

PROPOSED AMENDMENT

SENATE AMENDMENTS TO S.B. 1267

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Title 3, chapter 11, article 4, Arizona Revised Statutes,
3 is amended by adding section 3-1313, to read:

4 3-1313. Livestock or poultry cruelty; exception; violation;
5 classification; definition

6 A. A PERSON SHALL NOT INTENTIONALLY OR KNOWINGLY CAUSE INJURY OR UNDUE
7 SUFFERING TO LIVESTOCK OR POULTRY, INCLUDING BY TORTURING OR TORMENTING,
8 DEPRIVING OF NECESSARY SUSTENANCE OR UNNECESSARILY OR CRUELLY BEATING,
9 INJURING OR MUTILATING ANY LIVESTOCK OR POULTRY.

10 B. THE DIRECTOR OR THE DIRECTOR'S DESIGNEE SHALL BE NOTIFIED OF ANY
11 INVESTIGATION OF AN ALLEGED VIOLATION OF THIS SECTION AND AFTER BEING
12 NOTIFIED OF THE INVESTIGATION MAY CHOOSE TO LEAD, PARTICIPATE OR NOT
13 PARTICIPATE IN THE INVESTIGATION.

14 C. ANY PERSON WHO POSSESSES A VIDEO, A PHOTOGRAPH OR OTHER EVIDENCE OF
15 A VIOLATION OF THIS SECTION SHALL PROVIDE THE EVIDENCE TO THE DEPARTMENT OR A
16 LAW ENFORCEMENT AGENCY WITHIN FIVE BUSINESS DAYS AFTER THE PERSON ACQUIRES
17 THE EVIDENCE.

18 D. A COUNTY, CITY OR TOWN SHALL NOT ENACT AN ORDINANCE THAT RELATES TO
19 THE TREATMENT OF LIVESTOCK OR POULTRY OR ANIMAL HUSBANDRY PRACTICES THAT IS
20 MORE PROHIBITIVE OR RESTRICTIVE THAN THIS SECTION.

21 E. THIS SECTION DOES NOT APPLY TO NORMAL, GOOD HUSBANDRY PRACTICES
22 THAT ARE USED BY A PERSON IN THE PRODUCTION OF FOOD, TO A WORK ANIMAL OR TO
23 THE EXTERMINATION OF AN UNDESIRABLE PEST.

24 F. THIS SECTION DOES NOT PROHIBIT THE HUMANE SLAUGHTER OR
25 EUTHANIZATION OF LIVESTOCK OR POULTRY PURSUANT TO THIS TITLE.

1 G. A PERSON WHO OWNS OR HOLDS LIVESTOCK OR POULTRY THAT IS NOT
2 LICENSED, PERMITTED OR REGULATED BY THE DEPARTMENT UNDER THIS TITLE MAY BE
3 PROSECUTED FOR CRUELTY TO ANIMALS PURSUANT TO SECTION 13-2910.

4 H. A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A CLASS 1
5 MISDEMEANOR.

6 I. FOR THE PURPOSES OF THIS SECTION, "TORTURING OR TORMENTING" MEANS
7 EVERY ACT, INCLUDING ANY ACT INVOLVING OMISSION OR NEGLIGENCE, WHEREBY THE
8 WILFUL AND MALICIOUS INFLICTION OF PAIN OR SUFFERING IS CAUSED, PERMITTED OR
9 ALLOWED TO CONTINUE WHEN THERE IS A REASONABLE REMEDY OR RELIEF.

10 Sec. 2. Section 3-1721, Arizona Revised Statutes, is amended to read:

11 3-1721. Petition of seizure; notice of seizure; lien for expenses;
12 forced sale; disposition of proceeds; nonliability of state;
13 neglect or cruel treatment of equine; civil penalty; legal
14 representation

15 A. Any person or peace officer who believes that an equine is in poor
16 physical condition because of neglect or cruel treatment may petition on
17 affidavit a justice of the peace of the precinct or a city magistrate of the
18 city in which the equine is found for an order authorizing the department to
19 take possession of and provide care for the equine for a fifteen-day period.
20 The order shall not be issued unless the affidavit provides that the
21 livestock custody trust fund established by section 3-1377 has a balance that
22 permits the department to provide such care or that the department can
23 demonstrate that the expenses have been contracted for pursuant to subsection
24 E of this section. The clerk of the court or justice of the peace, as the
25 case may be, after filing and docketing the petition, shall enter a brief
26 statement of the petition on the docket and set a time for a hearing that is
27 not less than five and not more than fifteen days after the petition is
28 filed. The order shall state the time and place of the hearing.

29 B. On receiving the order the department shall take possession of the
30 equine. The department shall serve the order on the owner of the equine, if
31 known, at least twenty-four hours before the hearing, either by personal
32 service on the owner or by leaving a copy of the order with a person of

1 suitable discretion at the owner's residence or place of business. If the
2 owner is not known, the department shall give notice by posting a copy of the
3 order on the day of the seizure in a conspicuous place at the location where
4 the equine was seized and in at least two public places in the county where
5 the equine was seized. The order shall be served by a livestock officer,
6 constable or sheriff of the county.

7 C. If, at the hearing, it is determined that the equine at the time of
8 taking possession was not in poor physical condition because of neglect or
9 cruel treatment, the owner may immediately reclaim the equine and shall not
10 be liable for payment of any expense incurred in the handling, feeding and
11 care of the equine. Unless malice is proved, no action taken by an employee
12 of the department or by a peace officer pursuant to this article shall be
13 subject to civil or criminal liability.

14 D. On failure of the owner to be awarded immediate, expense-free
15 possession of the equine pursuant to subsection C of this section, the
16 department shall either sell the equine at public auction or, if the equine's
17 condition makes its sale impractical, dispose of the equine in the most
18 humane manner possible. The department shall deposit the proceeds of the
19 sale in the livestock custody trust fund established by section 3-1377 for
20 distribution in the following priority:

21 1. The department shall be reimbursed for auction, handling, feeding
22 and caring expenses.

23 2. Any monies derived from the sale in excess of the expenses to be
24 paid pursuant to paragraph 1 shall be paid to the owner of the equine. After
25 thirty days if the owner has not claimed the money, this money shall revert
26 to the livestock custody trust fund established by section 3-1377.

27 E. The director may contract with any person or group to handle, feed
28 and care for any equine taken into custody pursuant to this section. The
29 state shall not be liable for injury or death of any person or equine or
30 damage to property caused by the performance of the contract.

31 F. Notwithstanding any provision of this article to the contrary, the
32 county attorney of the county in which the equine was seized, at any time

1 prior to the expiration of fifteen days after the seizure of the equine, may
2 take charge of and keep the equine at the expense of the county when the
3 county attorney considers it to be of evidentiary value in any criminal
4 prosecution relating to the condition of the equine.

5 G. ~~In addition to violating section 13-2910~~, a person who subjects an
6 equine to neglect or cruel treatment is subject to a civil penalty of not
7 more than seven hundred fifty dollars for each violation. All civil
8 penalties assessed pursuant to this subsection shall be deposited, pursuant
9 to sections 35-146 and 35-147, in the state general fund.

10 H. The county attorney of the county, or the city attorney of the
11 city, in which the livestock is seized may represent the livestock officer
12 and the interests of this state in proceedings under this section.

13 I. On receipt the department shall deposit all monies, except civil
14 penalties, collected pursuant to this section or received as a money donation
15 from any public or private group, society, association or individual in the
16 livestock custody trust fund established by section 3-1377. The monies in
17 the fund shall be used to reimburse the department for expenses incurred in
18 the handling, feeding, care and auctioning of equines seized pursuant to this
19 section.

20 Sec. 3. Section 13-2910, Arizona Revised Statutes, is amended to read:
21 13-2910. Cruelty to animals; interference with working or service
22 animal; classification; definitions

23 A. A person commits cruelty to animals if the person does any of the
24 following:

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

27 2. Intentionally, knowingly or recklessly fails to provide medical
28 ~~attention~~ CARE AND TREATMENT necessary to prevent ~~protracted~~ UNREASONABLE
29 suffering to any animal under the person's custody or control.

30 3. Intentionally, knowingly or recklessly inflicts unnecessary
31 physical injury to any animal.

32 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 **14. INTENTIONALLY OR KNOWINGLY HOARDS ANIMALS.**

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

27 1. Any person exposes poison to be taken by a dog that has killed or
28 wounded livestock or poison to be taken by predatory animals on premises
29 owned, leased or controlled by the person for the purpose of protecting the
30 person or the person's livestock or poultry, the treated property is kept
31 posted by the person who authorized or performed the treatment until the
32 poison has been removed and the poison is removed by the person exposing the

1 poison after the threat to the person or the person's livestock or poultry
2 has ceased to exist. The posting required shall provide adequate warning to
3 persons who enter the property by the point or points of normal entry. The
4 warning notice that is posted shall be readable at a distance of fifty feet,
5 shall contain a poison statement and symbol and shall state the word "danger"
6 or "warning".

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

11 C. This section does not prohibit or restrict:

12 1. The taking of wildlife or other activities permitted by or pursuant
13 to title 17.

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

15 3. Activities regulated by the Arizona game and fish department or the
16 Arizona department of agriculture.

17 4. ACTIVITIES INVOLVING THE POSSESSION, TRAINING, TRANSPORT,
18 EXHIBITION OR USE OF THE ANIMAL IN THE OTHERWISE LAWFUL PURSUITS OF LICENSED,
19 PERMITTED OR REGULATED HUNTING, RANCHING, FARMING, RODEOS, SHOWS, FAIRS,
20 AUCTIONS AND SECURITY SERVICES.

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

25 E. A person who is convicted of a violation of subsection A, paragraph
26 6 or 10 of this section is liable as follows:

27 1. If the working or service animal was killed or disabled, to the
28 owner or agency that owns the working or service animal and that employs the
29 handler or to the owner or handler for the replacement and training costs of
30 the working or service animal and for any veterinary bills.

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

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

5 F. An incorporated city or town or a county may adopt an ordinance
6 with misdemeanor provisions at least as stringent as the misdemeanor
7 provisions of this section, except that any ordinance adopted shall not
8 prohibit or restrict any activity involving a dog, whether the dog is
9 restrained or not, if the activity is directly related to the business of
10 shepherding or herding livestock and the activity is necessary for the safety
11 of a human, the dog or livestock or is permitted by or pursuant to title 3.

12 G. ANY PERSON WHO POSSESSES A VIDEO, A PHOTOGRAPH OR OTHER EVIDENCE OF
13 A VIOLATION OF THIS SECTION SHALL PROVIDE THE EVIDENCE TO A LAW ENFORCEMENT
14 AGENCY WITHIN FIVE BUSINESS DAYS AFTER THE PERSON ACQUIRES THE EVIDENCE.

15 H. BEFORE SENTENCING, THE COURT MAY REQUIRE A PERSON TO UNDERGO A
16 PSYCHOLOGICAL EVALUATION AND, IF APPROPRIATE, ORDER THE PERSON TO ATTEND
17 COUNSELING AT THE PERSON'S OWN EXPENSE.

18 ~~G.~~ I. A person who violates subsection A, paragraph 1, 2, 3, 4, 5, 6,
19 7, ~~or~~ 12 OR 14 of this section is guilty of a class 1 misdemeanor. A PERSON
20 WHO COMMITS A SECOND OR SUBSEQUENT VIOLATION OF SUBSECTION A, PARAGRAPH 1, 2,
21 3, 4, 5, 6, 7, 12 OR 14 OF THIS SECTION IS GUILTY OF A CLASS 6 FELONY. A
22 person who violates subsection A, paragraph 8, 9, 10, 11 or 13 of this
23 section is guilty of a class 6 felony. A PERSON WHO IS CONVICTED OF A SECOND
24 OR SUBSEQUENT VIOLATION OF THIS SECTION MAY BE PROHIBITED FROM OWNING ANY
25 TYPE OF ANIMAL.

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

27 1. "Animal" means a mammal, bird, reptile or amphibian. ANIMAL DOES
28 NOT INCLUDE LIVESTOCK AS DEFINED IN SECTION 3-1201 AND POULTRY AS DEFINED IN
29 SECTION 3-2151 THAT ARE LICENSED, PERMITTED OR REGULATED BY THE ARIZONA
30 DEPARTMENT OF AGRICULTURE PURSUANT TO TITLE 3.

1 2. "Cruel mistreatment" means to torture or otherwise inflict
2 unnecessary serious physical injury on an animal or to kill an animal in a
3 manner that causes ~~protracted~~ UNREASONABLE suffering to the animal.

4 3. "Cruel neglect" means to ABANDON AN ANIMAL OR TO fail to provide an
5 animal with necessary food, ~~— THAT IS APPROPRIATE FOR THE SPECIES AND FIT FOR~~
6 CONSUMPTION AND water THAT IS SUITABLE FOR DRINKING or shelter THAT IS
7 APPROPRIATE FOR THE ANIMAL OR WEATHER CONDITIONS.

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

12 5. "HOARDS ANIMALS" MEANS TO SHELTER AN ANIMAL IN CONDITIONS THAT MAY
13 CAUSE HARM TO THE HEALTH OR SAFETY OF THE ANIMAL OR OTHER ANIMALS.

14 ~~5.~~ 6. "Service animal" means an animal that has completed a formal
15 training program, that assists its owner in one or more daily living tasks
16 that are associated with a productive lifestyle and that is trained to not
17 pose a danger to the health and safety of the general public.

18 ~~6.~~ 7. "Working animal" means a horse, ~~or~~ A dog OR ANOTHER GUARDIAN
19 ANIMAL that is used by a law enforcement agency OR AN AGRICULTURE OPERATION,
20 that is specially trained for law enforcement work OR ANIMAL HUSBANDRY
21 PRACTICES and that is under the control of a handler."

22 Amend title to conform

STEVE PIERCE

2/17/14
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