

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 111, As Amended

BY AGRICULTURAL AFFAIRS COMMITTEE

AN ACT

1 RELATING TO ANIMAL CARE; AMENDING SECTION 25-3502, IDAHO CODE, TO REVISE A
2 DEFINITION AND TO DEFINE A TERM; AMENDING SECTION 25-3504, IDAHO CODE,
3 TO ESTABLISH PROVISIONS RELATING TO COMMITTING TORTURE TO COMPANION
4 ANIMALS AND TO PROVIDE THAT CERTAIN OFFICERS MAY TAKE POSSESSION OF
5 COMPANION ANIMALS SUBJECTED TO TORTURE; AND AMENDING SECTION 25-3520A,
6 IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO PENALTIES FOR CERTAIN
7 VIOLATIONS.
8

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

10 SECTION 1. That Section 25-3502, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 25-3502. DEFINITIONS. The following words and terms, when used in this
13 chapter, shall have the following meanings, unless the context clearly indi-
14 cates otherwise:

15 (1) "Abandon" means to completely forsake and desert an animal previ-
16 ously under the custody or possession of a person without making reasonable
17 arrangements for its proper care, sustenance and shelter.

18 (2) "Animal" means any vertebrate member of the animal kingdom, except
19 man.

20 (3) "Animal care and control agency" means any agency incorporated un-
21 der the laws of this state to which a county or municipality has conferred
22 authority to exercise the powers and duties set forth in this chapter based
23 upon the agency's ability to fulfill the purposes of this chapter.

24 (4) "Companion animal" means those animals including, but not limited
25 to, domestic dogs, domestic cats, rabbits, companion birds, and other ani-
26 mals commonly kept as pets.

27 (5) "Cruel" or "cruelty" shall mean any or all of the following:

28 (a) The intentional and malicious infliction of pain, physical suffer-
29 ing, injury or death upon an animal;

30 (b) To maliciously kill, maim, wound, overdrive, overload, drive when
31 overloaded, overwork, ~~torture~~, torment, deprive of necessary suste-
32 nance, drink or shelter, cruelly beat, mutilate or cruelly kill an
33 animal;

34 (c) To subject an animal to needless suffering, inflict unnecessary
35 cruelty, drive, ride or otherwise use an animal when same is unfit;

36 (d) To abandon an animal;

37 (e) To negligently confine an animal in unsanitary conditions or to
38 negligently house an animal in inadequate facilities; to negligently
39 fail to provide sustenance, water or shelter to an animal.

40 (6) "Department" means the Idaho state department of agriculture.

1 (7) "Department investigator" means a person employed by, or approved
2 by, the Idaho state department of agriculture, division of animal indus-
3 tries, to determine whether there has been a violation of this chapter.

4 (8) "Division" means the division of animal industries of the Idaho
5 state department of agriculture.

6 (9) "Custodian" means any person who keeps or harbors an animal, has an
7 animal in his care or acts as caretaker of an animal.

8 (10) "Malicious" or "maliciously" means the intentional doing of a
9 wrongful act without just cause or excuse, with an intent to inflict an in-
10 jury or death.

11 (11) "Owner" means any person who has a right of property in an animal.

12 (12) "Person" means any individual, firm, corporation, partnership,
13 other business unit, society, association or other legal entity, any public
14 or private institution, the state of Idaho, or any municipal corporation or
15 political subdivision of the state.

16 (13) "Pound" means a place enclosed by public authority for the deten-
17 tion of stray animals.

18 (14) "Production animal" means, for purposes of this chapter:

19 (a) The following animals if owned for the express purpose of produc-
20 ing food or fiber, or other commercial activity, in furtherance of the
21 production of food or fiber, or other commercial activity, or to be sold
22 for the use by another for such purpose: cattle, sheep, goats, swine,
23 poultry, ratites, equines, domestic cervidae, camelidae, and guard and
24 stock dogs; and

25 (b) Furbearing animals kept for the purpose of commercial fur produc-
26 tion.

27 (15) "Torture" means the knowing and willful infliction of unjusti-
28 fiable and extreme or prolonged pain with the intent to cause suffering.
29 "Torture" shall not mean acts committed by accident in doing any lawful act
30 by lawful means and without unlawful intent, or when circumstances indicate
31 that suffering or death may be the product of an accidental, unintentional
32 occurrence. "Torture" shall also not mean or include normal or legal prac-
33 tices as provided in section 25-3514, Idaho Code.

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

36 25-3504. COMMITTING CRUELTY TO ANIMALS -- COMMITTING TORTURE TO COM-
37 PANION ANIMALS. (1) Every person who is cruel to any animal, or who causes
38 or procures any animal to be cruelly treated, or who, having the charge or
39 custody of any animal either as owner or otherwise, subjects any animal
40 to cruelty shall, upon conviction, be punished in accordance with section
41 25-3520A, Idaho Code.

42 (2) Every person who tortures a companion animal, or who causes or pro-
43 duces any companion animal to be tortured, is guilty of a misdemeanor for a
44 first violation. Every person convicted of a second or subsequent violation
45 of the provisions of this subsection is guilty of a felony. Each prior con-
46 viction shall constitute one (1) violation of the provisions of this subsec-
47 tion regardless of the number of counts involved in the conviction.

48 (3) Any law enforcement officer or animal care and control officer,
49 subject to the restrictions of section 25-3501A, Idaho Code, may take pos-

1 session of the animal cruelly treated or the companion animal tortured, and
2 provide care for the same, until final disposition of such animal is deter-
3 mined in accordance with section 25-3520A or 25-3520B, Idaho Code.

4 SECTION 3. That Section 25-3520A, Idaho Code, be, and the same is hereby
5 amended to read as follows:

6 25-3520A. PENALTY FOR VIOLATIONS -- TERMINATION OF RIGHTS. (1) Except
7 as otherwise provided in section 25-3503 or 25-3506, Idaho Code, any per-
8 son convicted for a first violation of any of the provisions of this chapter
9 shall be punished, for each offense, by a jail sentence of not more than six
10 (6) months or by a fine of not less than one hundred dollars (\$100) or more
11 than five thousand dollars (\$5,000), or by both such fine and imprisonment.

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

18 (3) (a) Except as otherwise provided in section 25-3503 or 25-3506,
19 Idaho Code, any person convicted of a third or subsequent violation of
20 any of the provisions of this chapter, except certain violations of sec-
21 tion 25-3504, Idaho Code, as provided in paragraphs (b) and (c) of this
22 subsection, within fifteen (15) years of the first conviction, shall be
23 guilty of a misdemeanor and punished for each offense by a jail sentence
24 of not more than twelve (12) months or a fine of not less than five hun-
25 dred dollars (\$500) or more than nine thousand dollars (\$9,000) or by
26 both fine and imprisonment.

27 (b) Except as provided in section 25-3503, Idaho Code, any person con-
28 victed of a third or subsequent violation who previously has been found
29 guilty of or has pled guilty to two (2) violations of section 25-3504,
30 Idaho Code, provided the violations were for conduct as defined by sec-
31 tion 25-3502(5) (a), Idaho Code, within fifteen (15) years of the first
32 conviction, shall be guilty of a felony and punished for each offense by
33 a jail sentence of not more than twelve (12) months or a fine of not less
34 than five hundred dollars (\$500) or not more than nine thousand dollars
35 (\$9,000) or by both fine and imprisonment. All other violations of
36 section 25-3504, Idaho Code, for conduct as defined by any other para-
37 graphs, other than paragraph (a) of section 25-3502(5) or subsection
38 (2) of section 25-3504, Idaho Code, shall constitute misdemeanors and
39 shall be punishable as provided in paragraph (a) of this subsection.

40 (c) Any person convicted of a second violation of section 25-3504(2),
41 Idaho Code, shall be guilty of a felony and punished pursuant to sub-
42 section (2) of this section. Any person convicted of a third or subse-
43 quent violation of section 25-3504(2), Idaho Code, within fifteen (15)
44 years of the first violation of section 25-3504(2), Idaho Code, shall
45 be guilty of a felony and punished by a jail sentence of not more than
46 twelve (12) months or by a fine of not less than five hundred dollars
47 (\$500) or more than nine thousand dollars (\$9,000), or by both such fine
48 and imprisonment.

1 (d) Each prior conviction or guilty plea shall constitute one (1) vi-
2 olation of this chapter regardless of the number of counts involved in
3 the conviction or guilty plea. Practices described in section 25-3514,
4 Idaho Code, are not animal cruelty.

5 (4) If a person pleads guilty or is found guilty of an offense under this
6 chapter, the court may issue an order terminating the person's right to pos-
7 session, title, custody or care of an animal that was involved in the offense
8 or that was owned or possessed at the time of the offense. If a person's right
9 to possession, title, custody or care of an animal is terminated, the court
10 may award the animal to a humane society or other organization that has as its
11 principal purpose the humane treatment of animals, or may award the animal
12 to a law enforcement agency or animal care and control agency. The court's
13 award of custody or care of an animal will grant to the organization or agency
14 the authority to determine custody, adoption, sale or other disposition of
15 the animal thereafter.