

COMMITTEE ON JUDICIARY AND ELECTIONS
SENATE AMENDMENTS TO S.B. 1198
(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 13-2910, Arizona Revised Statutes, is amended to
3 read:

4 13-2910. Cruelty to animals; interference with working or
5 service animal; release conditions; classification;
6 definitions

7 A. A person commits cruelty to animals if the person does any of the
8 following:

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

11 2. Intentionally, knowingly or recklessly fails to provide medical
12 attention necessary to prevent protracted suffering to any animal under the
13 person's custody or control.

14 3. Intentionally, knowingly or recklessly inflicts unnecessary
15 physical injury to any animal.

16 4. Recklessly subjects any animal to cruel mistreatment.

17 5. Intentionally, knowingly or recklessly kills any animal under the
18 custody or control of another person without either legal privilege or
19 consent of the owner.

20 6. Recklessly interferes with, kills or harms a working or service
21 animal without either legal privilege or consent of the owner.

22 7. Intentionally, knowingly or recklessly leaves an animal
23 unattended and confined in a motor vehicle and physical injury to or death
24 of the animal is likely to result.

25 8. Intentionally or knowingly subjects any animal under the person's
26 custody or control to cruel neglect or abandonment that results in serious
27 physical injury to the animal.

28 9. Intentionally or knowingly subjects any animal to cruel
29 mistreatment.

30 10. Intentionally or knowingly interferes with, ~~kills or harms~~ a
31 working or service animal without either legal privilege or consent of the
32 owner.

33 11. INTENTIONALLY OR KNOWINGLY KILLS OR SERIOUSLY HARMS A SERVICE
34 ANIMAL WITHOUT EITHER LEGAL PRIVILEGE OR CONSENT OF THE OWNER.

35 ~~11.~~ 12. Intentionally or knowingly allows any dog that is under the
36 person's custody or control to interfere with, kill or cause physical
37 injury to a service animal.

38 ~~12.~~ 13. Recklessly allows any dog that is under the person's
39 custody or control to interfere with, kill or cause physical injury to a
40 service animal.

41 ~~13.~~ 14. Intentionally or knowingly obtains or exerts unauthorized
42 control over a service animal with the intent to deprive the service animal
43 handler of the service animal.

~~14.~~ 15. Intentionally or knowingly subjects a domestic animal to cruel mistreatment.

~~15.~~ 16. Intentionally or knowingly kills a domestic animal without either legal privilege or consent of the domestic animal's owner or handler.

~~16.~~ 17. Intentionally or knowingly harasses a working animal that is in a law enforcement vehicle or trailer without either legal privilege or consent of the owner.

18. INTENTIONALLY OR KNOWINGLY CAUSES SERIOUS HARM TO A WORKING ANIMAL WITHOUT EITHER LEGAL PRIVILEGE OR CONSENT OF THE OWNER.

19. INTENTIONALLY OR KNOWINGLY KILLS A WORKING ANIMAL WITHOUT EITHER LEGAL PRIVILEGE OR CONSENT OF THE OWNER.

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

1. Any person exposes poison to be taken by a dog that has killed or wounded livestock or poison to be taken by predatory animals on premises owned, leased or controlled by the person for the purpose of protecting the person or the person's livestock or poultry, the treated property is kept posted by the person who authorized or performed the treatment until the poison has been removed and the poison is removed by the person exposing the poison after the threat to the person or the person's livestock or poultry has ceased to exist. The posting required shall provide adequate warning to persons who enter the property by the point or points of normal entry. The warning notice that is posted shall be readable at a distance of fifty feet, shall contain a poison statement and symbol and shall state the word "danger" or "warning".

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

C. This section does not prohibit or restrict:

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

2. Activities permitted by or pursuant to title 3.

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

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

E. A person who is convicted of a violation of subsection A, paragraph 6 ~~OR~~ 10, 11, 18 OR 19 of this section is liable as follows:

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

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

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

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

10 G. If a judicial officer orders the release of a person who is
11 currently serving a term of probation for a violation of this section and
12 who is charged with a new violation of this section on the person's own
13 recognizance or on the execution of bail, the judicial officer shall impose
14 a condition of release that prohibits the person from possessing or having
15 contact with any animal.

16 H. A person who violates subsection A, paragraph 1, 2, 3, 4, 5, 6,
17 7, ~~12~~ 13 or ~~16~~ 17 of this section is guilty of a class 1 misdemeanor. A
18 person who violates subsection A, paragraph 8, 9, 10, ~~11~~ 12 or ~~13~~ 14 of
19 this section is guilty of a class 6 felony. A person who violates
20 subsection A, paragraph ~~14~~ or 11, 15, 16 OR 18 of this section is guilty of
21 a class 5 felony. A PERSON WHO VIOLATES SUBSECTION A, PARAGRAPH 19 OF THIS
22 SECTION IS GUILTY OF A CLASS 4 FELONY.

23 I. For the purposes of this section:

24 1. "Animal" means a mammal, bird, reptile or amphibian.

25 2. "Cruel mistreatment" means to torture or otherwise inflict
26 unnecessary serious physical injury on an animal or to kill an animal in a
27 manner that causes protracted suffering to the animal.

28 3. "Cruel neglect" means to fail to provide an animal with necessary
29 food, water or shelter.

30 4. "Domestic animal" means a mammal, not regulated by title 3, that
31 is kept primarily as a pet or companion or that is bred to be a pet or
32 companion.

33 5. "Handler" means a law enforcement officer or any other person who
34 has successfully completed a course of training prescribed by the person's
35 agency or the service animal owner and who used a specially trained animal
36 under the direction of the person's agency or the service animal owner.

37 6. "Harass" means to engage in conduct that a reasonable person
38 would expect to impede or interfere with a working animal's performance of
39 its duties.

40 7. "Service animal" means an animal that has completed a formal
41 training program, that assists its owner in one or more daily living tasks
42 that are associated with a productive lifestyle and that is trained to not
43 pose a danger to the health and safety of the general public.

44 8. "Working animal" means a horse or dog that is used by a law
45 enforcement agency, that is specially trained for law enforcement work and
46 that is under the control of a handler.

47 Sec. 2. Section 13-2910.11, Arizona Revised Statutes, is amended to
48 read:

13-2910.11. Unlawful animal ownership or possession; transfer of animals; restoration of right to possess animals; classification; good cause exception; definitions

A. It is unlawful for a person who has been convicted of any of the following offenses to own, possess, adopt, foster, reside with or otherwise intentionally contact, care for or have custody of any animal in the person's household:

1. An intentional or knowing violation of cruelty to animals pursuant to section 13-2910, subsection A, paragraph 1, 2, 3, 7, 8, 9, ~~11~~, ~~14~~ 12, 15 or ~~15~~ 16.

2. Cruelty to animals pursuant to section 13-2910, subsection A, paragraph 4.

3. Animal fighting pursuant to section 13-2910.01.

4. Bestiality pursuant to section 13-1411.

B. Except as provided in subsection D of this section, the prohibitions listed in subsection A of this section shall remain in place for the following amount of time:

1. For a first misdemeanor conviction, at least five years.

2. For a first felony conviction or a second or subsequent misdemeanor conviction, at least ten years.

3. For a second or subsequent felony conviction, for the person's lifetime.

C. Within thirty days after a person is prohibited from possessing an animal pursuant to this section, the person shall transfer all animals in the person's care or custody to another person who is not in the person's household.

D. On proper application and not less than one year after the person is convicted of a misdemeanor violation of an offense listed in subsection A of this section or two and one-half years after the person is convicted of a felony violation OF AN OFFENSE LISTED IN SUBSECTION A OF THIS SECTION, the person may apply to have the person's right to possess an animal restored. Any time spent on absconder status while on probation, on escape status or incarcerated is excluded in calculating the minimum time requirement. The person may apply to the judge, justice of the peace or magistrate who pronounced sentence or imposed probation or the SUCCESSOR IN OFFICE OF THE judge, justice of the peace or ~~magistrate's successor in office~~ MAGISTRATE. The applicant shall serve a copy of the application on the prosecutor. The court shall conduct a hearing on the request within sixty days after the application is filed. The defendant bears the burden by a preponderance of evidence at the hearing. To assist the court in making a determination, the court shall require the person to complete a psychiatric or psychological examination and undergo counseling, if necessary, before restoring the person's right to possess an animal. The court may terminate or reduce the time period required by subsection B of this section on a finding that:

1. The applicant does not present a danger to self, the animal's immediate family and the public.

1 2. The applicant has the ability to properly care for all animals in
2 the applicant's possession.

3 3. The applicant has successfully completed all classes or
4 counseling that was ordered by the sentencing court.

5 E. A convicted person who lives in a household with an animal that
6 is owned, possessed, adopted or fostered by another person in the household
7 may apply to the court for a good cause exception. A good cause exception
8 is valid for one year and allows the convicted person to reside in the same
9 household as an animal. The convicted person may request the court to
10 renew a good cause exception sixty days before the good cause exception
11 expires. The court may grant a good cause exception or renew a good cause
12 exception if all of the following apply:

13 1. The convicted person is on supervised or unsupervised probation,
14 community supervision or parole or agrees to be subject to the court's
15 jurisdiction and supervision while living in the household.

16 2. The court determines that it is in the best interests of the
17 animal and the person who owns, possesses, adopts or fosters the animal to
18 allow the convicted person to remain in the same household and reside with
19 the animal.

20 3. The convicted person agrees to not intentionally contact, care
21 for or have custody of the animal.

22 F. A person who violates this section is guilty of a class 1
23 misdemeanor.

24 G. For the purposes of this section:

25 1. "Animal":

26 (a) Means any domesticated dog or cat.

27 (b) Does not include livestock as defined in section 3-1201 or
28 wildlife as defined in section 17-101.

29 2. "Household" includes all of the persons who occupy a housing unit
30 as the person's usual place of residence, including all of the following:

31 (a) The related family members and all unrelated persons, if any,
32 such as lodgers, foster children, wards or employees who share the housing
33 unit.

34 (b) A person who lives alone in a housing unit or a group of
35 unrelated persons sharing a housing unit such as partners or roomers.

36 3. "Housing unit" means a house, an apartment, a mobile home or
37 trailer, a group of rooms or a single room occupied as separate living
38 quarters for a household and includes any front, side or rear yards and any
39 garages and detached garages that are under the control of the household."

40 Amend title to conform