

House File 737 - Introduced

HOUSE FILE 737

BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 114)

A BILL FOR

1 An Act relating to the regulation of persons involved with
2 animals other than livestock and certain wild animals,
3 providing for criminal offenses and court orders associated
4 with animal mistreatment, and including penalties.

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

1 Section 1. NEW SECTION. 351.45 Tampering with a rabies
2 vaccination tag — penalties.

3 1. A person commits the offense of tampering with a rabies
4 vaccination tag if all of the following apply:

5 a. The person knowingly removes, damages, or destroys a
6 rabies vaccination tag as described in section 351.35.

7 b. The rabies vaccination tag is attached to a collar worn
8 by a dog, including as provided in sections 351.25 and 351.26.

9 2. a. For a first conviction, the person is guilty of a
10 simple misdemeanor.

11 b. For a second or subsequent conviction, the person is
12 guilty of a serious misdemeanor.

13 3. This section shall not apply to an act taken by any of
14 the following:

15 a. The owner of the dog, an agent of the owner, or a person
16 authorized to take action by the owner.

17 b. A peace officer as defined in section 801.4.

18 c. A veterinarian licensed as provided in chapter 169.

19 d. An animal shelter or pound as defined in section 162.2.

20 Sec. 2. NEW SECTION. 351.46 Tampering with an electronic
21 handling device — penalties.

22 1. A person commits the offense of tampering with an
23 electronic handling device if all of the following apply:

24 a. The person knowingly removes, disables, or destroys
25 an electric device designed and used to maintain custody or
26 control of the dog or modify the dog's behavior.

27 b. The electronic device is attached to or worn by the
28 dog or attached to an item worn by the dog, including but not
29 limited to a collar, harness, or vest.

30 2. a. For a first conviction, the person is guilty of a
31 simple misdemeanor.

32 b. For a second or subsequent conviction, the person is
33 guilty of a serious misdemeanor.

34 3. This section shall not apply to an act taken by any of
35 the following:

1 a. The owner of the dog, an agent of the owner, or a person
2 authorized to take action by the owner.

3 b. A peace officer as defined in section 801.4.

4 c. A veterinarian licensed as provided in chapter 169.

5 d. An animal shelter or pound as defined in section 162.2.

6 Sec. 3. Section 717B.1, subsection 1, Code 2019, is amended
7 by adding the following new paragraph:

8 NEW PARAGRAPH. 0b. Preserve whitetail as defined in section
9 484C.1.

10 Sec. 4. Section 717B.1, Code 2019, is amended by adding the
11 following new subsections:

12 NEW SUBSECTION. 2A. "*Animal mistreatment*" means an act
13 described as animal abuse as provided in section 717B.2,
14 animal neglect as provided in section 717B.3, animal torture
15 as provided in section 717B.3A, abandonment of a cat or dog as
16 provided in section 717B.8, or injury to or interference with a
17 police service dog as provided in section 717B.9.

18 NEW SUBSECTION. 3A. "*Commercial establishment*" means a
19 commercial establishment as defined in section 162.2 that is
20 operating under a valid authorization issued or renewed under
21 section 162.2A.

22 NEW SUBSECTION. 3B. a. "*Convicted*" means the entry of
23 a judgment of conviction under chapter 901 or adjudicated
24 delinquent for an act which is an indictable offense in this
25 state or in another state under chapter 232.

26 b. "*Convicted*" does not mean a plea, sentence, adjudication,
27 deferred sentence, or deferred judgment which has been reversed
28 or otherwise set aside.

29 NEW SUBSECTION. 3C. "*Department*" means the department of
30 agriculture and land stewardship.

31 NEW SUBSECTION. 4A. "*Euthanasia*" means the same as defined
32 in section 162.2.

33 NEW SUBSECTION. 4B. "*Injury*" means an animal's
34 disfigurement; the impairment of an animal's health; or an
35 impairment to the functioning of an animal's limb or organ,

1 including physical damage or harm to an animal's muscle,
2 tissue, organs, bones, hide, or skin.

3 NEW SUBSECTION. 8A. "*Serious injury*" means an injury that
4 constitutes an animal's protracted or permanent disfigurement,
5 the protracted or permanent impairment of an animal's health,
6 the protracted or permanent impairment of the functioning of
7 an animal's limb or organ, or the loss of an animal's limb or
8 organ.

9 NEW SUBSECTION. 10. "*Veterinarian*" means a veterinarian
10 licensed pursuant to chapter 169 who practices veterinary
11 medicine in this state.

12 Sec. 5. Section 717B.2, Code 2019, is amended to read as
13 follows:

14 **717B.2 Animal mistreatment — animal abuse — penalties.**

15 1. A person is guilty of animal abuse if the person
16 intentionally injures, maims, disfigures, or destroys an animal
17 owned by another person, in any manner, including intentionally
18 poisoning the animal commits animal abuse when the person
19 intentionally, knowingly, or recklessly acts to inflict injury,
20 serious injury, or death on an animal by force, violence, or
21 poisoning. A person guilty of animal abuse is guilty of an
22 aggravated misdemeanor.

23 2. This section shall not apply to any of the following:

24 1. A person acting with the consent of the person owning
25 the animal, unless the action constitutes animal neglect as
26 provided in [section 717B.3](#).

27 a. An owner of the animal, or a person acting with the
28 consent of the owner, who euthanizes an animal in a reasonable
29 manner, if at the time of the euthanasia, the animal is in a
30 state of permanent pain or suffering.

31 2. b. A person acting to carry out an order issued by a
32 court.

33 3. c. A licensed veterinarian practicing veterinary
34 medicine as provided in chapter 169.

35 4. d. A person acting in order to carry out another

1 provision of law which allows the conduct.

2 5. e. A person taking, hunting, trapping, or fishing for a
3 wild animal as provided in [chapter 481A](#).

4 6. f. A person acting to protect the person's property from
5 a wild animal as defined in [section 481A.1](#).

6 7. g. A person acting to protect a person from injury or
7 death caused by a wild animal as defined in [section 481A.1](#).

8 8. h. A person reasonably acting to protect the person's
9 property from damage caused by an unconfined animal.

10 9. i. A person reasonably acting to protect a person from
11 injury or death caused by an unconfined animal.

12 10. j. A local authority reasonably acting to destroy an
13 animal, if at the time of the destruction, the owner of the
14 animal is absent or unable to care for the animal, and the
15 animal is permanently distressed by disease or injury to a
16 degree that would result in severe and prolonged suffering.

17 11. k. A research facility, as defined in [section 162.2](#),
18 ~~provided that~~ if the research facility has been issued a valid
19 authorization by the department pursuant to chapter 162, and
20 performs functions within the scope of accepted practices and
21 disciplines associated with the research facility.

22 1. An act required to be carried out by a commercial
23 establishment to care for an animal in its possession or
24 under its control as described in section 162.10A, subsection
25 1, provided that the commercial establishment complies
26 with applicable standard of care requirements pursuant to
27 subsections 1 and 2 of that section.

28 3. A person who commits animal abuse that causes injury,
29 other than serious injury or death, to an animal is guilty of
30 a serious misdemeanor.

31 4. A person who commits animal abuse that causes serious
32 injury or death to an animal is guilty of an aggravated
33 misdemeanor.

34 5. Notwithstanding subsection 4, a person who commits
35 animal abuse that causes serious injury or death to an animal

1 is guilty of a class "D" felony if the person has previously
2 been convicted of committing animal abuse pursuant to this
3 section, animal neglect punishable as a serious misdemeanor
4 or aggravated misdemeanor pursuant to section 717B.3, animal
5 torture pursuant to section 717B.3A, injury to or interference
6 with a police service dog pursuant to section 717B.9,
7 bestiality pursuant to section 717C.1, or an act involving a
8 contest event prohibited in section 717D.2.

9 Sec. 6. Section 717B.3, Code 2019, is amended to read as
10 follows:

11 717B.3 Animal mistreatment — animal neglect — penalties.

12 1. ~~A person who impounds or commits animal neglect when~~
13 the person owns or has custody of an animal, confines, in any
14 place, an that animal, is guilty of animal neglect if the
15 person does any of the following:

16 ~~a. Fails and fails to supply the animal during confinement~~
17 ~~with a sufficient quantity of food or water. provide the animal~~
18 with any of the following conditions for the animal's welfare:

19 a. Access to food in an amount and quality reasonably
20 sufficient to satisfy the animal's basic nutrition level to the
21 extent that the animal's health or life is endangered.

22 ~~b. Fails to provide a confined dog or cat with adequate~~
23 ~~shelter~~ Access to a supply of potable water in an amount
24 reasonably sufficient to satisfy the animal's basic hydration
25 level to the extent that the animal's health or life is
26 endangered. Access to snow or ice does not satisfy this
27 requirement.

28 ~~c. Tortures, deprives of necessary sustenance, mutilates,~~
29 ~~beats, or kills an animal by any means which causes unjustified~~
30 ~~pain, distress, or suffering~~ Sanitary conditions free from
31 excessive animal waste or the overcrowding of animals to the
32 extent that the animal's health or life is endangered.

33 d. Ventilated shelter reasonably sufficient to provide
34 adequate protection from the elements and weather conditions
35 suitable for the age, species, and physical condition of the

1 animal so as to maintain the animal in a state of good health
2 to the extent that the animal's health or life is endangered.
3 The shelter must protect the animal from wind, rain, snow, or
4 sun and have adequate bedding to provide reasonable protection
5 against cold and dampness. A shelter may include a residence,
6 garage, barn, shed, or doghouse.

7 e. Grooming, to the extent it is reasonably necessary to
8 prevent adverse health effects or suffering.

9 f. Veterinary care deemed necessary by a reasonably
10 prudent person to relieve an animal's distress from any of the
11 following:

12 (1) A condition caused by failing to provide for the
13 animal's welfare as described in this subsection.

14 (2) An injury or illness suffered by the animal causing the
15 animal to suffer prolonged pain and suffering.

16 2. This section does not apply to conduct engaged in by
17 a research facility, as defined in section 162.2, provided
18 that if the research facility has been issued a valid
19 authorization by the department pursuant to chapter 162, and
20 performs functions within the scope of accepted practices and
21 disciplines associated with the research facility.

22 3. A person who negligently or intentionally commits
23 the offense of animal neglect that does not cause injury,
24 serious injury, or death to an animal is guilty of a simple
25 misdemeanor. A person who intentionally commits the offense of
26 animal neglect which results in serious injury to or the death
27 of an animal is guilty of a serious misdemeanor.

28 4. A person who commits animal neglect that causes injury,
29 other than serious injury or death, to an animal is guilty of
30 a serious misdemeanor.

31 5. A person who commits animal neglect that causes serious
32 injury or death to an animal is guilty of an aggravated
33 misdemeanor.

34 6. Notwithstanding subsection 5, a person who commits
35 animal neglect that causes serious injury or death to an

1 animal is guilty of a class "D" felony if the person has been
2 previously convicted of animal abuse pursuant to section
3 717B.2, animal neglect punishable as a serious misdemeanor or
4 aggravated misdemeanor pursuant to this section, animal torture
5 pursuant to section 717B.3A, injury to or interference with
6 a police service dog pursuant to section 717B.9, bestiality
7 pursuant to section 717C.1, or an act involving a contest event
8 prohibited in section 717D.2.

9 Sec. 7. Section 717B.3A, Code 2019, is amended to read as
10 follows:

11 **717B.3A Animal mistreatment — animal torture — penalties.**

12 1. A person is guilty of animal torture, ~~regardless of~~
13 ~~whether the person is the owner of the animal,~~ if the person
14 intentionally or knowingly inflicts upon the on an animal
15 severe and prolonged or repeated physical pain with a depraved
16 ~~or sadistic intent to cause prolonged suffering~~ that causes the
17 animal's serious injury or death.

18 2. **This section** shall not apply to any of the following:

19 a. A person acting to carry out an order issued by a court.

20 b. A ~~licensed veterinarian practicing veterinary medicine as~~
21 ~~provided in chapter 169.~~

22 c. ~~A person carrying out a practice that is consistent with~~
23 ~~animal husbandry practices.~~

24 ~~d.~~ c. A person acting in order to carry out another
25 provision of law which allows the conduct.

26 ~~e.~~ d. A person taking, hunting, trapping, or fishing for a
27 wild animal as provided in **chapter 481A.**

28 ~~f.~~ e. A person acting to protect the person's property from
29 a wild animal as defined in **section 481A.1.**

30 ~~g.~~ f. A person acting to protect a person from ~~injury~~
31 bodily harm or death caused by a wild animal as defined in
32 section 481A.1.

33 ~~h.~~ g. A person ~~reasonably~~ acting reasonably to protect the
34 person's property from damage caused by an unconfined animal.

35 ~~i.~~ h. A person ~~reasonably~~ acting reasonably to protect a

1 person from ~~injury~~ bodily harm or death caused by an unconfined
2 animal.

3 ~~j.~~ i. A local authority ~~reasonably~~ acting reasonably to
4 ~~destroy~~ euthanize an animal, if at the time of the ~~destruction~~
5 euthanasia, the owner of the animal is absent or unable to care
6 for the animal, and the animal is permanently distressed by
7 disease or injury to a degree that would result in severe and
8 prolonged suffering.

9 ~~k.~~ j. A research facility, as defined in section 162.2,
10 ~~provided that~~ if the research facility has been issued a valid
11 authorization by the department pursuant to chapter 162, and
12 the research facility performs functions within the scope of
13 accepted practices and disciplines associated with the research
14 facility.

15 k. An act required to be carried out by a commercial
16 establishment to care for an animal in its possession or
17 under its control as described in section 162.10A, subsection
18 1, provided that the commercial establishment complies
19 with applicable standard of care requirements pursuant to
20 subsections 1 and 2 of that section.

21 3. ~~a.~~ ~~The following shall apply to a person who commits~~
22 ~~animal torture:~~

23 ~~(1) For the first conviction, the person is guilty of an~~
24 ~~aggravated misdemeanor. The sentencing order shall provide~~
25 ~~that the person submit to psychological evaluation and~~
26 ~~treatment according to terms required by the court. The costs~~
27 ~~of the evaluation and treatment shall be paid by the person.~~
28 ~~In addition, the sentencing order shall provide that the person~~
29 ~~complete a community work requirement, which may include a work~~
30 ~~requirement performed at an animal shelter or pound, as defined~~
31 ~~in section 162.2, according to terms required by the court.~~

32 ~~(2) For a second or subsequent conviction, the person is~~
33 ~~guilty of a class "D" felony. The sentencing order shall~~
34 ~~provide that the person submit to psychological evaluation and~~
35 ~~treatment according to terms required by the court. The costs~~

1 ~~of the psychological evaluation and treatment shall be paid by~~
2 ~~the person.~~

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

9 4. A person who commits animal torture is guilty of a class
10 "D" felony.

11 5. Notwithstanding subsection 4, a person who commits
12 animal torture is guilty of a class "C" felony if the person
13 has previously been convicted of committing animal abuse
14 pursuant to section 717B.2, animal neglect punishable as a
15 serious misdemeanor or aggravated misdemeanor pursuant to
16 section 717B.3, animal torture pursuant to this section, injury
17 to or interference with a police service dog pursuant to
18 section 717B.9, bestiality pursuant to section 717C.1, or an
19 act involving a contest event prohibited in section 717D.2.

20 **Sec. 8. NEW SECTION. 717B.3B Animal mistreatment — court**
21 **order — evaluation and treatment.**

22 1. At the time of a person's conviction for committing a
23 public offense constituting animal mistreatment, a court may
24 enter an order requiring the person to undergo a psychological
25 or psychiatric evaluation and to undergo any treatment that the
26 court determines to be appropriate after due consideration of
27 the evaluation.

28 2. Notwithstanding subsection 1, the court shall enter an
29 order described in that subsection, if the convicted person is
30 any of the following:

31 a. A juvenile.

32 b. An adult convicted of animal abuse punishable as an
33 aggravated misdemeanor or class "D" felony pursuant to section
34 717B.2, animal neglect punishable as an aggravated misdemeanor
35 or class "D" felony pursuant to section 717B.3, or animal

1 torture pursuant to section 717B.3A.

2 3. The costs of undergoing a psychological or psychiatric
3 evaluation and undergoing any treatment ordered by the court
4 shall be borne by the convicted person, unless the person is
5 a juvenile.

6 4. An order made under this section is in addition to any
7 other order or sentence of the court.

8 5. Any violation of the court order shall be punished as
9 contempt of court pursuant to chapter 665.

10 Sec. 9. Section 717B.8, Code 2019, is amended to read as
11 follows:

12 **717B.8 Abandonment of cats and dogs — penalties.**

13 1. A person who ~~has ownership~~ commits animal abandonment if
14 the person owns or has custody of a cat or dog ~~shall not abandon~~
15 the cat or dog, ~~except the person may deliver and relinquishes~~
16 all rights in and duties to care for the cat or dog.

17 2. This section does not apply to any of the following:

18 a. The delivery of a cat or dog to another person who will
19 accept ownership and custody ~~or the person may deliver of~~ the
20 cat or dog.

21 b. The delivery of a cat or dog to an animal shelter or
22 pound as defined in [section 162.2](#) that has been issued a valid
23 authorization by the department under chapter 162.

24 c. A person who relinquishes custody of a cat at a location
25 in which the person does not hold a legal or equitable
26 interest, if previously the person had taken custody of the cat
27 at the same location and provided for the cat's sterilization
28 by a veterinarian.

29 3. a. A person who ~~violates this section~~ commits animal
30 abandonment that does not cause injury or death to an animal is
31 guilty of a simple misdemeanor.

32 b. A person who commits animal abandonment that causes
33 injury other than serious injury or death to an animal is
34 guilty of a serious misdemeanor.

35 c. A person who commits animal abandonment that causes

1 serious injury or death to an animal is guilty of an aggravated
2 misdemeanor.

3 EXPLANATION

4 The inclusion of this explanation does not constitute agreement with
5 the explanation's substance by the members of the general assembly.

6 TAMPERING WITH ITEMS WORN BY A DOG. This bill prohibits a
7 person from knowingly tampering with certain articles attached
8 to an item such as a collar worn by a dog or otherwise attached
9 to the dog. First, the bill prohibits a person from removing,
10 damaging, or destroying a rabies vaccination tag attached to a
11 collar worn by a dog (new Code section 351.45). Generally, a
12 dog must receive a rabies vaccination (Code sections 351.33 and
13 351.36) and must wear a collar with a valid rabies vaccination
14 tag (Code section 351.25) or else be subject to being killed or
15 seized by law enforcement (Code section 351.26). The bill's
16 second offense prohibits a person from removing, disabling, or
17 destroying an electronic handling device while attached to the
18 dog or attached to an item worn by the dog such as a collar,
19 harness, or vest (new Code section 351.46). An electronic
20 handling device is designed and used to maintain custody or
21 control of the dog or modify the dog's behavior. Neither
22 offense applies to the dog's owner or to an agent of or a
23 person authorized to take action by the owner, a peace officer,
24 a licensed veterinarian, or an animal shelter. For a first
25 conviction of either offense, a person is guilty of a simple
26 misdemeanor and for a second or subsequent conviction, a person
27 is guilty of a serious misdemeanor.

28 ANIMAL MISTREATMENT — GENERAL. The bill amends Code
29 chapter 717B prohibiting the mistreatment of certain animals,
30 including dogs and cats, but excluding other animals from
31 its provisions such as livestock (Code chapter 717); game,
32 fur-bearing animals, fish, reptiles, or amphibians (Code
33 chapter 481A), unless such animal is owned, confined, or
34 controlled by a person; or a nongame animal declared to be
35 a nuisance by the natural resource commission (Code sections

1 481A.42 and 717B.1). The bill also refers to commercial
2 establishments which are regulated by the department of
3 agriculture and land stewardship (DALS) and the United States
4 department of agriculture (USDA) (Code chapter 162).

5 CODE CHAPTER 717B OFFENSES (ANIMAL MISTREATMENT) — NON-CODE
6 CHAPTER 717B OFFENSES. The bill amends four criminal offenses
7 which are part of Code chapter 717B. These include animal
8 abuse (Code section 717B.2), animal neglect (Code section
9 717B.3), animal torture (Code section 717B.3A), and animal
10 abandonment (Code section 717B.8). The bill also refers to a
11 fourth offense, injury or interference with a police service
12 dog (Code section 717B.9). All of these offenses, which the
13 bill classifies as "animal mistreatment", are currently subject
14 to a series of penalties ranging from a simple misdemeanor
15 (animal neglect not resulting in a serious injury or death)
16 to a class "D" felony (animal torture). The bill refers to
17 two other types of offenses not part of Code chapter 717B and
18 which each define "animal" broadly to include any nonhuman
19 vertebrate. These include the offense of bestiality (Code
20 section 717C.1) and a number of closely related offenses that
21 involve animals participating in certain contest events such as
22 fighting that may result in an animal's injury or death (Code
23 section 717D.2).

24 DISTINCTION BETWEEN INJURY AND SERIOUS INJURY. The bill
25 retains and expands a distinction between an infliction of
26 an injury and serious injury or death currently applicable
27 to animal neglect. The bill defines an injury to include an
28 animal's disfigurement, the impairment of an animal's health,
29 or an impairment to the functioning of an animal's limb or
30 organ. It defines a serious injury as an animal's protracted
31 or permanent disfigurement, the protracted or permanent
32 impairment of an animal's health, the protracted or permanent
33 impairment of the functioning of an animal's limb or organ, or
34 the loss of an animal's limb or organ (amended Code section
35 717B.1).

1 ORDINARY AND ENHANCED CRIMINAL PENALTIES. The bill
2 increases criminal penalties for animal mistreatment offenses,
3 other than interference with a police service dog (primary
4 offenses), with the highest penalty raised to a class "C"
5 felony. Under the bill, a person convicted of a primary
6 offense and who has previously been convicted of committing
7 a form of animal mistreatment, or other described non-Code
8 chapter 717B offense (not subject to a simple misdemeanor),
9 is subject to an enhanced penalty which equals a one-step
10 increase from the penalty ordinarily applicable (e.g., from an
11 aggravated misdemeanor to a class "D" felony).

12 A simple misdemeanor is punishable by confinement for no
13 more than 30 days or a fine of at least \$65 but not more than
14 \$625 or by both. A serious misdemeanor is punishable by
15 confinement for no more than one year and a fine of at least
16 \$315 but not more than \$1,875. An aggravated misdemeanor is
17 punishable by confinement for no more than two years and a fine
18 of at least \$625 but not more than \$6,250. A class "D" felony
19 is punishable by confinement for no more than five years and
20 a fine of at least \$750 but not more than \$7,500. A class "C"
21 felony is punishable by confinement for no more than 10 years
22 and a fine of at least \$1,000 but not more than \$10,000.

23 PRIMARY OFFENSES — ANIMAL ABUSE. Under current law,
24 a person commits animal abuse by intentionally inflicting
25 an injury upon an animal. The bill provides that a person
26 commits the offense by intentionally, knowingly, or recklessly
27 inflicting the injury. The bill amends an exception that
28 currently applies to a person who is the owner or acting with
29 the owner's consent. Under the bill, this exception would only
30 be available if the animal is in a state of permanent pain or
31 suffering and is euthanized. The bill creates a new exception
32 that applies to a commercial establishment. Animal abuse
33 does not include an act by a commercial establishment that
34 involves providing an animal with adequate food, water, housing
35 facilities, sanitary control, grooming, and veterinary care, in

1 compliance with applicable state rules or federal regulations
2 (Code section 162.10A). The bill reduces the penalty from an
3 aggravated to a serious misdemeanor for committing an offense
4 that causes an animal injury but does not cause an animal
5 serious injury or death. It retains the penalty of aggravated
6 misdemeanor if the animal suffers serious injury or death. In
7 that case, the offense is subject to an enhanced penalty as a
8 class "D" felony.

9 PRIMARY OFFENSES — ANIMAL NEGLECT. Under current law, a
10 person commits animal neglect by (1) impounding or confining an
11 animal and (2) failing to supply the animal with an adequate
12 supply of food or water, or failing to provide the animal
13 with adequate shelter. The bill provides that the offense is
14 committed by a person who (1) owns or has custody of an animal,
15 (2) confines that animal, and (3) fails to provide the animal
16 with conditions for the animal's welfare. These conditions
17 include access to nutritional food, potable water, adequate
18 sanitary conditions, ventilated shelter from the weather,
19 grooming, and veterinary care if required to relieve the animal
20 from distress. The bill eliminates a provision that includes
21 inflicting upon an animal unjustified pain, including torture.
22 It retains the ordinary criminal penalty which is a simple
23 misdemeanor but provides that the offense does not involve
24 an injury or death. For an offense that causes an animal to
25 suffer an injury, other than serious injury or death, the new
26 penalty is a serious misdemeanor. For an offense that causes
27 an animal to suffer a serious injury or death, the new penalty
28 is an aggravated misdemeanor which may be enhanced to a class
29 "D" felony.

30 PRIMARY OFFENSES — ANIMAL TORTURE. Under current law, a
31 person commits animal torture by (1) acting with a depraved
32 or sadistic intent to (2) inflict severe and prolonged pain
33 or suffering, or death upon an animal. The bill provides
34 that a person commits the offense by (1) intentionally or
35 knowingly (but not recklessly) inflicting severe and prolonged

1 or repeated physical pain upon an animal, and (2) causes the
2 animal's serious injury or death. The bill eliminates an
3 exception that applies to a person carrying out practices
4 consistent with animal husbandry purposes. The bill creates
5 a new exception applying to a commercial establishment in the
6 same manner as described for animal abuse. The bill increases
7 the criminal penalty to a class "D" felony which may be
8 enhanced to a class "C" felony.

9 PRIMARY OFFENSES — ANIMAL ABANDONMENT. Under current law,
10 a person who owns or has custody of a cat or dog is prohibited
11 from abandoning that animal. Abandonment does not include
12 delivery of a dog or cat to a person who will accept ownership
13 and custody of the animal or delivery of the animal to an
14 animal shelter or pound. The bill designates the offense as
15 animal abandonment and prohibits a person from relinquishing
16 rights and duties to care for the animal. The bill creates
17 an exception that allows a person to return a cat to the
18 same location as it was taken if the returned cat has been
19 sterilized by a veterinarian. The bill retains the current
20 penalty, a simple misdemeanor, provided the offense does not
21 involve an injury or death to the animal. If the animal
22 suffers an injury, other than serious injury or death, the
23 new penalty is a serious misdemeanor. If the animal suffers
24 serious injury or death, the new penalty is an aggravated
25 misdemeanor which may be enhanced to a class "D" felony.

26 ANIMAL MISTREATMENT — COURT-ORDERED EVALUATION AND
27 TREATMENT. The bill eliminates a requirement that a court
28 may order psychological evaluation and treatment for a
29 person's first conviction of animal torture and must enter
30 such order for the person's subsequent conviction. Instead,
31 the bill provides that the court may order psychological or
32 psychiatric evaluation and treatment for any conviction of an
33 animal mistreatment offense and must enter the order if the
34 sentenced person is a juvenile or the offense is animal abuse,
35 animal neglect, or animal torture punishable as an aggravated

1 misdemeanor, class "D" felony, or class "C" felony (an offense
2 in which a person inflicts a serious injury or death on an
3 animal).

4 COMMERCIAL ESTABLISHMENTS. A commercial establishment
5 includes a person required to be issued some form of
6 authorization by the DALs (Code section 162.2A), including
7 an animal shelter, pound, or research facility (certificate
8 of registration); a pet shop, boarding kennel, or commercial
9 kennel (state license); or a dealer, commercial breeder,
10 or public auction (either a state license or a permit). A
11 permit is issued if the person is licensed under the federal
12 Animal Welfare Act (7 U.S.C. ch. 54) by USDA. A registrant or
13 state licensee must meet the standard of care requirement by
14 complying with DALs rules. A permittee must meet the standard
15 of care by complying with USDA regulations (Code section
16 162.10A).