

HOUSE BILL NO. 726

INTRODUCED BY GALLIK, O'HARA, FRANKLIN, MCALPIN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAW RELATED TO ANIMAL CRUELTY AND ANIMAL HUSBANDRY; ~~DIRECTING THE DEPARTMENT OF MILITARY AFFAIRS TO DEVELOP A DISASTER AND EMERGENCY SERVICES PLAN FOR THE HUMANE EVACUATION, TRANSPORTATION, AND TEMPORARY SHELTERING OF SERVICE ANIMALS AND HOUSEHOLD PETS IN TIMES OF EMERGENCY OR DISASTER; AND INCLUDING COMPANION ANIMAL HOARDING IN THE DEFINITION OF CRUELTY TO ANIMALS AND PROVIDING AN ADDITIONAL PENALTY FOR COMPANION ANIMAL HOARDING; AMENDING SECTION 45-8-211, MCA; AND PROVIDING EFFECTIVE DATES.~~"

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

~~———— NEW SECTION. **Section 1. Plan for emergency evacuation of service animals and pets.** (1) The department shall formulate an emergency plan for the humane evacuation, transportation, and temporary sheltering of service animals and household pets in times of emergency or disaster and act as the primary state agency for implementation of the emergency plan.~~

~~———— (2) The emergency plan must be developed in consultation with experts in the fields of animal sheltering, veterinary medicine, and public health and safety and with other professional and technical personnel that the department considers appropriate.~~

~~———— (3) Elements of the emergency plan must include:~~

~~———— (a) a requirement that persons with a disability, as defined in the federal Americans With Disabilities Act of 1990, 42 U.S.C. 12102, who use service animals are evacuated, transported, and sheltered with their service animals and that all facilities that provide emergency shelter to persons with disabilities who are accompanied by service animals are informed of the legal obligation to provide shelter to both the disabled person and the service animal;~~

~~———— (b) identification or establishment of emergency shelters that are designed and equipped to accept and temporarily house household pets and canine search and rescue teams and the development of guidelines for those shelters, which may include:~~

~~———— (i) standards or criteria for admission;~~

~~———— (ii) health and safety standards;~~

- ~~———(iii) basic minimum animal care standards regarding nutrition, space, hygiene, and medical needs; and~~
 - ~~———(iv) protocols and procedures for ensuring adequate sheltering, management, and veterinary staffing;~~
 - ~~———(c) a method to enable, whenever possible, pet and pet owner evacuations for disabled, elderly, and special needs residents and for all other residents when those evacuations can be accomplished without endangering human life;~~
 - ~~———(d) establishment of an identification system to ensure that pet owners who are separated from their household pets during an evacuation are provided with all information necessary to locate and reclaim their lost pets;~~
 - ~~———(e) authorization for the public transportation of household pets in cages or carriers that safely and securely confine the animals and that are designed for the containment and transportation of household pets when public transportation can be accomplished without endangering human life, and a plan to address the evacuation, transportation, and other needs of household pets that cannot be evacuated by public transportation;~~
 - ~~———(f) establishment of protocols requiring an animal control, animal sheltering, or animal care agency in each county to develop a plan for the emergency evacuation of household pets;~~
 - ~~———(g) a requirement that animal shelters, humane societies, veterinary offices, boarding kennels, pet stores, zoos, menageries, concentrated animal feeding operations, breeders, grooming facilities, nursing care facilities, schools, animal testing facilities, and any other business or nonprofit agency that normally houses household pets or service animals create an emergency evacuation plan for those animals that includes, when applicable, a method to notify an animal's owner regarding where the animal has been taken for evacuation, file the plan annually with the department, and make the plan available to the public upon request;~~
 - ~~———(h) implementation of a program to provide guidance to household pet owners in formulating their own evacuation plan for their household pets and service animals and to inform household pet owners of the services available to assist in evacuations;~~
 - ~~———(i) ensuring that emergency preparedness exercises conducted by the state or a county include animal rescue, evacuation, and sheltering as part of the exercises.~~
- ~~———(4) In creating emergency operation plans pursuant to this section, the department may delegate any or all of the evacuation, transportation, sheltering, or other functions established in this section to the county agency with authority over animal control or animal-related issues in that county, which shall serve as the primary county agency for implementation of this section. The primary county agency may delegate specific functions to public or private agencies with expertise in the areas of animal control, animal sheltering, or animal care upon notification to the department. The department shall work with the public or private agencies regarding the~~

~~agencies' duties relative to the evacuation, transportation, and sheltering of household pets and service animals pursuant to this section.~~

~~— (5) As used in this section, "household pet" means a domesticated cat, dog, bird, ferret, rabbit, or other domesticated animal normally maintained in the residence of the owner or person who cares for the domesticated animal.~~

Section 1. Section 45-8-211, MCA, is amended to read:

"45-8-211. Cruelty to animals -- exceptions. (1) A person commits the offense of cruelty to animals if, without justification, the person knowingly or negligently subjects an animal to mistreatment or neglect by:

(a) overworking, beating, tormenting, torturing, injuring, or killing the animal;

(b) carrying or confining the animal in a cruel manner;

(c) failing to provide an animal in the person's custody with:

(i) food and water of sufficient quantity and quality to sustain the animal's normal health;

(ii) minimum protection for the animal from adverse weather conditions, with consideration given to the species;

(iii) in cases of immediate, obvious, serious illness or injury, licensed veterinary or other appropriate medical care;

(d) abandoning any helpless animal or abandoning any animal on any highway, railroad, or in any other place where it may suffer injury, hunger, or exposure or become a public charge; ~~or~~

(e) promoting, sponsoring, conducting, or participating in an animal race of more than 2 miles, except a sanctioned endurance race; or

(f) companion animal hoarding.

(2) (a) A person convicted of the offense of cruelty to animals shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both. A person convicted of a second or subsequent offense of cruelty to animals or of a first or subsequent offense of aggravated animal cruelty shall be fined an amount not to exceed \$2,500 or be sentenced to the department of corrections for a term not to exceed 2 years, or both.

(b) If the convicted person is the owner, the person may be required to forfeit any animal affected to the county in which the person is convicted. This provision does not affect the interest of any secured party or other person who has not participated in the offense.

(c) For the purposes of this subsection (2), when more than one animal is subject to cruelty to animals,

each act may comprise a separate offense.

(3) In addition to the sentence provided in subsection (2), the court:

(a) shall require the defendant to pay all reasonable costs incurred in providing necessary veterinary attention and treatment for any animal affected, including reasonable costs of care incurred by a public or private animal control agency or humane animal treatment shelter;

(b) may require the defendant to pay all reasonable costs of necessary care of the affected animal that are incurred by a public or private animal control agency or humane animal treatment shelter; ~~and~~

(c) shall prohibit or limit the defendant's ownership, possession, or custody of animals, as the court believes appropriate during the term of the sentence; and

(d) may, in a case of companion animal hoarding, order the convicted person to undergo a psychological or psychiatric evaluation and to undergo any treatment, at the person's expense, that the court considers appropriate after considering the results of the evaluation.

(4) This section does not prohibit:

(a) a person humanely destroying an animal for just cause;

(b) the use of commonly accepted agricultural and livestock practices on livestock;

(c) rodeo activities that meet humane standards of the professional rodeo cowboys association;

(d) lawful fishing, hunting, and trapping activities;

(e) lawful wildlife management practices;

(f) lawful scientific or agricultural research or teaching that involves the use of animals;

(g) services performed by a licensed veterinarian;

(h) lawful control of rodents and predators and other lawful animal damage control activities; or

(i) accepted training and discipline methods.

(5) As used in this section, the following definitions apply:

(a) (i) ~~"Companion~~ IT IS CONSIDERED "COMPANION animal hoarding" ~~means~~ IF ALL OF THE FOLLOWING

ELEMENTS EXIST:

(i)(A) possession of ~~40~~ 20 or more companion animals or household pets;

(ii)(B) failure or inability to provide the necessary care for the animals in violation of subsection (1)(c);

(iii)(C) confining the animals in a severely overcrowded environment; and

(iv)(D) inability to recognize or understand the nature of or having a reckless disregard for the conditions under which the animals are living and the deleterious impact those conditions have on the health and well-being of the animals and the owner.

(II) THE TERM DOES NOT INCLUDE PUREBRED ANIMAL BREEDING FACILITIES OR FACILITIES FOR ANIMALS RELATED TO SANCTIONED ENDURANCE RACES.

(III) COMPANION ANIMAL HOARDING DOES NOT CONSTITUTE AGGRAVATED ANIMAL CRUELTY AS PROVIDED IN 45-8-217.

(b) "Companion animal or household pet" means a domesticated cat, dog, bird, ferret, rabbit, or other domesticated animal normally maintained in the residence or on the property of the owner or person who cares for the domesticated animal."

~~NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 10, chapter 3, and the provisions of Title 10, chapter 3, apply to [section 1].~~

~~NEW SECTION. Section 4. Effective dates. (1) Except as provided in subsection (2), [this act] is effective on passage and approval.~~

~~(2) [Section 2] is effective October 1, 2007.~~

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