

SENATE FILE 286
BY RIORDAN

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Agri

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the injury of animals, by providing
2 definitions; prohibiting animal cruelty, animal neglect,
3 animal abandonment, and certain exhibitions involving animals;
4 providing for the care or destruction of disabled animals;
5 providing for the forfeiture of animals, the assessment of
6 certain costs, and the disposition of animals; and providing
7 penalties.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. 717A.1 DEFINITIONS.

2 1. "Animal" means a living vertebrate, including but not
3 limited to a bird, fish, reptile, or nonhuman mammal.

4 2. "Animal shelter" means a facility which is used to
5 house or contain pets, and which is owned, operated, or
6 maintained by an incorporated humane society, animal welfare
7 society, society for the prevention of cruelty to animals, or
8 other nonprofit organization devoted to the welfare,
9 protection, and humane treatment of pets.

10 3. "Confinement area" means a permanent or moveable
11 structure used to immediately restrict an animal to a limited
12 amount of space, including but not limited to a barn, house,
13 pen, stall, trailer, room, cage, or compartment.

14 4. "Good animal husbandry" means the care or destruction
15 of an animal according to accepted practices and procedures of
16 a profession, occupation, or business which routinely cares
17 for or destroys animals, including but not limited to the
18 following:

19 a. The practice of veterinary medicine, as defined in
20 section 169.3.

21 b. An accepted livestock management practice as defined in
22 section 169.3.

23 c. An action performed by a person exempted from licensing
24 as a veterinarian under section 169.4.

25 d. The slaughtering of livestock by a person which alone
26 or in conjunction with others, directly or indirectly controls
27 the manufacturing, processing, or preparation for sale of meat
28 or other products from the livestock.

29 5. "Euthanasia" means the humane destruction of an animal
30 accomplished by a method that involves instantaneous
31 unconsciousness and immediate death or by a method that
32 involves anesthesia, produced by an agent which causes
33 painless loss of consciousness, and death during the loss of
34 consciousness.

35 6. "Injury" means visible evidence of trauma or physical

1 injury, including wounds, hemorrhage, skin discoloration,
2 swelling, burns, freezing, or disfigurement.

3 7. "Livestock" means a domesticated or undomesticated
4 animal which is raised to directly or indirectly produce
5 material products, including but not limited to a type
6 identified as the following:

7 a. Bovine, including oxen, cattle, and bison.

8 b. Equine, including horses, mules, burros, and asses.

9 c. Ovine, including sheep and goats.

10 d. Poultry, including chickens, turkeys, and geese.

11 8. "Minimum care" means care sufficient to reasonably
12 preserve the physical health and condition of the animal,
13 including but not limited to all of the following:

14 a. At suitable intervals of not more than twenty-four
15 hours or less if dietary requirements of the animal require, a
16 quantity of wholesome foodstuff suitable for its species and
17 age, sufficient to maintain reasonable levels of nutrition.

18 b. Reasonable access to a supply of clean, fresh water
19 provided for drinking in amounts and at intervals suitable for
20 the species not to exceed twenty-four hours for any interval.

21 c. If the animal is a pet, adequate access to a shelter
22 sufficient to ensure that the pet does not suffer unreasonable
23 distress due to natural elements, including but not limited to
24 wind, rain, snow, sun, heat, cold, or dampness.

25 d. If the animal is livestock, adequate access to a
26 natural or constructed barrier sufficient to offer reasonable
27 protection against temperature extremes, wind, rain, or snow.

28 e. If the animal is restricted in a confinement area for
29 an extended period, an area which is kept reasonably clean and
30 free from contaminants, including animal waste, which may
31 threaten the health of the animal.

32 f. Veterinary or farrier care, if a reasonably prudent
33 person would provide such care to relieve distress from
34 injury, neglect, or disease.

35 g. Destruction of the animal, if necessary, by euthanasia

1 only.

2 h. If the animal is a pet, a confinement area with
3 adequate space for the exercise necessary to preserve the
4 health of the animal and which provides a dry area for the
5 animal to rest. The air temperature or ventilation in the
6 confinement area shall be suitable to preserve the health of a
7 normal animal of the same species.

8 i. If the animal is fastened by a leash, including a rope
9 or chain, which restricts the movement of the animal, a leash
10 attached to the animal by a well-fitting collar or harness
11 that is fastened to the animal in a manner designed to prevent
12 injury or entanglement. A leash shall not restrict an animal
13 from access to adequate shelter, or sufficient foodstuff or
14 water as provided in this subsection.

15 9. "Owner" means a person in whom is vested the ownership,
16 dominion over, or title to an animal, including a person
17 obligated by law to care for an animal, or a person who keeps
18 or harbors an animal, or who knowingly permits an animal to
19 remain for three or more days on or about the person's
20 residence.

21 10. "Pet" means a domesticated or undomesticated animal
22 which is raised or kept to provide a natural person
23 companionship, or which is trained to provide a service, and
24 includes a dog or cat.

25 11. "Pound" means a facility for the prevention of cruelty
26 to animals, and operated by the state, a municipal
27 corporation, or another political subdivision of this state
28 for the purpose of impounding or harboring seized, stray,
29 homeless, abandoned, or unwanted animals, or a facility,
30 including an animal shelter, operated for such purpose under a
31 contract with a municipal corporation.

32 12. "Reckless" or "recklessly" means with respect to a
33 material element of an offense provided in this chapter, that
34 the person consciously or unconsciously disregards a
35 substantial and unjustifiable risk that the material element

1 exists or will result from the person's conduct. The risk
2 must be of a nature and degree that, considering the nature
3 and purpose of the actor's conduct and circumstances known to
4 the actor, to disregard it constitutes a gross deviation from
5 the standard of conduct that a law-abiding person would
6 observe in the actor's situation.

7 13. "Serious injury" means a physical injury which creates
8 a substantial risk of death, causes a serious permanent
9 disfigurement or protracted loss or impairment of a bodily
10 member or organ, or which causes death.

11 Sec. 2. NEW SECTION. 717A.2 ANIMAL CRUELTY IN THE FIRST
12 DEGREE.

13 A person commits animal cruelty in the first degree if,
14 unless the act is otherwise allowed by law, the person
15 intentionally causes serious injury to or the death of an
16 animal.

17 Animal cruelty in the first degree is a serious
18 misdemeanor.

19 Sec. 3. NEW SECTION. 717A.3 ANIMAL CRUELTY IN THE SECOND
20 DEGREE.

21 A person commits animal cruelty in the second degree if,
22 unless the act is otherwise allowed by law, the person
23 knowingly or recklessly causes injury, serious injury, or
24 death to an animal.

25 Animal cruelty in the second degree is a simple
26 misdemeanor.

27 Sec. 4. NEW SECTION. 717A.4 ANIMAL NEGLECT IN THE FIRST
28 DEGREE.

29 An owner commits animal neglect in the first degree if,
30 unless the act is otherwise allowed by law, all of the
31 following apply:

32 1. The owner of an animal knowingly or recklessly fails to
33 provide minimum care for the animal.

34 2. The lack of minimum care is the proximate cause of the
35 animal's serious injury or death.

1 Animal neglect in the first degree is a serious
2 misdemeanor.

3 Sec. 5. NEW SECTION. 717A.5 ANIMAL NEGLECT IN THE SECOND
4 DEGREE.

5 An owner commits animal neglect in the second degree if,
6 unless the act is otherwise allowed by law, the owner
7 knowingly or recklessly fails to provide minimum care for the
8 animal.

9 Animal neglect in the second degree is a simple
10 misdemeanor.

11 Sec. 6. NEW SECTION. 717A.6 ANIMAL ABANDONMENT.

12 An owner commits animal abandonment if, unless the act is
13 otherwise allowed by law, all of the following elements are
14 present:

15 1. The animal is livestock or a pet.

16 2. The owner knowingly or recklessly deserts and foresakes
17 an animal by doing either of the following:

18 a. Acting in a manner which conveys to a reasonable person
19 that the acting person is renouncing ownership of the animal
20 and is evading a duty to provide the animal with at least
21 minimum care.

22 b. Failing to pay fees or charges based on providing
23 minimum care to the animal; if a pound or shelter is providing
24 the care, receiving written notice by the pound or animal
25 shelter where the animal is being kept, and failing to pay the
26 pound or shelter within thirty days. However, indigence is a
27 defense to a violation of this paragraph.

28 It is no defense to a violation of this section that an
29 owner abandons an animal at or near a location where animals
30 commonly receive minimum or more than minimum care, including
31 an animal shelter or pound, or an establishment in which the
32 practice of veterinary medicine as defined in section 169.3 is
33 carried on.

34 Sec. 7. NEW SECTION. 717A.7 ANIMAL FIGHTING --
35 EXHIBITIONS.

1 1. A person shall not train an animal primarily or in part
2 for the purpose of attacking an animal of the same species.

3 A violation of this subsection is a class "D" felony.

4 2. A person shall not arrange, promote, or stage an
5 exhibition and a person shall not own, or transport an animal
6 for the purpose of exhibiting the animal, if the exhibition is
7 to present the animal tormented or to present a contest for
8 two or more animals to fight.

9 A violation of this subsection is a class "D" felony.

10 3. A person shall not knowingly attend as a spectator of
11 an exhibition, if the exhibition is to present an animal
12 tormented or to present a contest for two or more animals to
13 fight.

14 A violation of this subsection is an aggravated
15 misdemeanor.

16 Sec. 8. NEW SECTION. 717A.8 NEGLECTED ANIMALS --
17 DISABLED ANIMALS DESTROYED.

18 1. A person may provide necessary care to an animal if it
19 reasonably appears that the animal's owner has failed to
20 provide the minimum care as provided in this chapter and the
21 animal reasonably appears seriously injured or at risk of
22 dying. The person may provide the care either on the person's
23 premises or on the owner's premises. The person has a lien on
24 the animal for the cost of providing the care necessary to
25 ensure that the animal is able to receive minimum care, and
26 the cost may be collected from the owner.

27 2. A peace officer or officer of a society for the
28 prevention of cruelty to animals, or a veterinarian, may
29 destroy a disabled animal that is neglected or stray, but
30 only by euthanasia.

31 Sec. 9. NEW SECTION. 717A.9 FORFEITURE OF RIGHTS --
32 COSTS -- DISPOSITION OF AN ANIMAL.

33 A court may order that a person convicted under this
34 chapter forfeit all legal interests in an animal which is
35 subject to cruelty, neglect, or abandonment. A court may also

1 order that the person be assessed court costs and all
2 reasonable costs incurred prior to the judgment relating to
3 providing minimum care to the animal unless the court finds
4 the person is indigent. Upon ordering that all legal
5 interests in an animal be forfeited, the court shall order the
6 disposition of the animal. The court may order that ownership
7 of the animal be transferred to a public or private agency, if
8 the agency is capable of and willing to provide at least
9 minimum care to the animal. A person to whom ownership of an
10 animal is transferred has all rights of ownership, including
11 the right to dispose of the animal, unless the court otherwise
12 orders.

13 A court shall order a forfeiture or the assessment of costs
14 in addition to and not in lieu of a sentence imposed upon a
15 person convicted under this chapter.

16 Sec. 10. NEW SECTION. 717A.10 EXCEPTION -- GOOD ANIMAL
17 HUSBANDRY.

18 Notwithstanding any section of this chapter, a practice of
19 good animal husbandry is not a violation of law.

20 Sec. 11. Section 162.13, unnumbered paragraph 2, Code
21 1989, is amended to read as follows:

22 Failure of any a pound, research facility, animal shelter,
23 pet shop, boarding kennel, commercial kennel, commercial
24 breeder, public auction, or dealer, to adequately house, feed,
25 or water dogs, cats, or vertebrate animals in the person's or
26 facility's possession or custody is a simple misdemeanor. The
27 animals are subject to seizure and impoundment and may be sold
28 or destroyed by euthanasia at the discretion of the secretary
29 and the failure is also grounds for revocation or suspension
30 of license or registration after public hearing. The
31 commission of an act declared to be an unlawful practice under
32 section 714.16 or chapter 717 717A, by a person or facility
33 licensed or registered under this chapter is grounds for
34 revocation or suspension of the license or registration
35 certificate. Dogs, cats, and other vertebrates upon which

1 euthanasia is permitted by law may be destroyed by persons or
2 facilities subject to this chapter or chapter 169, and only by
3 euthanasia.

4 Sec. 12. Chapter 717, Code 1989, is repealed.

5 EXPLANATION

6 This bill relates to criminal penalties imposed upon
7 persons who injure animals, by providing definitions,
8 including a definition of minimum care which an animal owner
9 owes to the animal; providing criminal offenses for animal
10 cruelty, animal neglect, animal abandonment, and participation
11 in certain exhibitions; providing that strangers may provide
12 certain animals with a minimum level of care and recover their
13 costs; providing for the destruction of disabled animals; and
14 providing that a court may order the owner of an animal to
15 forfeit rights in the animal and pay certain costs, and order
16 the disposition of the animal. The bill also repeals chapter
17 717 which is the current chapter relating to criminal offenses
18 for animal injury, and enacts a new chapter tentatively
19 numbered 717A.

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