal, as the organization, shelter or person sees fit.

56 ~~[—Existing law provides that if a person is lawfully arrested and detained in a county, city or~~
 57 ~~other local government, other than for a violation of certain acts which constitute engaging in~~
 58 ~~cruelty to animals, and the county impounds any animal owned or possessed by the person,~~
 59 ~~the county may under certain circumstances, within 10 days after the arrest: (1) allow another~~
 60 ~~person who is able to provide adequate care and shelter to care for the animal temporarily; or~~
 61 ~~(2) take possession of the animal. Existing law requires the State to create and maintain a~~
 62 ~~written notice which: (1) informs the person or the public that an animal owned or possessed~~
 63 ~~by the person may have been impounded; (2) provides the current contact information of an~~
 64 ~~animal shelter in each county, city or other local government responsible for impounding the~~
 65 ~~animal; (3) is made available in certain languages; (4) is provided to each county or city jail or~~
 66 ~~detention facility; and (5) is posted in a conspicuous place in each county or city jail or~~
 67 ~~detention facility. (NRS 171.1539) Section 1 of this bill requires the State Department of~~
 68 ~~Agriculture to create and maintain this written notice.]~~

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

Section 1. NRS 171.1539 is hereby amended to read as follows:

171.1539 1. Except as otherwise provided in NRS 574.201 to 574.204, inclusive, if a person is lawfully arrested and detained and any animal owned or possessed by the person is impounded by the county, city or other local government in which the person is arrested at the time of the arrest or after the arrest, the person may provide the name of any person who is authorized to care for the animal. The county, city or other local government or animal shelter must transfer the animal to such a person if the county, city or other local government determines that the person is able to provide adequate care and shelter to the animal. If within 10 days after the county, city or other local government impounds the animal no such authorized person is able to provide adequate care and shelter to the animal, the county, city or other local government or animal shelter:

(a) May allow another person who is able to provide adequate care and shelter to care for the animal temporarily; or

(b) May take possession of the animal.

2. The State *Department of Agriculture* shall create ~~and maintain~~ a written notice which must:

(a) Inform the person or the public that an animal, owned or possessed by a person who has been arrested and detained, may have been impounded;

(b) Include the current contact information of each animal shelter in each county, city or other local government responsible for:

(1) Impounding an animal; and

(2) Providing care and shelter to an animal;

(c) Be available in English, Spanish, Tagalog and Standard Chinese; and

(d) Be provided to each county or city jail or detention facility. ~~and~~

~~(e) Be posted;~~

3. Each county or city jail or detention facility shall:

(a) Post the written notice provided pursuant to subsection 2 in a conspicuous place in ~~each~~ the county or city jail or detention facility. ~~and~~

~~3.;~~ and

(b) Maintain the written notice provided pursuant to subsection 2.

4. A person lawfully arrested and detained:

(a) May make a reasonable number of completed telephone calls from a county or city jail or detention facility for the purpose of locating an animal impounded pursuant to this section; and

(b) Shall not be charged for each completed call to an animal shelter listed in the written notice posted pursuant to subsection ~~2~~ 3.

~~4~~ 5. If a person is convicted of the crime for which he or she was lawfully arrested, the county, city or other local government or animal shelter may by appropriate legal action recover the reasonable cost of any care and shelter furnished to the animal by the county, city or other local government or animal shelter, including, without limitation, imposing a lien on the animal for the cost of such care and shelter.

~~5~~ 6. The board of county commissioners of each county, if its jurisdiction to enact and enforce ordinances relating to animals is not limited by an interlocal agreement, may adopt an ordinance which provides for time of not less than 5 days to a person lawfully arrested or detained for the purpose of providing the person a reasonable opportunity to locate another person to take possession of an animal.

1 Such a reasonable opportunity is provided upon assistance from a county, city or
2 other local government or an animal shelter.

3 ~~6.7~~ 7. The city council or other governing body of each incorporated city,
4 whether organized under general law or special charter, if its jurisdiction to enact
5 and enforce ordinances relating to animals is not limited by an interlocal agreement,
6 may adopt an ordinance which provides for time of not less than 5 days to a person
7 lawfully arrested or detained for the purpose of providing the person a reasonable
8 opportunity to locate another person to take possession of an animal. Such a
9 reasonable opportunity is provided upon assistance from a county, city or other
10 local government or an animal shelter.

11 ~~6.8~~ 8. As used in this section:

12 (a) "Animal" means any dog, cat, horse, other domesticated animal or
13 undomesticated animal which is maintained as a pet. The term:

14 (1) Includes any chicken, pig, rabbit or other animal which is maintained as
15 a pet whether or not the animal is domesticated.

16 (2) Except as otherwise provided in subparagraph 1, does not include any
17 cattle, sheep, goats, swine or poultry.

18 (b) "Animal shelter" has the meaning ascribed to it in NRS 574.240.

19 Sec. 1.3. NRS 171.17751 is hereby amended to read as follows:

20 171.17751 1. Any board of county commissioners or governing body of a
21 city may designate the chief officer of the organized fire department or any
22 employees designated by the chief officer, and certain of its inspectors of solid
23 waste management, building, housing and licensing inspectors, zoning enforcement
24 officers, parking enforcement officers, animal control officers, traffic engineers,
25 marshals and park rangers of units of specialized law enforcement established
26 pursuant to NRS 280.125, and other persons charged with the enforcement of
27 county or city ordinances, to prepare, sign and serve written citations on persons
28 accused of violating a county or city ordinance.

29 2. The Chief Medical Officer and the health officer of each county, district
30 and city may designate certain employees to prepare, sign and serve written
31 citations on persons accused of violating any law, ordinance or regulation of a
32 board of health that relates to public health.

33 3. The Administrator of the Housing Division of the Department of Business
34 and Industry may designate certain employees to prepare, sign and serve written
35 citations on persons accused of violating any law or regulation of the Division
36 relating to the provisions of chapters 118B, 461, 461A and 489 of NRS.

37 4. The State Contractors' Board may designate certain of its employees to
38 prepare, sign and serve written citations on persons pursuant to subsection 2 of
39 NRS 624.115.

40 5. ~~(A)~~ Except as otherwise provided in subsection 6, an employee
41 designated pursuant to this section:

42 (a) May exercise the authority to prepare, sign and serve citations only within
43 the field of enforcement in which the employee works;

44 (b) May, if employed by a city or county, prepare, sign and serve a citation
45 only to enforce an ordinance of the city or county by which the employee is
46 employed; and

47 (c) Shall comply with the provisions of NRS 171.1773.

48 6. An animal control officer who is employed by a city or county or
49 officially designated by a board of county commissioners or governing body of a
50 city pursuant to this section may prepare, sign and serve written citations on
51 persons to enforce NRS 202.487 and chapter 574 of NRS. As used in this
52 subsection, "animal control officer" includes, without limitation, an employee of
53 an animal shelter who is officially designated and authorized by a board of

1 county commissioners or governing body of a city to carry out the provisions of
2 this subsection.

3 Sec. 1.7. NRS 5.050 is hereby amended to read as follows:

4 5.050 1. Municipal courts have jurisdiction of civil actions or proceedings:

5 (a) For the violation of any ordinance of their respective cities.

6 (b) To prevent or abate a nuisance within the limits of their respective cities.

7 2. Except as otherwise provided in subsection 2 of NRS 173.115, the
8 municipal courts have jurisdiction of all misdemeanors committed in violation of
9 the ordinances of their respective cities. Upon approval of the district court, a
10 municipal court may transfer original jurisdiction of a misdemeanor to the district
11 court for the purpose of assigning an offender to a program established pursuant to
12 NRS 176A.250 or, if the municipal court has not established a program pursuant to
13 NRS 176A.280, to a program established pursuant to that section.

14 3. The municipal courts have jurisdiction of:

15 (a) Any action for the collection of taxes or assessments levied for city
16 purposes, when the principal sum thereof does not exceed \$2,500.

17 (b) Actions to foreclose liens in the name of the city for the nonpayment of
18 those taxes or assessments when the principal sum claimed does not exceed \$2,500.

19 (c) Actions for the breach of any bond given by any officer or person to or for
20 the use or benefit of the city, and of any action for damages to which the city is a
21 party, and upon all forfeited recognizances given to or for the use or benefit of the
22 city, and upon all bonds given on appeals from the municipal court in any of the
23 cases named in this section, when the principal sum claimed does not exceed
24 \$2,500.

25 (d) Actions for the recovery of personal property belonging to the city, when
26 the value thereof does not exceed \$2,500.

27 (e) Actions by the city for the collection of any damages, debts or other
28 obligations when the amount claimed, exclusive of costs or attorney's fees, or both
29 if allowed, does not exceed \$2,500.

30 (f) Actions seeking an order pursuant to NRS 441A.195.

31 (g) Hearings held pursuant to NRS 574.203.

32 4. Nothing contained in subsection 3 gives the municipal court jurisdiction to
33 determine any such cause when it appears from the pleadings that the validity of
34 any tax, assessment or levy, or title to real property, is necessarily an issue in the
35 cause, in which case the court shall certify the cause to the district court in like
36 manner and with the same effect as provided by law for certification of causes by
37 justice courts.

38 Sec. 2. NRS 574.055 is hereby amended to read as follows:

39 574.055 Except as otherwise provided in NRS 574.201 to 574.204, inclusive:

40 1. Any peace officer or animal control officer shall, upon discovering any
41 animal which is being treated cruelly, take possession of it and provide it with
42 shelter and care or, upon obtaining written permission from the owner of the
43 animal, may destroy it in a humane manner.

44 2. If an officer takes possession of an animal, the officer shall give to the
45 owner, if the owner can be found, a notice containing a written statement of the
46 reasons for the taking, the location where the animal will be cared for and sheltered,
47 the fact that there is a limited lien on the animal for the cost of shelter and care and
48 notice of the right of the owner to request a hearing *in a court of competent*
49 *jurisdiction* pursuant to NRS 574.203 within 5 days after receipt of the notice. If
50 the owner is not present at the taking and the officer cannot find the owner after a
51 reasonable search, the officer shall post the notice on the property from which the
52 officer takes the animal. If the identity and address of the owner are later

1 determined, the notice must be mailed to the owner immediately after the
2 determination is made.

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

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

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

15 6. The provisions of this section do not apply to any animal which is located
16 on land being employed for an agricultural use as defined in NRS 361A.030 unless
17 the owner of the animal or the person charged with the care of the animal is in
18 violation of paragraph (c) of subsection 1 of NRS 574.100 and the impoundment is
19 accomplished with the concurrence and supervision of the sheriff or the sheriff's
20 designee, a licensed veterinarian and the district brand inspector or the district
21 brand inspector's designee. In such a case, the sheriff shall direct that the
22 impoundment occur not later than 48 hours after the veterinarian determines that a
23 violation of paragraph (c) of subsection 1 of NRS 574.100 exists.

24 7. The owner of an animal impounded in accordance with the provisions of
25 subsection 6 must, before the animal is released to the owner's custody, pay the
26 charges approved by the sheriff as reasonably related to the impoundment,
27 including the charges for the animal's food and water. If the owner is unable or
28 refuses to pay the charges, the State Department of Agriculture shall sell the
29 animal. The Department shall pay to the owner the proceeds of the sale remaining
30 after deducting the charges reasonably related to the impoundment.

31 **Sec. 3.** NRS 574.203 is hereby amended to read as follows:

32 574.203 1. If a person is lawfully *issued a citation or* arrested for a
33 violation of NRS 574.070 or 574.100 and if an animal owned or possessed by the
34 person is impounded by the county, city or other local government in connection
35 with the *citation or* arrest, the person must be notified in accordance with the
36 provisions of subsection 2 of NRS 574.055 and be notified of his or her right to
37 request a hearing *in a court of competent jurisdiction* within 5 days after receipt of
38 the notice to determine *by [a preponderance of the] clear and convincing evidence*
39 ~~+~~

40 ~~— (a) If the person is lawfully issued a citation or arrested for a violation of~~
41 ~~NRS 574.070, whether the person is ~~+~~~~

42 ~~(1) Is the owner of the animal ~~+~~ and~~

43 ~~[(2) Committed a violation of NRS 574.070.~~

44 ~~(b) If the person is lawfully issued a citation or arrested for a violation of~~
45 ~~NRS 574.100, whether the person is ~~+~~~~

46 ~~(1) Is the owner of the animal;~~

47 ~~(2) Committed a violation of NRS 574.100; and~~

48 ~~(3) Is able *and fit* to provide adequate care and shelter to the animal.~~

49 ~~+~~ The person must request a hearing pursuant to this subsection within 5 days
50 after receipt of the notice pursuant to this subsection.

51 2. If a person who is lawfully *issued a citation or* arrested ~~[and detained]~~ for a
52 violation of NRS 574.070 or 574.100 does not request a hearing pursuant to
53 subsection 1, or an owner of the animal has not been identified within 5 days of *the*

1 *issuance of the citation or* arrest, the county, city or other local government shall
2 transfer ownership of the animal to an animal rescue organization, animal shelter or
3 another person who is able to provide adequate care and shelter to the animal. *The*
4 *animal rescue organization, animal shelter or person to whom the ownership of*
5 *an animal is transferred pursuant to this subsection may sell the animal at*
6 *auction, humanely destroy the animal or continue caring for the animal, as the*
7 *animal rescue organization, animal shelter or person sees fit.*

8 3. If the court receives a timely request *for a hearing* pursuant to subsection
9 1, the court shall hold ~~that~~ *the* hearing within 15 judicial days after receipt of the
10 request ~~to~~ *[If the person who requested the hearing is lawfully issued a citation*
11 *or arrested for*

12 ~~— (a) A violation of NRS 574.070, the court shall~~ determine *by* ~~the~~
13 ~~preponderance of the~~ *clear and convincing evidence* whether the person *is* ~~fit~~

14 ~~— (1) Is~~ the owner of ~~an~~ *the* animal ~~fit~~ and *whether the person is*

15 ~~— (2) Committed a violation of NRS 574.070.~~

16 ~~— (b) A violation of NRS 574.100, the court shall determine by a~~
17 ~~preponderance of the evidence whether the person:~~

18 ~~— (1) Is the owner of the animal;~~

19 ~~— (2) Committed a violation of NRS 574.100; and~~

20 ~~— (3) Is~~ able and fit to provide adequate care and shelter to the animal.

21 4. For the purpose of conducting a hearing pursuant to this section, the court
22 may consider:

23 (a) Testimony of the peace officer or animal control officer who took
24 possession of or impounded the animal or other witnesses concerning the
25 conditions under which the animal was owned or kept;

26 (b) Testimony and evidence related to veterinary care provided to the animal,
27 including, without limitation, the degree or type of care provided to the animal;

28 (c) Expert testimony as to community standards for the reasonable care of a
29 similar animal;

30 (d) Testimony of witnesses concerning the history of treatment of the animal or
31 any other animal owned or possessed by the person;

32 (e) Prior arrests or convictions related to subjecting an animal to an act of
33 cruelty in violation of NRS 574.070 or 574.100; and

34 (f) Any other evidence which the court determines is relevant.

35 5. Any evidence derived from any testimony made pursuant to subsection 4
36 is inadmissible against a person who is lawfully issued a citation or arrested for a
37 violation of NRS 574.070 or 574.100 during any subsequent proceedings on the
38 related criminal charges, except that such evidence may be used for impeachment
39 or rebuttal during the subsequent proceedings on the related criminal charges.