

Short Ballot Title

AN INITIATIVE AMENDING CHAPTER 35, TITLE 25, IDAHO CODE, ANIMAL CARE LAW, ADDING FELONY PENALTIES FOR REPEAT VIOLATIONS AND TORTURE.

Long Ballot Title

AN INITIATIVE RELATING TO ANIMAL CARE, AMENDING SECTION 25-3502, IDAHO CODE, TO INCLUDE A DEFINITION FOR "TORTURE"; AMENDING SECTION 25-3504 TO CHANGE REFERENCES FOR PENALTY CLASSIFICATIONS; AMENDING SECTION 25-3520A, IDAHO CODE, TO INCREASE FINES FOR MISDEMEANOR VIOLATIONS; ADDING FELONY PENALTIES FOR THIRD AND SUBSEQUENT VIOLATIONS, AND ANY VIOLATIONS INCLUDING THE INTENTIONAL TORTURE OF AN ANIMAL.

Full Text

Section 1. That Section 25-3502, Idaho Code, is hereby amended to read as follows:

25-3502 DEFINITIONS

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

- (1) "Abandon" means to completely forsake and desert an animal previously under the custody or possession of a person without making reasonable arrangements for its proper care, sustenance and shelter.
- (2) "Animal" means any vertebrate member of the animal kingdom, except man.
- (3) "Animal care and control agency" means any agency incorporated under the laws of this state to which a county or municipality has conferred authority to exercise the powers and duties set forth in this chapter based upon the agency's ability to fulfill the purpose of this chapter.
- (4) "Companion animal" means those animals including, but not limited to, domestic dogs, domestic cats, rabbits and companion birds, and other animals commonly kept as pets.
- (5) "Cruel" or "cruelty" shall mean any or all of the following:
 - (a) The intentional and malicious infliction of pain, physical suffering, injury or death upon an animal;
 - (b) To maliciously kill, maim, wound, overdrive, overload, drive when overloaded, overwork ~~torture~~, torment, deprive of necessary sustenance, drink or shelter, cruelly beat, mutilate or cruelly kill an animal;
 - (c) To subject an animal to needless suffering, inflict unnecessary cruelty, drive, ride or otherwise use an animal when same is unfit;
 - (d) To abandon an animal;
 - (e) To negligently confine an animal in unsanitary conditions or to negligently house an animal in inadequate facilities; to negligently fail to provide sustenance, water or shelter to an animal.
- (6) "Department" means the Idaho state department of agriculture.
- (7) "Department investigator" means a person employed by, or approved by the Idaho state department of agriculture, division of animal industries, to determine whether there has been a violation of this chapter.
- (8) "Division" means the division of animal industries of the Idaho state department of agriculture.
- (9) "Custodian" means any person who keeps or harbors an animal, has an animal in his care or acts as caretaker of an animal.
- (10) "Malicious" or "maliciously" means the intentional doing of a wrongful act without just cause or excuse, with an intent to inflict an injury or death.
- (11) "Owner" means any person who has a right of property in an animal.
- (12) "Person" means any individual, firm, corporation, partnership, or other business unit, society, association or other legal entity, any public or private institution, the state of Idaho, or any municipal corporation or political subdivision of the state.
- (13) "Pound" means a place enclosed by public authority for the detention of stray animals.
- (14) "Production animal" means, for the purpose of this chapter:

- (a) The following animals if owned for the express purpose of producing food or fiber, or other commercial activity, in furtherance of the production of food or fiber, or other commercial activity, or to be sold for the use of another for such purpose: cattle, sheep, goats, swine, poultry, ratites, equines, domestic cervidae, camelidae, and guard and stock dogs; and
- (b) Furbearing animals kept for the purpose of commercial fur production.
- (15) **"Torture" means an action, through omission or commission, used for the primary purpose of inflicting or prolonging pain or suffering. Practices described in 25-3514, Idaho Code, are not "torture".**

Section 2. That section 25-3504, Idaho Code, is hereby amended to read as follows:

25-3504 COMMITTING CRUELTY TO ANIMALS

Every person who is cruel to any animal, or causes or procures any animal to be cruelly treated, or who, having the charge or custody of any animal, either as owner or otherwise, subjects any animal to cruelty, ~~is, for every such offense, guilty of a misdemeanor and~~ shall, upon conviction, be punished in accordance with section 25-3520A, Idaho Code. Any law enforcement officer or animal care and control officer, subject to restrictions of section 25-3501A, Idaho Code, may take possession of the animal cruelly treated, and provide care for the same, until final disposition of such animals is determined in accordance with section 25-3520A or 25-3520B, Idaho Code.

Section 3. That section 25-3520A, Idaho Code, is hereby amended to read as follows:

25-3520A. PENALTY FOR VIOLATIONS —TERMINATION OF RIGHTS

- (1) Except as provided in section 25-3503 or 25-3504, Idaho Code, any person convicted for a first violation of any provisions of this chapter shall be punished , for each offense, by a jail sentence of not more than six(6) months or by a fine of not less than ~~one-four~~ hundred dollars (~~\$100~~) (**\$400**) or more than five thousand dollars(\$5000), or by both such fine and imprisonment.
- (2) Except as provided in section 25-3503 or 25-3504, Idaho Code, any person convicted of a second violation of any provisions of this chapter, within ten(10) years of the first conviction, shall be punished for each offense, by a jail sentence of not more than nine(9) months or a fine of not less than ~~two six~~ hundred dollars (**\$600**) or more than seven thousand dollars (\$7,000), or by both fine and imprisonment.
- (3) Except as provided in section 25-3503, Idaho Code, any person convicted of a third or subsequent violation ~~of any of the provisions of this chapter or the comparable statutes of another state,~~ within fifteen(15) years of the first conviction, ~~or a violation of any of the provisions of this chapter when such violation includes the intentional torture of an animal,~~ shall be punished by ~~a jail sentence of not more than twelve (12) months or a fine of not less than five hundred dollars (\$500) or more than nine thousand (\$9,000) or by both fine and~~ imprisonment **in the state prison for a term of not less than six (6) months and not exceeding three (3) years and a fine of not more than nine thousand dollars (\$9,000).**
- (4) If a person pleads guilty or is found guilty of an offense under this chapter, the court may issue an order terminating the person's right to possession, title, custody or care of an animal that was involved in the offense or that was owned or possessed at the time of the offense. If a person's right to possession, title, custody or care of an animal is terminated, the court may award the animal to a humane society or other organization that has as its principal purpose the humane treatment of animals, or may award the animal to a law enforcement agency or animal care or control agency. The court's award of custody or care of an animal will grant to the organization or agency the authority to determine custody, adoption, sale or other disposition of the animal thereafter.

Section 4. SEVERABILITY

If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.