

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 625

BY WAYS AND MEANS COMMITTEE

AN ACT

RELATING TO ANIMAL CARE; AMENDING SECTION 25-3502, IDAHO CODE, TO DEFINE A TERM; AMENDING SECTION 25-3504, IDAHO CODE, TO PROVIDE FOR VIOLATIONS RELATING TO COMMITTING TORTURE TO COMPANION ANIMALS AND TO PROVIDE THAT CERTAIN OFFICERS MAY TAKE POSSESSION OF COMPANION ANIMALS SUBJECTED TO TORTURE; AMENDING SECTION 25-3506, IDAHO CODE, TO PROVIDE FOR VIOLATIONS AND PENALTIES RELATING TO CERTAIN DISPLAYS OF COMBAT BETWEEN GAMECOCKS; AND AMENDING SECTION 25-3520A, IDAHO CODE, TO REVISE PROVISIONS RELATING TO PENALTIES FOR VIOLATIONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 25-3502, Idaho Code, be, and the same 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 purposes of this chapter.

(4) "Companion animal" means those animals including, but not limited to, domestic dogs, domestic cats, rabbits, 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, 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 purposes 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 by 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 the knowing and willful infliction of unjustifiable and extreme or prolonged pain with the intent to cause suffering. "Torture" shall not mean acts committed by accident in doing any lawful act by lawful means and without unlawful intent, or when circumstances indicate that suffering or death may be the product of an accidental, unintentional occurrence. "Torture" shall also not mean or include normal or legal practices as provided in section 25-3514, Idaho Code.

SECTION 2. That Section 25-3504, Idaho Code, be, and the same is hereby amended to read as follows:

25-3504. COMMITTING CRUELTY TO ANIMALS -- COMMITTING TORTURE TO COMPANION ANIMALS. (1) Every person who is cruel to any animal, or who 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.

(2) Every person who tortures a companion animal, or who causes or procures any companion animal to be tortured, is guilty of a misdemeanor for a first or second violation. Every person convicted of a third or subsequent violation of the provisions of this subsection is guilty of a felony. Each prior conviction shall constitute one (1) violation of the provisions of this subsection regardless of the number of counts involved in the conviction.

1 (3) Any law enforcement officer or animal care and control officer,
 2 subject to the restrictions of section 25-3501A, Idaho Code, may take pos-
 3 session of the animal cruelly treated or the companion animal tortured, and
 4 provide care for the same, until final disposition of such animal is deter-
 5 mined in accordance with section 25-3520A or 25-3520B, Idaho Code.

6 SECTION 3. That Section 25-3506, Idaho Code, be, and the same is hereby
 7 amended to read as follows:

8 25-3506. EXHIBITION OF COCKFIGHTS. (1) Every person who participates
 9 in a public or private display of combat between two (2) or more gamecocks in
 10 which the fighting, killing, maiming or injuring of gamecocks is a signifi-
 11 cant feature is guilty of a misdemeanor and shall, upon conviction, be pun-
 12 ished in accordance with section 25-3520A, Idaho Code.

13 (2) Every person who knowingly advertises, promotes or organizes a pub-
 14 lic or private display of combat between two (2) or more gamecocks in which
 15 the fighting, killing, maiming or injuring of gamecocks is a significant
 16 feature and at which:

17 (a) Any controlled substance listed in section 37-2732C, Idaho Code, is
 18 present; and

19 (b) Any act of gambling, as defined in section 18-3801, Idaho Code, oc-
 20 curs;

21 is guilty of a felony and shall, upon conviction, be punished in accordance
 22 with the penalty provisions in section 25-3520A(3), Idaho Code.

23 (3) Every person who knowingly advertises, promotes or organizes a pub-
 24 lic or private display of combat between two (2) or more gamecocks in which
 25 the fighting, killing, maiming or injuring of gamecocks is a significant
 26 feature and at which:

27 (a) Gaffs or other artificial or mechanical means are used to enhance
 28 pain, inflict injury or to cause death; or

29 (b) Any substance to enhance activity, aggressiveness or bodily energy
 30 has been administered to a gamecock;

31 is guilty of a misdemeanor for a first violation and shall, upon convic-
 32 tion, be punished in accordance with the penalty provisions of section
 33 25-3520A(1), Idaho Code. Any person convicted of a second or subsequent vio-
 34 lation of the provisions of this subsection is guilty of a felony and shall,
 35 upon conviction, be punished in accordance with the penalty provisions of
 36 section 25-3520A(3), Idaho Code. Each prior conviction shall constitute one
 37 (1) violation of the provisions of this subsection regardless of the number
 38 of counts involved in the conviction.

39 (4) Nothing in this section prohibits any customary practice of breed-
 40 ing or rearing game fowl, regardless of the subsequent uses of said game
 41 fowl.

42 SECTION 4. That Section 25-3520A, Idaho Code, be, and the same is hereby
 43 amended to read as follows:

44 25-3520A. PENALTY FOR VIOLATIONS -- TERMINATION OF RIGHTS. (1) Except
 45 as otherwise provided in section 25-3503 or 25-3506, Idaho Code, any per-
 46 son convicted for a first violation of any of the provisions of this chapter
 47 shall be punished, for each offense, by a jail sentence of not more than six

1 (6) months or by a fine of not less than one hundred dollars (\$100) or more
2 than five thousand dollars (\$5,000), or by both such fine and imprisonment.

3 (2) Except as otherwise provided in section 25-3503 or 25-3506, Idaho
4 Code, any person convicted of a second violation of any of the provisions of
5 this chapter within ten (10) years of the first conviction, shall be punished
6 for each offense, by a jail sentence of not more than nine (9) months or a fine
7 of not less than two hundred dollars (\$200) or more than seven thousand dol-
8 lars (\$7,000) or both fine and imprisonment.

9 (3) Except as otherwise provided in section 25-3503 or 25-3506, Idaho
10 Code, any person convicted of a third or subsequent violation, of any of the
11 provisions of this chapter within fifteen (15) years of the first convic-
12 tion, shall be punished for each offense by a jail sentence of not more than
13 twelve (12) months or a fine of not less than five hundred dollars (\$500) or
14 more than nine thousand dollars (\$9,000) or by both fine and imprisonment.

15 (4) If a person pleads guilty or is found guilty of an offense under this
16 chapter, the court may issue an order terminating the person's right to pos-
17 session, title, custody or care of an animal that was involved in the offense
18 or that was owned or possessed at the time of the offense. If a person's right
19 to possession, title, custody or care of an animal is terminated, the court
20 may award the animal to a humane society or other organization that has as its
21 principal purpose the humane treatment of animals, or may award the animal
22 to a law enforcement agency or animal care and control agency. The court's
23 award of custody or care of an animal will grant to the organization or agency
24 the authority to determine custody, adoption, sale or other disposition of
25 the animal thereafter.