

REFERENCE TITLE: animal shelters; procedures; requirements

State of Arizona
Senate
Forty-ninth Legislature
Second Regular Session
2010

SB 1318

Introduced by
Senator Melvin

AN ACT

AMENDING SECTIONS 11-1006 AND 11-1021, ARIZONA REVISED STATUTES; AMENDING TITLE 11, CHAPTER 7, ARTICLE 6.1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 11-1021.01 AND 11-1021.02; AMENDING SECTION 13-2910, ARIZONA REVISED STATUTES; RELATING TO ANIMAL CONTROL.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 11-1006, Arizona Revised Statutes, is amended to
3 read:

4 11-1006. Hearing officer: hearing on civil violations:
5 additional remedies

6 A. A county board of supervisors that establishes a civil penalty for
7 violating an animal statute or ordinance may appoint one or more hearing
8 officers to hear and determine such cases. The board may appoint a county
9 employee to serve as hearing officer in addition to ~~his~~ THE EMPLOYEE'S other
10 work.

11 B. The hearing officer shall hold a hearing on each violation reported
12 by the county enforcement agent. Notice of the hearing shall be served
13 personally on the defendant at least ten days before the hearing. The county
14 enforcement agent shall use a uniform traffic ticket and complaint for civil
15 traffic cases pursuant to the rules of procedure in traffic cases adopted by
16 the supreme court, modified as applicable, in citing persons for violations
17 of ordinances adopted with a civil penalty pursuant to section 11-1005,
18 subsection A, paragraph 6, subdivision (b).

19 C. At the hearing the county enforcement agent shall present evidence
20 of the violation and the defendant, or ~~his~~ THE DEFENDANT'S attorney or other
21 designated representative, shall have an opportunity to present evidence. The
22 county attorney may represent and present evidence for the county enforcement
23 agent.

24 D. At the conclusion of the hearing the hearing officer shall
25 determine whether a violation occurred and, if so, impose civil penalties
26 provided for under section 11-1005, subsection A, paragraph 6, subdivision
27 (b). Monies collected for civil penalties shall be deposited in the county
28 general fund. The board of supervisors shall adopt, in the same manner as
29 the animal ordinances, written rules of procedure for the hearings and review
30 of hearings. Final decisions of the hearing officer under this subsection
31 are subject to judicial review under title 12, chapter 7, article 6.

32 E. IF THE COUNTY ENFORCEMENT AGENT OR A PEACE OFFICER SEIZES OR
33 IMPOUNDS AN ANIMAL BASED ON A REASONABLE BELIEF THAT PROMPT ACTION IS
34 REQUIRED TO PROTECT THE HEALTH OR SAFETY OF THE ANIMAL OR THE HEALTH OR
35 SAFETY OF OTHERS, THE AGENT OR OFFICER SHALL PROVIDE NOTICE TO THE OWNER OR
36 KEEPER OF THE ANIMAL, IF KNOWN, OF THE OPPORTUNITY FOR A POSTSEIZURE HEARING
37 TO DETERMINE THE VALIDITY OF THE SEIZURE OR IMPOUNDMENT.

38 ~~E.~~ F. In addition to other remedies provided by law, the board of
39 supervisors, the county attorney, the county enforcement agent or a private
40 individual or other entity that is specially damaged by a violation of an
41 animal statute or ordinance may institute an injunction, mandamus, abatement
42 or other appropriate action or proceeding to prevent or abate the violation.

Sec. 2. Section 11-1021, Arizona Revised Statutes, is amended to read:

11-1021. Proper care, maintenance, release and destruction of impounded animals

A. Any animal impounded in a county, city or town pound shall be given ~~proper and humane care and maintenance~~ NECESSARY AND PROMPT HUMANE CARE AND ADEQUATE NUTRITION, WATER AND SHELTER.

B. IF THE ANIMAL HAS ANY IDENTIFICATION, THE POUND SHALL MAKE A REASONABLE ATTEMPT TO NOTIFY THE OWNER OF THE ANIMAL'S LOCATION.

C. IF THE POUND HAS FEWER THAN THREE FULL-TIME EMPLOYEES OR IS NOT OPEN DURING ALL REGULAR WEEKDAY BUSINESS HOURS, IT SHALL ESTABLISH A PROCEDURE THAT ENABLES OWNERS TO RECLAIM THEIR ANIMALS BY APPOINTMENT AT A MUTUALLY AGREEABLE TIME WHEN THE POUND WOULD OTHERWISE BE CLOSED.

D. BEFORE DESTROYING AN IMPOUNDED ANIMAL FOR ANY REASON OTHER THAN IRREMIEDIABLE SUFFERING OR TO PREVENT THE SPREAD OF DISEASE, THE POUND MAY RELEASE THE ANIMAL TO A COUNTY-APPROVED NONPROFIT ANIMAL RESCUE OR ADOPTION ORGANIZATION AT THE REQUEST OF THE ORGANIZATION. IN ADDITION TO ANY REQUIRED STERILIZATION DEPOSIT, THE POUND MAY ASSESS A FEE, NOT TO EXCEED THE ADOPTION FEE, FOR THE RELEASE OF THE ANIMAL.

E. A FERAL CAT SHALL BE KEPT AND MAINTAINED AT THE POUND FOR AT LEAST SEVENTY-TWO HOURS. THE POUND SHALL VERIFY WHETHER THE ANIMAL IS A FERAL CAT USING A STANDARDIZED PROTOCOL. FOR THE PURPOSES OF THIS SUBSECTION, "FERAL CAT" MEANS A CAT THAT DOES NOT HAVE OWNER IDENTIFICATION OF ANY KIND, WHOSE USUAL AND CONSISTENT TEMPERAMENT IS EXTREME FEAR OF AND RESISTANCE TO CONTACT WITH PEOPLE AND THAT IS TOTALLY UNSOCIALIZED TO PEOPLE.

~~B.~~ F. Any animal destroyed while impounded in a county, city or town pound shall be destroyed only by the use of one of the following:

1. Sodium pentobarbital or a derivative of sodium pentobarbital.
2. T-61 euthanasia solution or its generic equivalent.

~~C.~~ G. If an animal is destroyed by means specified in subsection ~~B.~~, ~~paragraph 1 or 2~~ F of this section, it shall be done by a licensed veterinarian or in accordance with procedures established by the state veterinarian pursuant to section 3-1213.

~~D.~~ H. The governing body of any county, city or town ~~which~~ THAT operates a pound shall establish procedures for the humane destruction of impounded animals by the methods described in subsections ~~B.~~ F and ~~C.~~ G of this section.

Sec. 3. Title 11, chapter 7, article 6.1, Arizona Revised Statutes, is amended by adding sections 11-1021.01 and 11-1021.02, to read:

11-1021.01. Adoptable animals; impoundment records

A. A POUND OR ANIMAL SHELTER SHALL MAKE EVERY REASONABLE EFFORT AND USE EVERY REASONABLE MEANS TO AVOID EUTHANASIA OF AN ADOPTABLE ANIMAL. FOR THE PURPOSES OF THIS SUBSECTION, "ADOPTABLE ANIMAL" INCLUDES ONLY THOSE ANIMALS THAT ARE EIGHT WEEKS OF AGE OR OLDER, THAT HAVE NOT MANIFESTED, AT OR SUBSEQUENT TO THE TIME THE ANIMAL IS IMPOUNDED OR OTHERWISE TAKEN INTO POSSESSION, ANY SIGN OF A BEHAVIORAL OR TEMPERAMENTAL DEFECT THAT COULD POSE

1 A HEALTH OR SAFETY RISK OR OTHERWISE MAKE THE ANIMAL UNSUITABLE FOR PLACEMENT
2 AS A PET AND THAT HAVE NOT MANIFESTED ANY SIGN OF DISEASE, INJURY OR
3 CONGENITAL OR HEREDITARY CONDITION THAT ADVERSELY AFFECTS THE HEALTH OF THE
4 ANIMAL OR THAT IS LIKELY TO ADVERSELY AFFECT THE ANIMAL'S HEALTH IN THE
5 FUTURE.

6 B. A POUND OR ANIMAL SHELTER MUST KEEP ACCURATE RECORDS ON EACH ANIMAL
7 TAKEN UP, MEDICALLY TREATED, DESTROYED OR IMPOUNDED. THE RECORDS SHALL
8 INCLUDE THE FOLLOWING INFORMATION:

9 1. THE DATE THE ANIMAL WAS TAKEN UP, MEDICALLY TREATED, DESTROYED OR
10 IMPOUNDED.

11 2. THE CIRCUMSTANCES UNDER WHICH THE ANIMAL WAS TAKEN UP, MEDICALLY
12 TREATED, DESTROYED OR IMPOUNDED.

13 3. A DESCRIPTION OF ANY MEDICAL TREATMENT PROVIDED TO THE ANIMAL AND
14 THE NAME OF THE VETERINARIAN OF RECORD.

15 4. THE FINAL DISPOSITION OF THE ANIMAL.

16 C. THE RECORDS SHALL BE MAINTAINED FOR AT LEAST THREE YEARS AFTER THE
17 DATE THE ANIMAL'S IMPOUNDMENT ENDS.

18 11-1021.02. Lost and found posting

19 A POUND OR ANIMAL SHELTER MUST PROVIDE THE OWNERS OF LOST ANIMALS AND
20 PERSONS WHO FIND LOST ANIMALS WITH ALL OF THE FOLLOWING:

21 1. THE ABILITY TO POST THE ANIMALS THEY HAVE LOST OR FOUND, EITHER
22 ONLINE OR IN THE POUND OR ANIMAL SHELTER.

23 2. THE ABILITY TO ACCESS OTHER POSTINGS OF LOST OR FOUND ANIMALS,
24 EITHER ONLINE OR IN THE POUND OR ANIMAL SHELTER.

25 3. THE TELEPHONE NUMBERS AND ADDRESSES OF OTHER POUNDS AND SHELTERS IN
26 THE SAME AREA.

27 4. ADVICE AS TO MEANS OF PUBLISHING AND DISSEMINATING INFORMATION
28 REGARDING LOST ANIMALS.

29 5. THE TELEPHONE NUMBERS AND ADDRESSES OF VOLUNTEER GROUPS THAT MAY BE
30 OF ASSISTANCE IN LOCATING LOST ANIMALS.

31 Sec. 4. Section 13-2910, Arizona Revised Statutes, is amended to read:

32 13-2910. Cruelty to animals; interference with working or
33 service animal; classification; definitions

34 A. A person commits cruelty to animals if the person does any of the
35 following:

36 1. Intentionally, knowingly or recklessly subjects any animal under
37 the person's custody or control to cruel neglect or abandonment.

38 2. Intentionally, knowingly or recklessly fails to provide medical
39 attention necessary to prevent protracted suffering to any animal under the
40 person's custody or control.

41 3. Intentionally, knowingly or recklessly inflicts unnecessary
42 physical injury to any animal.

43 4. Recklessly subjects any animal to cruel mistreatment.

1 5. Intentionally, knowingly or recklessly kills any animal under the
2 custody or control of another person without either legal privilege or
3 consent of the owner.

4 6. Recklessly interferes with, kills or harms a working or service
5 animal without either legal privilege or consent of the owner.

6 7. Intentionally, knowingly or recklessly leaves an animal unattended
7 and confined in a motor vehicle and physical injury to or death of the animal
8 is likely to result.

9 8. Intentionally or knowingly subjects any animal under the person's
10 custody or control to cruel neglect or abandonment that results in serious
11 physical injury to the animal.

12 9. Intentionally or knowingly subjects any animal to cruel
13 mistreatment.

14 10. Intentionally or knowingly interferes with, kills or harms a
15 working or service animal without either legal privilege or consent of the
16 owner.

17 11. Intentionally or knowingly allows any dog that is under the
18 person's custody or control to interfere with, kill or cause physical injury
19 to a service animal.

20 12. Recklessly allows any dog that is under the person's custody or
21 control to interfere with, kill or cause physical injury to a service animal.

22 13. Intentionally or knowingly obtains or exerts unauthorized control
23 over a service animal with the intent to deprive the service animal handler
24 of the service animal.

25 B. It is a defense to subsection A of this section if:

26 1. Any person exposes poison to be taken by a dog that has killed or
27 wounded livestock or poison to be taken by predatory animals on premises
28 owned, leased or controlled by the person for the purpose of protecting the
29 person or the person's livestock or poultry, ~~and~~ the treated property is kept
30 posted by the person who authorized or performed the treatment until the
31 poison has been removed, ~~and~~ the poison is removed by the person exposing
32 the poison after the threat to the person, ~~or~~ the person's livestock or
33 poultry has ceased to exist. The posting required shall provide adequate
34 warning to persons who enter the property by the point or points of normal
35 entry. The warning notice that is posted shall be readable at a distance of
36 fifty feet, shall contain a poison statement and symbol and shall state the
37 word "danger" or "warning".

38 2. Any person uses poisons in and immediately around buildings owned,
39 leased or controlled by the person for the purpose of controlling wild and
40 domestic rodents as otherwise allowed by the laws of the state, excluding any
41 fur-bearing animals as defined in section 17-101.

42 C. This section does not prohibit or restrict:

43 1. The taking of wildlife or other activities permitted by or pursuant
44 to title 17.

45 2. Activities permitted by or pursuant to title 3.

1 3. Activities regulated by the Arizona game and fish department or the
2 Arizona department of agriculture.

3 D. A peace officer, animal control enforcement agent or animal control
4 enforcement deputy may use reasonable force to open a vehicle to rescue an
5 animal if the animal is left in the vehicle as prescribed in subsection A,
6 paragraph 7 of this section.

7 E. A person who is convicted of a violation of subsection A, paragraph
8 6 or 10 of this section is liable as follows:

9 1. If the working or service animal was killed or disabled, to the
10 owner or agency that owns the working or service animal and that employs the
11 handler or to the owner or handler for the replacement and training costs of
12 the working or service animal and for any veterinary bills.

13 2. To the owner or agency that owns a working or service animal for
14 the salary of the handler for the period of time that the handler's services
15 are lost to the owner or agency.

16 3. To the owner for the owner's contractual losses with the agency.

17 F. An incorporated city or town or a county may adopt an ordinance
18 with misdemeanor provisions at least as stringent as the misdemeanor
19 provisions of this section.

20 G. AS A CONDITION OF PROBATION, THE COURT MAY PROHIBIT A PERSON WHO IS
21 CONVICTED OF A VIOLATION OF THIS SECTION FROM OWNING ANIMALS.

22 ~~G.~~ H. A person who violates subsection A, paragraph 1, 2, 3, 4, 5, 6,
23 7 or 12 of this section is guilty of a class 1 misdemeanor. A person who
24 violates subsection A, paragraph 8, 9, 10, 11 or 13 of this section is guilty
25 of a class 6 felony.

26 ~~H.~~ I. For the purposes of this section:

27 1. "Animal" means a mammal, bird, reptile or amphibian.

28 2. "Cruel mistreatment" means to torture or otherwise inflict
29 unnecessary serious physical injury upon an animal or to kill an animal in a
30 manner that causes protracted suffering to the animal.

31 3. "Cruel neglect" means to fail to provide an animal with necessary
32 food, water or shelter.

33 4. "Handler" means a law enforcement officer or any other person who
34 has successfully completed a course of training prescribed by the person's
35 agency or the service animal owner and who used a specially trained animal
36 under the direction of the person's agency or the service animal owner.

37 5. "Service animal" means an animal that has completed a formal
38 training program, that assists its owner in one or more daily living tasks
39 that are associated with a productive lifestyle and that is trained to not
40 pose a danger to the health and safety of the general public.

41 6. "Working animal" means a horse or dog that is used by a law
42 enforcement agency, that is specially trained for law enforcement work and
43 that is under the control of a handler.

44 Sec. 5. Legislative findings

45 A. The legislature finds and declares the following:

1 1. That public and private shelters and humane organizations share a
2 common purpose in saving animals' lives, preventing animal suffering and
3 eliminating animal abandonment.

4 2. That public and private shelters and humane groups should work
5 together to end euthanasia of adoptable and treatable animals by 2020.

6 B. The legislature encourages private citizens to support spaying and
7 neutering of animals through purchase of the spaying and neutering of animals
8 special plates and by providing other monetary donations to animal shelters
9 to defray the costs for spay and neuter services.

10 Sec. 6. Short title

11 This act may be cited as the "No Kill Animal Shelter Act".