

Cross-References

Knowingly defined, 45-2-101.
Purposely defined, 45-2-101.

45-8-216. Unlawful automated telephone solicitation — exceptions — penalties.

(1) A person may not use an automated telephone system, device, or facsimile machine for the selection and dialing of telephone numbers and playing of recorded messages if a message is completed to the dialed number for the purpose of:

- (a) offering goods or services for sale;
- (b) conveying information on goods or services in soliciting sales or purchases;
- (c) soliciting information;
- (d) gathering data or statistics; or
- (e) promoting a political campaign or any use related to a political campaign.

(2) This section does not prohibit the use of an automated telephone system, device, or facsimile machine described under subsection (1) for purposes of informing purchasers of the receipt, availability for delivery, delay in delivery, or other pertinent information on the status of any purchased goods or services, of responding to an inquiry initiated by any person, or of providing any other pertinent information when there is a preexisting business relationship. This section does not prohibit the use of an automated telephone system or device if the permission of the called party is obtained by a live operator before the recorded message is delivered.

(3) A person violating subsection (1) is subject to a fine of not more than \$2,500.

History: En. Sec. 1, Ch. 230, L. 1991.

Cross-References

Unfair trade practices and consumer protection, Title 30, ch. 14.

45-8-217. Aggravated animal cruelty. A person commits the offense of aggravated animal cruelty if the person purposely or knowingly:

- (1) kills or inflicts cruelty to an animal with the purpose of terrifying, torturing, or mutilating the animal; or
- (2) inflicts cruelty to animals on a collection, kennel, or herd of 10 or more animals.

History: En. Sec. 2, Ch. 366, L. 2003.

45-8-218 and 45-8-219 reserved.

45-8-220. Criminal invasion of personal privacy. (1) Except as provided in subsection (2), a person commits the offense of invasion of personal privacy if the person knowingly or purposely obtains or attempts to obtain personal or confidential information about an individual while posing as the individual. A person convicted under this section shall be incarcerated for a term not to exceed 1 year or fined an amount not to exceed \$10,000, or both.

(2) Subsection (1) does not apply to a person who poses as another individual with the express consent of that other individual.

History: En. Sec. 1, Ch. 404, L. 2007.

Compiler's Comments

Effective Date: This section is effective October 1, 2007.

**Part 3
Weapons**

45-8-301. Uniformity of interpretation. Sections 45-8-302 through 45-8-305 and 45-8-307 must be interpreted and construed to effectuate their general purpose to make uniform the law of those states that enact them.

History: En. Sec. 11, Ch. 43, L. 1935; re-en. Sec. 11317.10, R.C.M. 1935; Sec. 94-3110, R.C.M. 1947; redes. 94-8-209 by Sec. 29, Ch. 513, L. 1973; R.C.M. 1947, 94-8-209; amd. Sec. 1, Ch. 466, L. 1999.

45-8-302. Definitions. In 45-8-303 through 45-8-305 and 45-8-307, the following definitions apply:

(1) "Crime of violence" means any of the following crimes or an attempt to commit any of the crimes: any forcible felony, robbery, burglary, and criminal trespass.

(2) "Machine gun" means a firearm designed to discharge more than one shot by a single function of the trigger.

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Left For Dead

By Dorinda Troutman, RMR Staff Writer

Check back for this story's update in our October Issue!

September 2008 Issue

A middle-aged bay gelding, along with three other horses, were used by two Georgia men, Curtis Heyden, 37, and his father, Craig Heyden, 71, to ride and pack in the Bitterroot-Selway Wilderness, on the Montana-Idaho border, for two months during the summer of 2008. Obviously deprived of proper food and water and even shoes, the emaciated horses were forced to carry the men and their equipment while having large, open saddle sores that went bone-deep. Their story is heart-wrenching, in part because the owners have admitted no wrong.

The horses' story came to light in August 2008 when "Q" DeHart, of Victor, Montana, and friend Dawn Merrill, of Missoula, Montana, went trail riding up Big Creek Trail on the west side of the Bitterroot Valley on August 1. A few miles in, they came upon Curtis Heyden who was riding out, who asked them in a very friendly manner how far they were going to go up the trail.

According to DeHart, when they told Heyden they were going to continue for a few hours, he admitted to them that his pack horse had refused to continue walking "for no apparent reason" and was up the trail. He called the gelding "she," swore about it, and said "she was lazy." He said he planned to return for "her" the next day after first picking up his truck and trailer, driving over Lolo Pass into Idaho to meet his father and two other horses at the Colt Creek Trailhead, and then driving back to the Bitterroot.

Heyden had large bags slung over his saddle, front and back, and was anxious to get down to the trailhead.



Dawn Merrill and Q DeHart discovered this horribly emaciated and sore bay gelding recently abandoned on Big Creek Trail, near Stevensville, Montana. The photo was taken after they had pulled his saddle off and given him five bottles of water. All photos by Q DeHart and Dawn Merrill.

Disturbed by Heyden's manner, DeHart and Merrill continued on until they came upon the emaciated horse lying flat in the hot sun. They were both shocked at the sight and thought he was dead, until he nickered. He was still saddled, terribly thin, and had oozing sores covered by meat-eating bees and biting flies. The sores were open all the way to cartilage and bone on his withers, and his shoeless feet were too worn and painful to stand on.

He had been tied to a log, and was down after collapsing. The women tried in vain to get the horse to stand, even attempting to aid him with a rope and one of their own horses.

The creek was about a hundred yards away through heavy brush, but DeHart managed to bring five bottles of water to the horse, who sucked them all down. The women were reluctant to leave the horse on the trail, fully expecting him to die that night. They untied him, covered him with his saddle blanket wet down with more water, and tearfully left to find help.

As they neared the trailhead, they were able to get cell phone service again, and called the Ravalli County Sheriff and the Forest Service.





Q DeHart holds a bottle for the collapsed gelding to suck the water.

Loaded up and ready to leave at the trailhead, the women encountered Curtis Heyden again, arriving with a truck and trailer. He said he was coming back for his saddle horse that he had tied to a tree. He hemmed and hawed a bit before asking if they had found his pack horse.

DeHart and Merrill said they were reluctant at this point to confront Heyden and cautiously admitted that they had given the horse water. Heyden again disparaged the horse, saying that "he was going to go back for it the next day, with 'her' favorite things, carrots and sugar cubes."

Merrill and DeHart took note of Heyden's large SUV and trailer license plates, which they gave to the sheriff's department.

DeHart and Merrill had carpooled to the trailhead that day, and drove back to the supermarket parking lot in Stevensville to pick up DeHart's truck and trailer. They were startled to see Heyden pull in on the other side of the lot at the same time that a Sheriff's deputy found them. They pointed out Heyden to the deputy, who followed him across the road to a mini-storage facility.

Later, the three other sadly mistreated and emaciated horses were found in a makeshift pen between mini-storage units, and confiscated. The sheriff's department asked the Bitter Root Humane Association to pick up and care for the animals.

DeHart and Merrill decided not to wait for the authorities and made plans to get the bay horse out. In a first attempt to rescue the horse, DeHart's husband, Jay, walked six miles up the trail the night of August 1, in the dark, but was unable to find the horse.

The next day Merrill and her friend Mike Svaboda found the bay standing by the creek, whinnying a welcome. Merrill said that there was absolutely no grass in the area for the horse to eat. They had brought Bute (a pain killer), food, water and molasses, and a halter and lead rope. They began slowly coaxing the horse the six miles to the trailhead.

His rescuers quickly nicknamed the horse "Able," in honor of his willingness. After about two miles, he would go no further. Merrill removed the clamp-on, cushioned boots from her own horse's feet and put them on Able. Able reluctantly tested them, but then found his feet were eased enough to continue the rest of the way out, and for the trailer ride to the vet's.

Stevensville District Ranger Bill Goslin recognized the name of the horse's owner as soon as he was contacted as the District Ranger. He had met Curtis and his father at least three times previously.

Goslin says, "Curtis and Craig arrived in the valley with four horses in early June and were taken aback at the amount of snow still in the mountains. I met them first when they camped with the horses at Big Creek trailhead, and then had to move camp due to the horses eating all the available food."

The men told Goslin that Curtis' wife had recently died of cancer and the father and son had decided to make a wilderness "living off the land" trip together. Goslin warned the pair that grazing was limited in the Wilderness Area, and that they should not depend upon finding enough food for the animals. He also tried to help them with their packing system, which was wood bars secured to riding saddles and long bags hung from the bars to just a foot and a half off the ground. He showed them how to tie up the bags with a rope basket hitch onto the top and sides of the saddles, and to balance the load so that it would be easier on the horses.

Goslin next found the duo camped at Big Creek Lake in the wilderness on July 7. They had exceeded their 14 days legal camping limit, twice, and he was concerned about campsite damage. He gave them a warning ticket and enough time so that the pass into Idaho might clear of snow.

"They were always very polite," Goslin explains, "and when I went back in on July 19, they were gone and the camp site was immaculate."

The next time Goslin made contact with Curtis Heyden was after he rode out of Big Creek Trail on August 1. Heyden told Goslin he had "trotted down the trail until the horse couldn't go any more." Goslin estimated that the horses had traveled with Heyden about seventeen miles barefoot that day over rocky ground, before the pack horse gave out.

After being contacted by Merrill and told that the horse had been brought out, Goslin called Curtis Heyden and explained that the horse had been rescued and was at Blue Mountain Veterinary

Clinic in Missoula, giving directions.

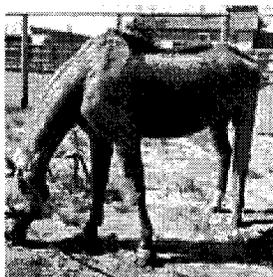
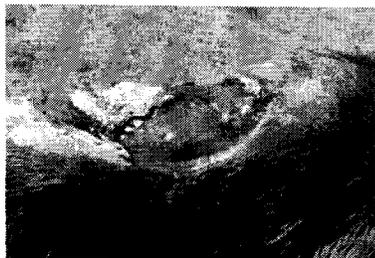
The Heydens did not contact the veterinary clinic or the animal shelter to find out how the horses were faring.

The Heydens were arraigned in Ravalli County Court before Judge James Bailey on August 13, 2008, where they posted a \$10,000 bond each, and pled not guilty to four counts each of animal cruelty (a misdemeanor charge in Montana). Judge Bailey asked the men if they would like to donate money toward the veterinary bills and feed costs. They declined.

A pre-trial, omnibus hearing has been set for October 9. A judge, prosecutor, possibly the Heydens, and their lawyer will be present. The main purpose of the hearing will be to introduce evidence and testimony, present a plea agreement or set a trial date.

On August 14, Vicki Dawson, Bitter Root Humane Association Shelter Manager, said the horses were doing better, but their joints were still swollen, their feet still very tender, and the ulcerated eyes from biting flies were beginning to improve. The deep wounds from ill-fitting saddles and unevenly packed goods would be the last to heal, if ever. Jay DeHart, a natural barefoot horseshoer, had trimmed the horse's hooves and donated padded boots to help them recover more comfortably.

"Our shelter may be the only one in Montana that takes horses, and the expense is so high that we are considering not doing it any longer," Dawson explained. The shelter has been caring for two other horses that they are attempting to find homes for.



On the left, one of the four confiscated horses showing the bone-deep wounds caused by ill-fitting saddles, starvation and inhumane treatment by its owners. This horse may also be suffering from Cushing's disease. All of the horses are suffering from open wounds, swollen joints, ulcerated eyes and very sore feet.

The fate of the Heyden horses is still up in the air. Both Merrill and DeHart say that their main concern is that the horses are never given back to the Heydens. Merrill said that she visited Able on August 14 and he was still in an extremely painful condition. His internal organs were not yet able to process food and water properly. She wondered if she had done the right thing in rescuing him. DeHart says that they had to try. She believes that they did do the right thing, and would do it again.

It is not certain where the horses came from, but it has been reported that the Heydens did not bring them all the way from Georgia. A Google map search showed that Craig Heyden lives in a large home in an upscale subdivision on one to two-acre lots with no horses, and is listed as a real estate appraiser. The men were driving a large Suburban-type vehicle pulling a Circle J 4-horse slant-load trailer. The shelter does not have any travel papers indicating the horse's origins. The Heydens may have gotten them along the way to Montana.

Read next month's RMR when we will give readers an update on the status of this case, as well as the condition of Able and the other horses.

What You Can Do To Help

1) To help the horses with money for veterinary bills or food, or to donate hay, contact the Bitter Root Humane Association at 406-363-5311, 262 Fairgrounds Road, Hamilton, MT 59840. The county does not give any funding for animals in abuse cases such as this one and the shelter relies upon donations for help.

Visit their website to see adoptable animals, including the two other horses they have had in their care, at www.bitterroothumane.org.

2) Montana animal cruelty laws go back to a time when horses were used for work animals, and today, few authorities are willing to spend the time, effort and the public's money to prosecute a misdemeanor case unless the public raises an outcry. Many animal cruelty cases never go to trial, but are pleaded out with light sentences, and the owners may be able to own animals again.

To put pressure on authorities to prosecute the Heydens to the fullest extent, write to prosecutor

John Bell, Ravalli County Attorney's Office, 205 Bedford Street, Ste C, Hamilton MT 59840.

Check back for this story's update in our October Issue!

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