

MINUTES
SENATE AGRICULTURAL AFFAIRS COMMITTEE

DATE: Tuesday, March 08, 2016

TIME: 8:00 A.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Rice, Vice Chairman Bayer, Senators Patrick, Souza, Lee, Den Hartog, Harris, Ward-Engelking and Burgoyne

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Rice** called the meeting of the Senate Agricultural Affairs Committee to order at 8:02 a.m.

MINUTES APPROVAL: **Senator Ward-Engelking** moved to approve the Minutes of February 23, 2016. **Senator Lee** seconded the motion. The motion carried by **voice vote**.

H 469 **Relating to Noxious Weeds. Representative Dayley** stated the purpose of this legislation is to make one minor amendment to S 1073, passed in 2015, adding a new paragraph defining a private research facility.

Dennis Tanikuni, Assistant Director of Governmental Affairs, Idaho Farm Bureau Federation (IFBF), said the IFBF is in support of this legislation.

MOTION: **Senator Harris** moved to send **H 469** to the floor with a **do pass** recommendation. **Senator Patrick** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Chairman Rice passed the gavel to Vice Chairman Bayer.

H 524 **Relating to the Torture of Companion Animals. Senator Rice** said **H 524** is the product of the cattlemen, dairymen and others seeking a clarification of definitions in the animal cruelty section of Idaho Code § 25-3502. The code defines torture of an animal as the intentional knowing and willful infliction of unjustifiable and extreme or prolonged pain, mutilation or maiming done for the purpose of causing suffering. Torture shall not mean or include acts of omission, neglect, acts committed unintentionally or by accident. Torture shall not mean or include normal or legal practices as provided in Idaho Code § 25-3502. The clarification of the definition is for those circumstances that are more egregious, and the definition seeks to narrowly address those actions. A new section to Idaho Code § 25-3504a provides for a first-time misdemeanor and a second-time felony if someone has been convicted within ten years prior to conviction of torturing a companion animal, has been convicted of a felony offense involving the voluntary infliction of bodily injury upon any human. The reason for separating this out is sub-part 5, which states that before sentencing an individual convicted of a violation of this section, the court shall order and consider a presentence investigation that shall include a psychological evaluation of the defendant.

Sub-part 5 is important for situations in which someone causing suffering to a companion animal; is there is a much stronger likelihood that the individual has a mental illness. Those mental illnesses need to be identified, treated and handled so as to mitigate risk to people.

By making psychological evaluation mandatory, the court system can apply treatment at an early stage. On page 4, the bill provides that prior to sentencing, on all other animal cruelty cases, the court may in its discretion order a pre-sentence psychological evaluation. If the prosecutor requests a pre-sentencing psychological evaluation, the court shall determine whether a pre-sentence evaluation is warranted and order the evaluation as they deem fit. This legislation calls the courts to take this approach to look first at mental illness and appropriate treatment.

Senator Patrick said on the page 1, line 36 (d) addresses knowingly abandoning an animal. People dump their animals off in the country and think some farmer will take them in. Is this piece of legislation pertinent to this type of animal abandonment?

Senator Rice explained if you look at line 36, they have inserted the word "knowingly" to the phrase "abandon an animal." There are possible abandonment situations that are not knowing, such as an owner of an animal who cannot find their dog or cat and they give up looking. If an individual dumps an animal in the middle of nowhere, that would constitute knowingly abandoning the animal.

Senator Lee stated that one of her constituents was concerned how hunting dogs fit into this statute. Would they be considered working dogs or domestic? **Senator Rice** pointed Senator Lee to lines 23 and 24: "companion animal means those animals solely kept as pets and not used as production animals, as defined in this section." A hunting dog is not solely kept as a pet. It is kept for other purposes than as a pet, so hunting dogs would not fall within the definition of companion animal.

Brent Olmstead, Executive Director, Milk Producers of Idaho, spoke in support of **H 524**. He cited the following reasons for his support: 1. it reenforces that this is a companion animal bill and does not deal with production agriculture; 2. the bill has a clear definition of torture; 3. the provision allows for a felony offense for someone who has a history of abuse; and 4. it includes a section dealing with psychological evaluations. The proper venue for curing individuals who commit animal abuse is in the behavioral health arena. The earlier the intervention to identify and treat individuals who have committed this offense, the better the outcome.

Bob Naerebout, Executive Director, Idaho Dairyman's Association (IDA), spoke in support of **H 524** recognizing the process and collaboration that this bill went through to form the bill that is in front of the Committee. The bill went through a process of editing, thanks to Chairman Rice and Representative Andrus, involving a group of animal agriculture representatives who made needed clarifications, including a new definition for torture. The insertion of the psychological evaluation in both sections of the bill addresses the concerns of the groups that want to protect companion animals and strengthens the original language of the statute for animal agriculture. IDA believes this is an important bill for both agriculture and for advocates of companion animals.

Russ Hendricks, representing Idaho Farm Bureau Federation (IFBF), spoke in opposition to **H 524** for specific reasons. Idaho Farm Bureau Policy Number 17 states in part "IFBF opposes any animal care legislation that would impose a stricter penalty than the 2012 law"; therefore IFBF opposes **H 524** because it seeks to impose stricter penalties that currently exist in regard to the care of animals. IFBF does appreciate the efforts by the sponsors and recognizes that there are several aspects of the bill that will help to ensure there is a clear distinction between production and companion animals. However, based upon IFBF's experience, their members are concerned that the additional penalties in the bill will not be satisfactory to some groups.

This bill will be one more step in the never-ending quest by some out-of-state interests to keep pushing the envelope on animal care a little further each year. It is precisely the reason, a few years ago, IFBF's members adopted Policy Number 17 statement. The policy was written after a bill passed that provided a felony penalty; IFBF members determined they would oppose **H 524**. IFBF members believe that no matter what laws or penalties are implemented, there will still be some individuals who will act in abhorrent and deviant ways. There are extremely strict laws that prohibit horrible acts against humans and carry severe penalties, yet these acts continue to occur. They do appreciate the requirement in the bill for a psychological evaluation for those who are convicted under the proposed statute. Anyone who is convicted and is mentally disturbed needs to be diagnosed and receive treatment rather than being incarcerated. In conclusion, IFBF's opposition is not toward the sponsors or their intentions, they oppose the pattern of certain others who insist on revisiting these issues each year or two and having the same discussion over again. IFBF believes the penalties currently in law are sufficient to deter those who are rational human beings, while no penalty will ever be enough to deter those who are mentally unstable.

Senator Harris stated that he appreciated the view of IFBF. Do you feel the changes in this bill defining torture and companion animals are better than the current law to protect agriculture? **Mr. Hendricks** answered IFBF agrees that there are some positive concepts in the bill. IFBF appreciates the requirement for a psychological evaluation and the clarification of the definitions of companion and production animals. IFBF's opposition is to the increased penalties that are in the bill.

Senator Patrick said that he supported the bill because individuals who do abuse animals are mentally ill and this is a way to get at the root of the problem.

Vice Chairman Bayer said IFBF's current policy does not discern between production and companion animals. **Mr. Hendricks** responded in the affirmative.

Wyatt Prescott, Executive Vice President of the Idaho Cattle Association (ICA), President of Food Producers of Idaho (FPI) and cattle owner, spoke in support of **H 524**. A cattle producer is in that occupation out of a love and passion for caring for livestock. Everyday their organization's job is to provide the highest level of care for these animals. Their rations are balanced by PhD nutritionists, and they monitor livestock health meticulously along with giving the highest standard of care. Unfortunately, there are groups in society that seek to put them out of business. They will not rest until they abolish all of animal agriculture. For that reason the ICA stands guard watching over policies such as **H 524** to make sure that these groups do not insert language that could jeopardize their common production practices that enable ICA to put food on the consumer's plate. **H 524** simply provides a nexus to prosecute animal cruelty offenders of extremely heinous acts of cruelty in the way of torture. **H 524** strengthens the position for production agriculture. Idaho's livestock industry wants to take a stand against true offenders of animal cruelty.

FPI presented this bill to their animal issues committee, which comprises the dairy, beef and other livestock segments. The committee waded through the terms and language of the proposed legislation and ultimately came to the consensus of the present legislation. FPI supports **H 524**.

Senator Harris asked if FPI sees this bill as a protection from groups wanting more restrictions on production animals. **Mr. Prescott** answered that these groups are always going to want more. The goal of some of these groups is to abolish all animal agriculture. This particular bill actually strengthens their position because the definition for companion animals is narrowed and they have taken out terms that could be arbitrarily applied to production practices. This legislation puts their industry in a more defensible position.

Chairman Rice concluded that he understood IFBF's position, which reminds the Legislature that legislation can have both a beneficial and detrimental effect in the future. This is why it is so important to be careful in drafting this type of legislation. In this legislation we seek to address the root causes that endanger both companion animals and citizens. There is other legislation that deals with individuals injuring production animals. If you abuse a production animal you get lower quality beef and less milk; hence the owner would not stay in business unless they take the best care of these production animals.

Vice Chairman Bayer commented that he would like to recognize Chairman Rice and all who have worked so hard on this measure. He indicated that the collaboration in this legislation was to be congratulated.

MOTION: **Senator Souza** moved to send **H 524** to the floor with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business, **Vice Chairman Bayer** adjourned the meeting at 8:39 a.m.

Senator Rice
Chair

Carol Deis
Secretary