

The National Agricultural
Law Center



University of Arkansas School of Law

An Agricultural Law Research Project

States' Animal Cruelty Statutes

State of Idaho

www.NationalAgLawCenter.org



UNIVERSITY of ARKANSAS
SCHOOL of LAW

States' Animal Cruelty Statutes

STATE OF IDAHO

Current through (2010) Chs. 1-359 and HJR's 4, 5 and 7 that are effective on or before April 12, 2010

§ 25-3501. Administration

The Idaho state department of agriculture, division of animal industries shall be responsible for the administration of the provisions of this chapter and shall inform the public and animal owners concerning their legal responsibilities, and in cooperation with local law enforcement, investigate and develop cases for prosecution. The division shall be authorized to call upon any peace officer in the state to aid in fulfillment of the requirements of this chapter and refer cases for prosecution to the appropriate authority. The foregoing shall not be construed to preclude county or local officials, acting upon their own authority, from investigating, developing cases and prosecuting violations of this chapter that occur in their jurisdiction. The cost to the department for administering the provisions of this chapter shall be borne by the citizens of this state through the appropriation of general funds for administration, personnel, travel, equipment and supplies. No provision of this chapter relating to law enforcement agencies and animal care and control agencies shall be construed to preclude the authority of agencies or entities recognized in this section.

§ 25-3501A. Enforcement--Enforcement restrictions

- (1) Law enforcement agencies and animal care and control agencies that provide law enforcement or animal care and control services to a municipality or county, may enforce the provisions of this chapter in that municipality or county.
- (2) Animal care and control officers enforcing this chapter shall comply with the same constitutional and statutory restrictions concerning the execution of police powers imposed on law enforcement officers who enforce this chapter and other criminal laws of the state of Idaho.
- (3) In cases where production animals are subject to a violation of section 25-3504, 25-3505 or 25-3511, Idaho Code, law enforcement agencies and animal care and control agencies shall not:
 - (a) Enforce section 25-3504, 25-3505 or 25-3511, Idaho Code, without first obtaining an inspection and written determination from a department investigator that a violation of one (1) or more of the sections has occurred or is occurring; or

(b) Take a production animal from a production animal facility, pasture, or rangeland for a violation of section 25-3504, 25-3505 or 25-3511, Idaho Code, without first obtaining an inspection and written determination from a department investigator that such action is in the best interest of the animal.

§ 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 kept by the owner for the express purpose of producing food or fiber: cattle, sheep, goats, swine, poultry, ratites;
 - (b) Furbearing animals kept for the purpose of commercial fur production; and
 - (c) Equines, domestic cervidae, and members of the camelidae family which includes llamas and alpacas.

§ 25-3503. Poisoning animals

Every person who wilfully administers any poisonous substance to an animal, the property of another, or maliciously places any poisonous substance where it would be found by an animal or where it would attract an animal, with the intent that the same shall be taken, ingested or absorbed by any such animal, is punishable by imprisonment in the state prison not exceeding three (3) years, or in the county jail not exceeding one (1) year, and a fine not less than one hundred dollars (\$100) or more than five thousand dollars (\$5000).

§ 25-3504. Committing cruelty to animals

Every person who is cruel to any animal, or causes or procures any animal to be cruelly treated; and whoever, 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. Any law enforcement officer or animal care and control officer, subject to the restrictions of section 25-3501A, Idaho Code, may take possession of the animal cruelly treated, and provide care for the same, until final disposition of such animal is determined in accordance with section 25-3520A or 25-3520B, Idaho Code.

§ 25-3505. Carrying in a cruel manner--Seizure, expenses, lien

Whoever carries or causes to be carried in or upon any vehicle or otherwise any animal in a cruel manner, or knowingly and willfully authorizes or permits it to be subjected to cruelty of any kind, is guilty of a misdemeanor and shall, upon conviction, be punished in accordance with section 25-3520A, Idaho Code. Subject to the restrictions of section 25-3501A, Idaho Code, whenever any such person is taken into custody therefor by any officer, such officer must take charge of such vehicle, and its contents, and deposit them in some place of custody, and must take possession of the animal and deposit it in some place of custody until final disposition of the animal is determined in accordance with section 25-3520A or 25-3520B, Idaho Code.

§ 25-3506. Exhibition of cockfights

Every person who participates in a public or private display of combat between two (2) or more gamecocks in which the fighting, killing, maiming or injuring of gamecocks is a significant feature is guilty of a misdemeanor and shall, upon conviction, be punished in accordance with section 25-3520A, Idaho Code. Nothing in this section prohibits any customary practice of breeding or rearing game fowl, regardless of the subsequent uses of said game fowl.

§ 25-3507. Exhibition of dogfights

Every person who participates in a public or private display of combat between two (2) or more dogs in which the fighting, killing, maiming or injuring of dogs is a significant feature is guilty of a misdemeanor and shall, upon conviction, be punished in accordance with section 25-3520A, Idaho Code. Nothing in this section prohibits demonstrations of the hunting, herding, working or tracking skills of dogs or the lawful use of dogs for hunting, herding, working, tracking or self and property protection.

§ 25-3509. Arrests without warrants

Any sheriff, constable, police or peace officer, qualified under the provisions of law to make arrests may enter any place, building or tenement where there is an exhibition of the fighting of birds or animals or where preparations are being made for such an exhibition, and without a warrant, arrest all persons there present.

§ 25-3510. Impounding without food or water

Any person who impounds, or causes to be impounded in any pound, any animal, must supply the same during such confinement with a sufficient quantity of wholesome food and clean water, and in default thereof, is guilty of a misdemeanor and shall, upon conviction, be punished in accordance with section 25-3520A, Idaho Code.

§ 25-3511. Permitting animals to go without care--Abandoned animals to be humanely destroyed

Every owner, custodian or possessor of any animal, who shall permit the same to be in any building, enclosure, lane, street, square or lot of any city, county or precinct, without proper

care and attention, as determined by an Idaho licensed veterinarian, or a representative of the division, shall, on conviction, be deemed guilty of a misdemeanor and shall, upon conviction, be punished in accordance with section 25-3520A, Idaho Code. It shall be the duty of any law enforcement officer or animal care and control officer, subject to the restrictions of section 25-3501A, Idaho Code, to take possession of the animal so abandoned or neglected, and care for the same until final disposition of such animal is determined in accordance with section 25-3520A or 25-3520B, Idaho Code. Every sick, disabled, infirm or crippled animal which shall be abandoned in any city, county or precinct, may if after due search no owner can be found therefor, be humanely destroyed, or other provision made for the animal by or on the order of such officer; and it shall be the duty of all law enforcement officers or animal care and control officers, to cause the same to be humanely destroyed, or other provision made therefor, on information of such abandonment. Subject to the restrictions of section 25-3501A, Idaho Code, such officer may likewise take charge of any animal that by reason of lameness, sickness, feebleness or neglect, is unfit for the activity it is performing, or that in any other manner is being cruelly treated; and, if such animal is not then in custody of its owner, such officer shall give notice thereof to such owner, if known, and may provide suitable care for such animal until final disposition of such animal is determined in accordance with section 25-3520A or 25-3520B, Idaho Code. If, in accordance with this section, a responsible owner cannot be found, the animal may be offered for adoption to a responsible person in lieu of destruction.

§ 25-3512. Abandonment of animals left with veterinarian

(1) Any animal placed in the custody of a veterinarian licensed under the provisions of chapter 21, title 54, Idaho Code, for treatment, boarding or other care, and which is unclaimed by its owner or the agent of the owner for a period of more than ten (10) days after written notice by certified mail, return receipt requested, is given to the addressee only at his last known address, shall be deemed to be abandoned and may be turned over to the nearest pound or to a peace officer, or disposed of as such custodian may deem proper.

(2) The giving of notice to the owner, or the agent of the owner, of such animal by the licensed veterinarian, as provided in subsection (1) of this section, shall relieve the licensed veterinarian and any custodian to whom such animal may be given of any further liability for disposal. Such procedure by the licensed veterinarian shall not constitute grounds for discipline under the provisions of chapter 21, title 54, Idaho Code.

(3) For the purposes of this section, the term "abandoned" means to forsake entirely, or to neglect or refuse to provide or perform the legal obligations for treatment, care and support of an animal by its owner, or the agent of the owner. Such abandonment shall constitute the relinquishment of all rights and claims by the owner to such animal.

§ 25-3513. Prosecutions

When complaint is made on oath, to any magistrate authorized to issue warrants in criminal cases, that there is probable cause to believe that any provision of law relating to or in any way affecting animals, is being, or is about to be violated in any particular building or place, such magistrate must issue and deliver immediately a warrant directed to any sheriff, police or peace officer, or animal control officer, authorizing him to enter and search such building or place,

and to arrest any person there present violating or attempting to violate any law relating thereto, or in any way affecting animals and to bring such person before some court or magistrate of competent jurisdiction, within the city or county within which such offense has been committed or attempted, to be dealt with according to law, and such attempt must be held to be a misdemeanor and persons so convicted shall be punished in accordance with section 25-3520A, Idaho Code.

§ 25-3514. Chapter construed not to interfere with normal or legal practices

No part of this chapter shall be construed as interfering with or allowing interference with:

- (1) Normal or accepted veterinary practices;
- (2) The humane slaughter of any animal normally and commonly raised as food or for production of fiber;
- (3) Bona fide experiments or research carried out by professionally recognized private or public research facilities or institutions;
- (4) The humane destruction of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane destruction of animals for population control;
- (5) Normal or accepted practices of animal identification and animal husbandry;
- (6) The killing of any animal, by any person at any time, which may be found outside of the owned or rented property of the owner or custodian of such animal and which is found injuring or posing a threat to any person, farm animal or property;
- (7) The killing of an animal that is vicious by an animal control officer, law enforcement officer or veterinarian;
- (8) The killing or destruction of predatory animals, vermin or other animals or birds which are injuring or posing a threat to farm or privately owned animals or property, when such killing or destruction is conducted in accordance with laws and rules covering such animals;
- (9) Any other exhibitions, competitions, activities, practices or procedures normally or commonly considered acceptable.

The practices, procedures and activities described in this section shall not be construed to be cruel nor shall they be defined as cruelty to animals, nor shall any person engaged in these practices, procedures or activities be charged with cruelty to animals.

§ 25-3514A. Immunity

Any Idaho licensed veterinarian shall be held harmless from either criminal or civil liability for any decisions made or services rendered under the provisions of this chapter. Such a veterinarian is, therefore, protected from a lawsuit for his part in an investigation of cruelty to animals. Provided however, that a veterinarian who participates or reports in bad faith or with malice shall not be protected under the provisions of this section.

§ 25-3515. Chapter construed not to interfere with game laws

No part of this chapter shall be construed as interfering with, negating or preempting any of the laws or rules of the department of fish and game of this state or any law for or against the

destruction of certain birds, nor must this chapter be construed as interfering with the right to destroy any venomous reptile, or animal known as dangerous to life, limb, or property, or to interfere with the right to kill, slaughter, bag or take all animals used for food or with properly conducted scientific experiments or investigations performed under the authority of the faculty of a regularly incorporated medical college, or university of this state, or any other recognized research facility or institution.

§ 25-3516. High-altitude decompression chamber prohibited

No person, peace officer, officer of a humane society, or officer of a pound, or any public agency shall kill any dog or cat by the use of any high-altitude decompression chamber. Every person who violates the provisions of this section is guilty of a misdemeanor and shall, upon conviction, be punished in accordance with section 25-3520A, Idaho Code.

§ 25-3518. Beating and harassing animals

Every person who cruelly whips, beats or otherwise maliciously treats any animal, or maliciously harasses with a dog any cattle, horses, sheep, hogs or other livestock shall be guilty of a misdemeanor and shall, upon conviction, be punished in accordance with section 25-3520A, Idaho Code.

§ 25-3519. Authority to enter premises and examine animals

Representatives of the division are authorized and empowered to enter any field, pasture, feedyard, barn, stable, kennel, cage, yard, vehicle, trailer or other premises in this state where animals are kept, during normal operating hours, when probable cause exists, with the permission of the owner, to investigate alleged violations of the provisions of this chapter. If permission is not granted, said representatives shall be empowered to call on sheriffs, constables and peace officers to assist them in the discharge of their duties and in carrying out the provisions of this chapter.

§ 25-3520. Authority to promulgate rules

The division shall be authorized and empowered to promulgate and enforce such rules, pursuant to chapter 52, title 67, Idaho Code, as it deems necessary for the administration and enforcement of the provisions of this chapter.

§ 25-3520A. Penalty for violations--Termination of rights

(1) Except as provided in section 25-3503, Idaho Code, any person convicted for a first violation of any of the provisions of this chapter shall be punished, for each offense, by a jail sentence of not more than six (6) months or by a fine of not less than one hundred dollars (\$100) or more than five thousand dollars (\$5,000), or by both such fine and imprisonment.

(2) Except as provided in section 25-3503, Idaho Code, any person convicted of a second violation of any of the provisions of this chapter within ten (10) years of the first conviction, shall be punished for each offense, by a jail sentence of not more than nine (9) months or a fine

of not less than two hundred dollars (\$200) or more than seven thousand dollars (\$7,000) or both fine and imprisonment.

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

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

§ 25-3520B. Seizure--Costs--Forfeiture proceedings--Security deposit or bond-disposition--Procedural guidelines

(1) Any person having authority to enforce this chapter, in accordance with section 25-3501 or 25-3501A, Idaho Code, who has probable cause to believe there has been a violation of section 25-3504, 25-3505, 25-3506, 25-3507, 25-3510 or 25-3511, Idaho Code, may take custody of the animal involved.

(2) If any animal is seized under this section, the owner or keeper shall be liable for the reasonable costs of the seizure and the care, keeping and disposal of the animal. Reasonable costs shall include, but shall not be limited to, transportation, medical, board, shelter and farrier costs.

(3) If any animal is in the possession of, and being held by, a law enforcement agency or animal care and control agency pursuant to the provisions of this chapter, pending the outcome of a criminal action charging a violation of this chapter, and prior to final disposition of the criminal charge, the animal care and control agency or law enforcement agency may file a petition in the criminal case requesting that the court issue an order forfeiting the animal to the law enforcement agency or animal care and control agency. The petitioner shall serve a true copy of the petition upon the defendant.

(4) Upon receipt of a petition pursuant to subsection (3) of this section, the court shall set a hearing on the petition. The hearing shall be conducted within fourteen (14) days after the filing of the petition, or as soon as practicable. The hearing shall be limited to the question of forfeiture of the animal.

(5) At a hearing conducted pursuant to subsection (4) of this section, the petitioner shall have the burden of establishing probable cause to believe that the animal was subjected to a violation

of this chapter. A prior finding of probable cause to proceed on the criminal case will create a permissive inference that probable cause exists for the forfeiture proceeding. After the hearing, if the court finds probable cause exists, the court shall order immediate forfeiture of the animal to the petitioner, unless the defendant, within seventy-two (72) hours of the hearing, posts a security deposit or bond with the municipal or county treasurer in an amount determined by the court to be sufficient to repay all reasonable costs incurred, and anticipated to be incurred, for the care of the animal for at least thirty (30) days inclusive of the day of the initial seizure and may order anticipated costs up to the time set for trial on the criminal case if requested by the petitioner. If, after the hearing, the court finds that no probable cause exists, the animal shall be returned to the owner or keeper of the animal, and the owner or keeper shall not be responsible for any costs of the seizure, care or treatment, unless the person later pleads guilty to or is found guilty of a violation of this chapter.

(6) At the end of the time for which expenses are covered by the security deposit or bond, if the person owning or keeping the animal desires to prevent disposition of the animal, the owner or keeper shall post a new security deposit or bond with the municipal or county treasurer which must be received before the expiration date of the previous security deposit or bond. The court may correct, alter or otherwise adjust the new security deposit or bond upon a motion made before the expiration date of the previous security deposit or bond, provided however, no person may file more than one (1) motion seeking an adjustment to the new security deposit or bond.

(7) If a security deposit or bond has been posted in accordance with this section, the law enforcement agency or animal care and control agency may draw from that security deposit or bond reasonable costs in keeping and caring for the animal from the date of the seizure to the date of final disposition of the animal in the criminal action.

(8) At the end of the time for which expenses are covered by the security deposit or bond, or if no security deposit or bond has been posted in accordance with this section, the law enforcement agency or animal care and control agency may determine disposition of the animal. The owner or keeper of the animal shall be liable for all unpaid reasonable costs of the care, keeping or disposal of the animal. Posting of the security deposit or bond shall not prevent the law enforcement agency or animal care and control agency from disposing of the seized or impounded animal before the expiration of the period covered by the security deposit or bond if the court orders the forfeiture of the animal or the owner relinquishes the animal.

(9) Upon resolution of the criminal action, remaining funds deposited with the municipal or county treasurer which have not, and will not be expended in the care, keeping or disposal of the animal shall be remitted to the owner or keeper of the animal.

(10) Irrespective of any other provision of this section, if in the written determination of a licensed veterinarian, the animal is experiencing extreme pain or suffering, or is severely injured or diseased, and therefore not likely to recover, it may be immediately euthanized.

(11) No proceeding under this section shall be used as a basis for a continuance or to delay the criminal case nor shall proceedings in the criminal case, other than dismissal, be used as a basis to delay or continue the forfeiture proceeding as provided for in this section. Proceedings under

this section are of a civil nature and governed by the Idaho rules of civil procedure except as to limitations upon the discovery process. Due to the need to conduct any proceeding necessary under this section in an expeditious manner, and the right of any criminal defendant to avoid self-incrimination, any and all discovery requests shall be granted only under authority of the court. Discovery shall be authorized with the intent to provide the necessary information relating directly to the evidence for the probable cause proceeding. In no event shall discovery mechanisms be used to unreasonably burden the opposing party. Discovery mechanisms shall not include the deposition of any party, witness or representative, the use of interrogatories, or the demand to inspect any records outside the immediate reports and financial accountings for the animal in question.

§ 25-3521. Severability

The provisions of this chapter are hereby declared to be severable and if any provision of this chapter or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this chapter.

§ 25-3520A. Penalty for violations--Termination of rights

(1) Except as provided in section 25-3503, Idaho Code, any person convicted for a first violation of any of the provisions of this chapter shall be punished, for each offense, by a jail sentence of not more than six (6) months or by a fine of not less than one hundred dollars (\$100) or more than five thousand dollars (\$5,000), or by both such fine and imprisonment.

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

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

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