

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; making certain willful and malicious acts of cruelty to an animal 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
15 willfully and unjustifiably kills such a dog is guilty of a category C felony. (NRS
16 574.107) **Section 1** of this bill provides that a person who willfully and maliciously
17 commits certain acts of cruelty against an animal is guilty of a category D felony, if



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18 the act does not result in the death of the animal, and is guilty of a category C
19 felony, if the animal dies because of the act of cruelty.

20 Existing law prohibits a retailer, dealer or operator from separating a dog or cat
21 from its mother until it is 8 weeks of age or is accustomed to taking food or
22 nourishment other than by nursing, whichever is later. (NRS 574.500) Although no
23 penalty is specifically provided for violating that prohibition, existing law provides
24 that whenever the performance of any act is prohibited by any statute, and no
25 penalty for the violation of such statute is imposed, a person who commits that act
26 is guilty of a misdemeanor. (NRS 193.170) **Section 2** of this bill clarifies that a
27 person who separates a dog or cat from its mother before it is 8 weeks old or is
28 accustomed to taking food or nourishment other than by nursing is guilty of a
29 misdemeanor.

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

1 **Section 1.** NRS 574.100 is hereby amended to read as follows:

2 574.100 1. A person shall not:

3 (a) Overdrive, overload, torture, cruelly beat or unjustifiably
4 injure, maim, mutilate or kill an animal, whether belonging to the
5 person or to another;

6 (b) Deprive an animal of necessary sustenance, food or drink, or
7 neglect or refuse to furnish it such sustenance or drink;

8 (c) Cause, procure or allow an animal to be overdriven,
9 overloaded, tortured, cruelly beaten, or unjustifiably injured,
10 maimed, mutilated or killed or to be deprived of necessary food or
11 drink;

12 (d) Instigate, engage in, or in any way further an act of cruelty to
13 any animal, or any act tending to produce such cruelty; or

14 (e) Abandon an animal in circumstances other than those
15 prohibited in NRS 574.110.

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

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

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

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

25 (3) Allows the dog to reach a fence or other object that may
26 cause the dog to become injured or die by strangulation after
27 jumping the fence or object or otherwise becoming entangled in the
28 fence or object;

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

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



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

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

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

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

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

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

19 (e) Being kept in a shelter or boarding facility or temporarily in
20 a camping area;

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

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

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

32 5. A *person who willfully and maliciously violates*
33 *subsection 1:*

34 (a) *If the act does not result in the death of an animal, is guilty*
35 *of a category D felony and shall be punished as provided in*
36 *NRS 193.130.*

37 (b) *If the act results in the death of an animal, is guilty of a*
38 *category C felony and shall be punished as provided in*
39 *NRS 193.130.*

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

42 (a) For the first offense within the immediately preceding 7
43 years, is guilty of a misdemeanor and shall be sentenced to:

44 (1) Imprisonment in the city or county jail or detention
45 facility for not less than 2 days, but not more than 6 months; and



1 (2) Perform not less than 48 hours, but not more than 120
2 hours, of community service.

3 ➔ The person shall be further punished by a fine of not less than
4 \$200, but not more than \$1,000. A term of imprisonment imposed
5 pursuant to this paragraph may be served intermittently at the
6 discretion of the judge or justice of the peace, except that each
7 period of confinement must be not less than 4 consecutive hours and
8 must occur either at a time when the person is not required to be at
9 the person's place of employment or on a weekend.

10 (b) For the second offense within the immediately preceding 7
11 years, is guilty of a misdemeanor and shall be sentenced to:

12 (1) Imprisonment in the city or county jail or detention
13 facility for not less than 10 days, but not more than 6 months; and

14 (2) Perform not less than 100 hours, but not more than 200
15 hours, of community service.

16 ➔ The person shall be further punished by a fine of not less than
17 \$500, but not more than \$1,000.

18 (c) For the third and any subsequent offense within the
19 immediately preceding 7 years, is guilty of a category C felony and
20 shall be punished as provided in NRS 193.130.

21 ~~[6-]~~ 7. In addition to any other fine or penalty provided in
22 subsection 5 ~~[4]~~ or 6, a court shall order a person convicted of
23 violating subsection 1, 2 or 3 to pay restitution for all costs
24 associated with the care and impoundment of any mistreated animal
25 under subsection 1, 2 or 3, including, without limitation, money
26 expended for veterinary treatment, feed and housing.

27 ~~[7-]~~ 8. The court may order the person convicted of violating
28 subsection 1, 2 or 3 to surrender ownership or possession of the
29 mistreated animal.

30 ~~[8-]~~ 9. The provisions of this section do not apply with respect
31 to an injury to or the death of an animal that occurs accidentally in
32 the normal course of:

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

34 (b) Operating a ranch.

35 **Sec. 2.** NRS 574.500 is hereby amended to read as follows:

36 574.500 **1.** A retailer, dealer or operator shall not separate a
37 dog or cat from its mother until it is 8 weeks of age or accustomed
38 to taking food or nourishment other than by nursing, whichever is
39 later.

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

