

LIVESTOCK ANIMAL WELFARE ACT

- Administration: These statutes are for informational purposes.
- Revisions: These statutes were revised in the 2013 session of the Nebraska Legislature.
- Rules: The Department of Agriculture has no authority to promulgate regulations under these statutes.

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54-901. Act, how cited. Sections 54-901 to 54-913 shall be known and may be cited as the Livestock Animal Welfare Act.

54-902. Terms, defined. For purposes of the Livestock Animal Welfare Act:

(1) Abandon means to leave a livestock animal in one's care, whether as owner or custodian, for any length of time without making effective provision for the livestock animal's feed, water, or other care as is reasonably necessary for the livestock animal's health;

(2) Animal welfare practice means veterinarian practices and animal husbandry practices common to the livestock animal industry, including transport of livestock animals from one location to another;

(3) Bovine means a cow, an ox, or a bison;

(4) Cruelly mistreat means to knowingly and intentionally kill or cause physical harm to a livestock animal in a manner that is not consistent with animal welfare practices;

(5) Cruelly neglect means to fail to provide a livestock animal in one's care, whether as owner or custodian, with feed, water, or other care as is reasonably necessary for the livestock animal's health;

(6) Equine means a horse, pony, donkey, mule, or hinny;

(7) Euthanasia means the destruction of a livestock animal by commonly accepted veterinary practices;

(8) Law enforcement officer means any member of the Nebraska State Patrol, any county or deputy sheriff, any member of the police force of any city or village, or any other public official authorized by a city or village to enforce state or local laws, rules, regulations, or ordinances;

(9) Livestock animal means any bovine, equine, swine, sheep, goats, domesticated cervine animals, ratite birds, llamas, or poultry;

(10) Owner or custodian means any person owning, keeping, possessing, harboring, or knowingly permitting an animal to remain on or about any premises owned or occupied by such person; and

(11) Serious injury or illness includes any injury or illness to any livestock animal which creates a substantial risk of death or which causes broken bones, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ.

54-903. Abandonment or cruel neglect; mistreatment; prohibited acts; violation; penalty.

(1) A person who intentionally, knowingly, or recklessly abandons or cruelly neglects a livestock animal is guilty of a Class I misdemeanor unless the abandonment or cruel neglect results in serious injury or illness or death of the livestock animal, in which case it is a Class IV felony.

(2) A person who cruelly mistreats a livestock animal is guilty of a Class I misdemeanor for the first offense and a Class IV felony for any subsequent offense.

54-904. Indecency with a livestock animal; penalty. A person commits indecency with a livestock animal when such person subjects an animal to sexual penetration as defined in section 28-318. Indecency with a livestock animal is a Class III misdemeanor.

54-905. Court order for reimbursement of expenses; liability for expenses; lien. (1) In addition to any other sentence given for a violation of section 54-903 or 54-904, the sentencing court may order the defendant to reimburse a public or private agency for any unreimbursed expenses incurred in conjunction with the care, seizure, or disposal of a livestock animal involved in the violation of such section. Whenever the court believes that such reimbursement is a proper sentence or at the prosecuting attorney's request, the court shall order that the presentence investigation report include documentation regarding the nature and amount of the expenses incurred. The court may order that reimbursement be made immediately, in specified installments, or within a specified period of time, not to exceed five years after the date of judgment.

(2) Even if reimbursement for expenses is not ordered under subsection (1) of this section, the defendant shall be liable for all expenses incurred by a public or private agency in conjunction with the care, seizure, or disposal of a livestock animal. The expenses shall be a lien upon the livestock animal.

54-906. Law enforcement officer; warrant authorizing entry upon property; issue citation; seizure of animal and property; custody agreement; law enforcement officer; powers; duties; liability. (1) A law enforcement officer who has reason to believe that a livestock animal has been abandoned or is being cruelly neglected or cruelly mistreated may seek a warrant authorizing entry upon private property to inspect, care for, or impound the livestock animal.

(2) A law enforcement officer who has reason to believe that a livestock animal has been abandoned or is being cruelly neglected or cruelly mistreated may issue a citation to the owner or custodian as prescribed in sections 29-422 to 29-429.

(3) A law enforcement officer may specify in a custody agreement the terms and conditions by which the owner or custodian may maintain custody of the livestock animal to provide care for such animal at the expense of the owner or custodian. The custody agreement shall be signed by the owner or custodian of the livestock animal. A copy of the signed agreement shall be provided to the owner or custodian of the livestock animal. A violation of the custody agreement may result in the seizure of the livestock animal.

(4) Any equipment, device, or other property or things involved in a violation of section 54-903 or 54-904 shall be subject to seizure, and distribution or disposition may be made in such manner as the court may direct. Any livestock animal involved in a violation of section 54-903 or 54-904 shall be subject to seizure. Distribution or disposition shall be made under section 54-913 as the court may direct. Any livestock animal seized under this subsection may be kept by the law enforcement officer on the property of the owner or custodian of such livestock animal.

(5) A law enforcement officer may euthanize or cause a livestock animal seized or kept pursuant to this section to be euthanized if the animal is severely emaciated, injured, disabled, or diseased past recovery for any useful purpose. The law enforcement officer shall notify the owner or custodian prior to the euthanasia if practicable under the circumstances. An owner or custodian may request that a veterinarian of the owner's or custodian's choosing view the livestock animal and be present upon examination of the livestock animal, and no livestock animal shall be

euthanized without reasonable accommodation to provide for the presence of the owner's or custodian's veterinarian when requested. However, attempted notification of the owner or custodian or the presence of the owner's or custodian's veterinarian shall not unduly delay euthanasia when necessary. The law enforcement officer may forgo euthanasia if the care of the livestock animal is placed with the owner's or custodian's veterinarian.

(6) A law enforcement officer acting under this section shall not be liable for damage to property if such damage is not the result of the officer's negligence.

54-907. Act; applicability. The Livestock Animal Welfare Act shall not apply to:

(1) Care or treatment of a livestock animal or other conduct by a veterinarian or veterinary technician licensed under the Veterinary Medicine and Surgery Practice Act that occurs within the scope of his or her employment, that occurs while acting in his or her professional capacity, or that conforms to commonly accepted veterinary practices;

(2) Euthanasia of a livestock animal or livestock animals as conducted by the owner or by his or her agent or a veterinarian upon the owner's request;

(3) Research activity carried on by any research facility currently meeting the standards of the federal Animal Welfare Act, 7 U.S.C. 2131 et seq., as such act existed on January 1, 2010;

(4) Commonly accepted animal welfare practices with respect to livestock animals and commercial livestock operations, including their transport from one location to another and nonnegligent actions taken by personnel or agents of the Department of Agriculture or the United States Department of Agriculture in the performance of duties prescribed by law;

(5) Commonly followed practices occurring in conjunction with the slaughter of animals for food or byproducts;

(6) Commonly accepted animal training practices; and

(7) Commonly accepted practices occurring in conjunction with sanctioned rodeos, animal racing, and pulling contests.

54-908. Employee of governmental livestock animal control or animal abuse agency; duty to report suspected criminal activity; immunity from liability; contents of report; form; failure to report; penalty. (1) For purposes of this section:

(a) Employee means any employee of a governmental agency dealing with livestock animal control or animal abuse; and

(b) Reasonably suspects means a basis for reporting knowledge or a set of facts that would lead a person of ordinary care and prudence to believe and conscientiously entertain a strong suspicion that criminal activity is at hand or that a crime has been committed.

(2) Any employee, while acting in his or her professional capacity or within the scope of his or her employment, who observes or is involved in an incident which leads the employee to reasonably suspect that a livestock animal has been abandoned, cruelly neglected, or cruelly mistreated shall report such to the entity or entities that investigate such reports in that jurisdiction.

(3) The report of an employee shall be made within two working days of acquiring the information concerning the livestock animal by facsimile transmission of a written report presented in the form described in subsection (5) of this section or by telephone. When an immediate response is necessary to protect the health and safety of the livestock animal or others, the report of an employee shall be made by telephone as soon as possible.

(4) Nothing in this section shall be construed to impose a duty to investigate observed or reasonably suspected livestock animal abandonment, cruel neglect, or cruel mistreatment. Any person making a report under this section is immune from liability except for false statements of fact made with malicious intent.

(5) A report made by an employee pursuant to this section shall include:

(a) The reporter's name and title, business address, and telephone number;

(b) The name, if known, of the livestock animal owner or custodian, whether a business or individual;

(c) A description of the livestock animal or livestock animals involved, person or persons involved, and location of the livestock animal or livestock animals and the premises; and

(d) The date, the time, and a description of the observation or incident which led the reporter to reasonably suspect livestock animal abandonment, cruel neglect, or cruel mistreatment and any other information the reporter believes may be relevant.

(6) A report made by an employee pursuant to this section may be made on preprinted forms prepared by the entity or entities that investigate reports of livestock animal abandonment, livestock animal cruel neglect, or livestock animal cruel mistreatment in that jurisdiction. The form shall include space for the information required under subsection (5) of this section.

(7) When two or more employees jointly have observed or reasonably suspected livestock animal abandonment, livestock animal cruel neglect, or livestock animal cruel mistreatment and there is agreement between or among them, a report may be made by one person by mutual agreement. Any such reporter who has knowledge that the person designated to report has failed to do so shall thereafter make the report.

(8) Any employee failing to report under this section shall be guilty of an infraction.

54-909. Conviction; court order not to own or possess livestock animal; violation; penalty; seizure of livestock animal. (1) If a person is convicted of a Class IV felony under section 54-903, the sentencing court shall order such person not to own or possess a livestock animal for at least five years after the date of conviction, but such time restriction shall not exceed fifteen years. Any person violating such court order shall be guilty of a Class I misdemeanor.

(2) If a person is convicted of a Class I misdemeanor under section 54-903 or a Class III misdemeanor under section 54-904, the sentencing court may order such person not to own or possess any livestock animal after the date of conviction, but such time restriction, if any, shall not exceed five years. Any person violating such court order shall be guilty of a Class IV misdemeanor.

(3) Any livestock animal involved in a violation of a court order under subsection (1) or (2) of this section shall be subject to seizure by law enforcement.

54-910. Livestock animal health care professional; duty to report suspected criminal activity; immunity from liability. (1) Any livestock animal health care professional, while acting in his or her professional capacity or within the scope of his or her employment, who observes or is involved in an incident which leads the livestock animal health care professional to reasonably suspect that a livestock animal has been abandoned, cruelly neglected, or cruelly mistreated shall report such treatment to an entity that investigates such reports in the appropriate jurisdiction.

(2) Nothing in this section shall be construed to impose a duty to investigate observed or reasonably suspected abandonment, cruel neglect, or cruel mistreatment of a livestock animal. Any person making a report under this section is immune from liability except for false statements of fact made with malicious intent.

(3) For purposes of this section, a livestock animal health care professional means a licensed veterinarian as defined in section 38-3310 or a licensed veterinary technician as defined in section 38-3311 whose practice involves care of livestock animals.

54-911. Prohibited acts relating to equine; violation; penalty. (1) No person shall intentionally trip or cause to fall, or lasso or rope the legs of, any equine by any means for the purpose of entertainment, sport, practice, or contest. The intentional tripping or causing to fall, or lassoing or roping the legs of, any equine by any means for the purpose of entertainment, sport, practice, or contest shall not be considered a commonly accepted practice occurring in conjunction with sanctioned rodeos, animal racing, or pulling contests.

(2) Violation of this section is a Class I misdemeanor.

54-912. Prohibited acts relating to bovine; violation; penalty. (1) No person shall intentionally trip, cause to fall, or drag any bovine by its tail by any means for the purpose of entertainment, sport, practice, or contest. The intentional tripping, causing to fall, or dragging of any bovine by its tail by any means for the purpose of entertainment, sport, practice, or contest shall not be considered a commonly accepted practice occurring in conjunction with sanctioned rodeos, animal racing, or pulling contests.

(2) Violation of this section is a Class I misdemeanor.

54-913. Livestock animal seized; hearing to determine disposition and cost; notice; court order; appeal; euthanasia. (1) After a livestock animal has been seized, the agency that took custody of the livestock animal shall, within seven days after the date of seizure, file a complaint with the district court in the county in which the animal was seized for a hearing to determine the disposition and the cost for the care of the livestock animal. Notice of such hearing shall be given to the owner or custodian from whom such livestock animal was seized and to any holder of a lien or security interest of record in such livestock animal, specifying the date, time, and place of such hearing. Such notice shall be served by personal or residential service or by certified mail. If

such notice cannot be served by such methods, service may be made by publication in the county where such livestock animal was seized. Such publication shall be made after application and order of the court. The hearing shall be held as soon as practicable and not more than ten business days after the date of application for the hearing unless otherwise determined and ordered by the court.

(2) If the court finds that probable cause exists that the livestock animal has been abandoned or cruelly neglected or mistreated, the court may:

(a) Order immediate forfeiture of the livestock animal to the agency that took custody of the livestock animal and authorize appropriate disposition of the livestock animal, including sale at public auction, adoption, donation to a suitable shelter, humane destruction, or any other manner of disposition approved by the court. With respect to sale of a livestock animal, the proceeds shall first be applied to the cost of sale and then to the expenses for the care of the livestock animal and the remaining proceeds, if any, shall be paid to the holder of a lien or security interest of record in such livestock animal and then to the owner of the livestock animal;

(b) Issue an order to the owner or custodian setting forth the conditions under which custody of the livestock animal shall be returned to the owner or custodian from whom the livestock animal was seized or to any other person claiming an interest in the livestock animal. Such order may include any management actions deemed necessary and prudent by the court, including culling by sale, humane disposal, or forfeiture and securing necessary care, including veterinary care, sufficient for the maintenance of any remaining livestock animal; or

(c) Order the owner or custodian from whom the livestock animal was seized to post a bond or other security, or to otherwise order payment, in an amount that is sufficient to reimburse all reasonable expenses, as determined by the court, for the care of the livestock animal, including veterinary care, incurred by the agency from the date of seizure and necessitated by the possession of the livestock animal. Payments shall be for a succeeding thirty-day period with the first payment due on or before the tenth day following the hearing. Payments for each subsequent succeeding thirty-day period, if any, shall be due on or before the tenth day of such period. The bond or security shall be placed with, or payments ordered under this subdivision shall be paid to, the agency that took custody of the livestock animal. The agency shall provide an accounting of expenses to the court when the livestock animal is no longer in the custody of the agency or upon request by the court. The agency may petition the court for a subsequent hearing under this subsection at any time. The hearing shall be held as soon as practicable and not more than ten business days after the date of application for the hearing unless otherwise determined and ordered by the court. When all expenses covered by the bond or security are exhausted and subsequent bond or security has not been posted or if a person becomes delinquent in his or her payments for the expenses of the livestock animal, the livestock animal shall be forfeited to the agency.

(3) If custody of a livestock animal is returned to the owner or custodian of the livestock animal prior to seizure, any proceeds of a bond or security or any payment or portion of payment ordered under this section not used for the care of the livestock

animal during the time the animal was held by the agency shall be returned to the owner or custodian.

(4) Nothing in this section shall prevent the euthanasia of a seized livestock animal at any time as determined necessary by a law enforcement officer or as authorized by court order.

(5) An appeal may be entered within ten days after a hearing under this section. Any person filing an appeal shall post a bond or security sufficient to pay reasonable costs of care of the livestock animal for thirty days. Such payment will be required for each succeeding thirty-day period until the appeal is final.

(6) If the owner or custodian from whom the livestock animal was seized is found not guilty in an associated criminal proceeding, all funds paid for the expenses of the livestock animal remaining after the actual expenses incurred by the agency have been paid shall be returned to such person.

(7) This section shall not preempt any ordinance of a city of the metropolitan or primary class.

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