

LEGISLATIVE BILL 329

Approved by the Governor May 7, 2013

Introduced by Howard, 9.

FOR AN ACT relating to offenses against animals; to amend sections 28-1005 and 28-1009, Reissue Revised Statutes of Nebraska, and sections 28-1005.01 and 28-1010, Revised Statutes Cumulative Supplement, 2012; to reference a statute restricting ownership, possession, or residence with any animal as prescribed; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 28-1005, Reissue Revised Statutes of Nebraska, is amended to read:

28-1005 (1) No person shall knowingly:

- (a) Promote, engage in, or be employed at dogfighting, cockfighting, bearbaiting, or pitting an animal against another;
- (b) Receive money for the admission of another person to a place kept for such purpose;
- (c) Own, use, train, sell, or possess an animal for such purpose; or
- (d) Permit any act as described in this subsection to occur on any premises owned or controlled by him or her.

(2) Any person violating subsection (1) of this section shall be guilty of a Class IV felony and shall also be subject to section 28-1019.

(3) No person shall knowingly and willingly be present at and witness as a spectator dogfighting, cockfighting, bearbaiting, or the pitting of an animal against another as prohibited in subsection (1) of this section. Any person who violates any provision of this subsection shall be guilty of a Class IV felony and shall also be subject to section 28-1019.

Sec. 2. Section 28-1005.01, Revised Statutes Cumulative Supplement, 2012, is amended to read:

28-1005.01 (1) No person shall knowingly or intentionally own or possess animal fighting paraphernalia with the intent to commit a violation of section 28-1005.

(2)(a) For purposes of this section, except as provided in subdivision (b) of this subsection, animal fighting paraphernalia means equipment, products, and materials of any kind that are used, intended for use, or designed for use in the training, preparation, conditioning, or furtherance of the pitting of an animal against another as defined in section 28-1004. Animal fighting paraphernalia includes, but is not limited to, the following:

- (i) A breaking stick, which means a device designed for insertion behind the molars of a dog for the purpose of breaking the dog's grip on another animal or object;
- (ii) A cat mill, which means a device that rotates around a central support with one arm designed to secure a dog and one arm designed to secure a cat, rabbit, or other small animal beyond the grasp of the dog;
- (iii) A treadmill, which means an exercise device consisting of an endless belt on which the animal walks or runs without changing place;
- (iv) A fighting pit, which means a walled area designed to contain an animal fight;
- (v) A springpole, which means a biting surface attached to a stretchable device, suspended at a height sufficient to prevent a dog from reaching the biting surface while touching the ground;
- (vi) A heel, which means any edged or pointed instrument designed to be attached to the leg of a fowl;
- (vii) A boxing glove or muff, which means a fitted protective covering for the spurs of a fowl; and
- (viii) Any other instrument commonly used in the furtherance of pitting an animal against another.

(b) Animal fighting paraphernalia does not include equipment, products, or materials of any kind used by a veterinarian licensed to practice veterinary medicine and surgery in this state.

(3) Any person violating subsection (1) of this section is guilty of a Class I misdemeanor and may also be subject to section 28-1019.

Sec. 3. Section 28-1009, Reissue Revised Statutes of Nebraska, is amended to read:

28-1009 (1) A person who intentionally, knowingly, or recklessly abandons or cruelly neglects an animal is guilty of a Class I misdemeanor unless the abandonment or cruel neglect results in serious injury or illness

or death of the animal, in which case it is a Class IV felony.

(2) (a) Except as provided in subdivision (b) of this subsection, a person who cruelly mistreats an animal is guilty of a Class I misdemeanor for the first offense and a Class IV felony for any subsequent offense.

(b) A person who cruelly mistreats an animal is guilty of a Class IV felony if such cruel mistreatment involves the knowing and intentional torture, repeated beating, or mutilation of the animal.

(3) A person commits harassment of a police animal if he or she knowingly and intentionally teases or harasses a police animal in order to distract, agitate, or harm the police animal for the purpose of preventing such animal from performing its legitimate official duties. Harassment of a police animal is a Class IV misdemeanor unless the harassment is the proximate cause of the death of the police animal, in which case it is a Class IV felony.

(4) A person convicted of a Class I misdemeanor under subdivision (2) (a) of this section may also be subject to section 28-1019. A person convicted of a Class IV felony under this section shall also be subject to section 28-1019.

Sec. 4. Section 28-1010, Revised Statutes Cumulative Supplement, 2012, is amended to read:

28-1010 A person commits indecency with an animal when such person subjects an animal to sexual penetration as defined in section 28-318. Indecency with an animal is a Class III misdemeanor. A person convicted under this section may also be subject to section 28-1019.

Sec. 5. Original sections 28-1005 and 28-1009, Reissue Revised Statutes of Nebraska, and sections 28-1005.01 and 28-1010, Revised Statutes Cumulative Supplement, 2012, are repealed.