

Senate File 2258 - Introduced

SENATE FILE _____
BY LUNDBY

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

A BILL FOR

1 An Act relating to the mistreatment of animals not classified as
2 livestock and providing penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 5760SS 82
5 da/rj/5

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1 1 Section 1. Section 717.1, subsection 2, Code 2007, is
1 2 amended to read as follows:
1 3 2. "Livestock" means an animal belonging to the bovine,
1 4 caprine, ~~equine~~, ovine, or porcine species, ostriches, rheas,
1 5 emus; farm deer as defined in section 170.1; or poultry.
1 6 Sec. 2. Section 717B.2, Code 2007, is amended to read as
1 7 follows:
1 8 717B.2 ANIMAL ABUSE.
1 9 1. A person is guilty of animal abuse if the person
1 10 intentionally injures, maims, disfigures, or destroys an
1 11 animal owned by another person, in any manner, including
1 12 intentionally poisoning the animal.
1 13 2. ~~a. The following shall apply to a person who is~~
1 14 ~~guilty of animal abuse:~~
1 15 ~~(1) If the person does not have a prior conviction for~~
1 16 ~~committing an offense under this chapter, the person is guilty~~
1 17 ~~of an aggravated misdemeanor.~~
1 18 ~~(2) If the person does have a prior conviction for~~
1 19 ~~committing an offense under this chapter, the person is guilty~~
1 20 ~~of a class "D" felony. The sentencing order shall require the~~
1 21 ~~person to submit to psychological evaluation and treatment~~
1 22 ~~according to terms required by the court. The costs of the~~
1 23 ~~psychological evaluation and treatment shall be paid by the~~
1 24 ~~person.~~
1 25 ~~b. The juvenile court shall have exclusive original~~
1 26 ~~jurisdiction in a proceeding concerning a child who is alleged~~
1 27 ~~to have committed animal abuse, in the manner provided in~~
1 28 ~~section 232.8. The juvenile court shall not waive~~
1 29 ~~jurisdiction in a proceeding concerning an offense alleged to~~
1 30 ~~have been committed by a child under the age of seventeen.~~
1 31 3. This section shall not apply to any of the following:
1 32 ~~1. a. A person acting with the consent of the person~~
1 33 ~~owning the animal, unless the action constitutes animal~~
1 34 ~~neglect as provided in section 717B.3.~~
1 35 ~~2. b. A person acting to carry out an order issued by a~~
2 1 ~~court.~~
2 2 ~~3. c. A licensed veterinarian practicing veterinary~~
2 3 ~~medicine as provided in chapter 169.~~
2 4 ~~4. d. A person acting in order to carry out another~~
2 5 ~~provision of law which allows the conduct.~~
2 6 ~~5. e. A person taking, hunting, trapping, or fishing for~~
2 7 ~~a wild animal as provided in chapter 481A.~~
2 8 ~~6. f. A person acting to protect the person's property~~
2 9 ~~from a wild animal as defined in section 481A.1.~~
2 10 ~~7. g. A person acting to protect a person from injury or~~
2 11 ~~death caused by a wild animal as defined in section 481A.1.~~
2 12 ~~8. h. A person reasonably acting to protect the person's~~
2 13 ~~property from damage caused by an unconfined animal.~~
2 14 ~~9. i. A person reasonably acting to protect a person from~~
2 15 ~~injury or death caused by an unconfined animal.~~
2 16 ~~10. j. A local authority reasonably acting to destroy an~~
2 17 ~~animal, if at the time of the destruction, the owner of the~~
2 18 ~~animal is absent or unable to care for the animal, and the~~
2 19 ~~animal is permanently distressed by disease or injury to a~~
2 20 ~~degree that would result in severe and prolonged suffering.~~

2 21 11. k. An institution, as defined in section 145B.1, or a
2 22 research facility, as defined in section 162.2, provided that
2 23 the institution or research facility performs functions within
2 24 the scope of accepted practices and disciplines associated
2 25 with the institution or research facility.

2 26 Sec. 3. Section 717B.3, subsections 1 and 3, Code 2007,
2 27 are amended to read as follows:

2 28 1. A person who impounds or confines, in any place, an
2 29 animal is guilty of animal neglect, if the person does any of
2 30 the following:

2 31 a. (1) fails to supply the animal during confinement with
2 32 Deprives an animal of necessary sustenance, including
2 33 nutritious food and water, in a sufficient quantity of food or
2 34 water; fails to provide a confined dog or cat with adequate
2 35 shelter; or tortures, deprives of necessary sustenance.

3 1 (2) Torments, mutilates, beats, or kills an animal by any
3 2 means which causes unjustified pain, distress, or suffering.

3 3 b. For a dog or cat, fails to provide it with adequate
3 4 shelter.

3 5 c. For equine, fails to provide sufficient sanitation
3 6 space, an opportunity for exercise, protection from weather,
3 7 necessary veterinary care, a sufficient quantity of potable
3 8 water, and a sufficient nutritional formulation customary for
3 9 the care for equine of that species.

3 10 3. a. A This paragraph applies to a person who
3 11 negligently or intentionally commits the offense of animal
3 12 neglect which does not result in the serious injury to or
3 13 death of an animal.

3 14 (1) If the person does not have a prior conviction for
3 15 committing an offense under this chapter, the person is guilty
3 16 of a simple misdemeanor.

3 17 (2) If the person does have a prior conviction for
3 18 committing an offense under this chapter, the person is guilty
3 19 of a serious misdemeanor. The sentencing order shall require
3 20 the person to submit to psychological evaluation and treatment
3 21 according to terms required by the court. The costs of the
3 22 psychological evaluation and treatment shall be paid by the
3 23 person.

3 24 b. A This paragraph applies to a person who intentionally
3 25 commits the offense of animal neglect which results in serious
3 26 injury to or the death of an animal.

3 27 (1) If the person does not have a prior conviction for
3 28 committing an offense under this chapter, the person is guilty
3 29 of a serious misdemeanor.

3 30 (2) If the person does have a prior conviction for
3 31 committing an offense under this chapter, the person is guilty
3 32 of an aggravated misdemeanor. The sentencing order shall
3 33 require the person to submit to psychological evaluation and
3 34 treatment according to terms required by the court. The costs
3 35 of the psychological evaluation and treatment shall be paid by
4 1 the person.

4 2 c. The juvenile court shall have exclusive original
4 3 jurisdiction in a proceeding concerning a child who is alleged
4 4 to have committed animal neglect, in the manner provided in
4 5 section 232.8. The juvenile court shall not waive
4 6 jurisdiction in a proceeding concerning an offense alleged to
4 7 have been committed by a child under the age of seventeen.

4 8 Sec. 4. Section 717B.3A, subsection 3, paragraph a,
4 9 subparagraphs (1) and (2), Code 2007, are amended to read as
4 10 follows:

4 11 (1) For the first conviction If the person does not have a
4 12 prior conviction for committing an offense under this chapter,
4 13 the person is guilty of an aggravated misdemeanor. The
4 14 sentencing order shall provide that require the person to
4 15 submit to psychological evaluation and treatment according to
4 16 terms required by the court. The costs of the evaluation and
4 17 treatment shall be paid by the person. In addition, the
4 18 sentencing order shall provide that the person complete a
4 19 community work requirement, which may include a work
4 20 requirement performed at an animal shelter or pound, as
4 21 defined in section 162.2, according to terms required by the
4 22 court.

4 23 (2) For a second or subsequent conviction If the person
4 24 does have a prior conviction for committing an offense under
4 25 this chapter, the person is guilty of a class "D" felony. The
4 26 sentencing order shall provide that require the person to
4 27 submit to psychological evaluation and treatment according to
4 28 terms required by the court. The costs of the psychological
4 29 evaluation and treatment shall be paid by the person.

4 30 EXPLANATION

4 31 BACKGROUND. This bill amends two closely related Code

4 32 chapters. Code chapter 717 prohibits a person from
4 33 mistreating livestock and Code chapter 717B prohibits a person
4 34 from mistreating other animals.

4 35 EQUINES NO LONGER CLASSIFIED AS LIVESTOCK. The bill would
5 1 reclassify equines as animals other than livestock, subjecting
5 2 persons guilty of mistreatment of equines to provisions of
5 3 Code chapter 717B. Generally, Code sections 717.1A and 717B.2
5 4 provide for abuse (intentionally injuring or destroying
5 5 livestock or an animal owned by another person) and Code
5 6 sections 717.2 and 717B.3 provide for neglect (e.g., confining
5 7 livestock or other animal and harming it or failing to supply
5 8 it with food or water).

5 9 Among the differences in the two Code chapters, Code
5 10 section 717.2 provides that the standard for neglect is based
5 11 on customary animal husbandry practices which is not referred
5 12 to in Code section 717B.3. In addition, Code section 717.2
5 13 provides that a person is not guilty of more than one offense
5 14 of livestock neglect when care or sustenance is not provided
5 15 to multiple head of livestock during any period of
5 16 uninterrupted neglect. Code section 717B.3 does not provide
5 17 for that exception. In addition, Code section 717B.3A
5 18 provides for the offense of animal torture (inflicting an
5 19 animal other than livestock with severe physical pain with a
5 20 depraved or sadistic intent to cause the prolonged suffering
5 21 or death) which is not included in Code chapter 717.

5 22 SPECIAL PROVISIONS FOR EQUINES. The bill provides that a
5 23 person is guilty of animal neglect if the person fails to
5 24 provide the animal with sufficient sanitation space, an
5 25 opportunity for exercise, and sufficient quality water and
5 26 food.

5 27 INCREASED PENALTIES. The bill amends each of the criminal
5 28 sections in Code chapter 717B applying to animals other than
5 29 livestock. Currently, the criminal penalties for livestock
5 30 and other animals are similar, except for the offense of
5 31 animal torture. The bill increases the criminal penalties for
5 32 violations of provisions in Code chapter 717B if the guilty
5 33 person has been convicted of a prior offense under that Code
5 34 chapter. In the case of a second offense, the criminal
5 35 penalties are increased as follows:

6 1 1. For animal abuse, the criminal penalty is increased
6 2 from an aggravated misdemeanor to a class "D" felony, and the
6 3 offender is required to submit to psychological evaluation by
6 4 the court.

6 5 2. For negligence, the severity of the criminal penalty
6 6 currently depends upon whether the offense results in serious
6 7 injury or death. If serious injury or death does not result,
6 8 the criminal penalty is increased from a simple misdemeanor to
6 9 a serious misdemeanor. If the offense is intentionally
6 10 committed and results in a serious injury or death, the
6 11 criminal penalty is increased from a serious misdemeanor to an
6 12 aggravated misdemeanor. In both cases the bill requires that
6 13 the offender submit to a court-ordered psychological
6 14 evaluation.

6 15 3. For animal torture, the existing law already increases
6 16 the criminal penalty from an aggravated misdemeanor for the
6 17 first offense to a class "D" felony for a subsequent offense,
6 18 and requires the offender to submit to a court-ordered
6 19 psychological evaluation. The bill rewrites the provisions to
6 20 conform stylistically with the other Code sections as amended
6 21 by the bill.

6 22 A simple misdemeanor is punishable by confinement for no
6 23 more than 30 days or a fine of at least \$65 but not more than
6 24 \$625 or by both. A serious misdemeanor is punishable by
6 25 confinement for no more than one year and a fine of at least
6 26 \$315 but not more than \$1,875. An aggravated misdemeanor is
6 27 punishable by confinement for no more than two years and a
6 28 fine of at least \$625 but not more than \$6,250. A class "D"
6 29 felony is punishable by confinement for no more than five
6 30 years and a fine of at least \$750 but not more than \$7,500.

6 31 LSB 5760SS 82

6 32 da/rj/5.1