

1973 Senate Bill 16

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CHAPTER 314, Laws of 1973

AN ACT to repeal 947.10; to renumber 173.31 (title), (1), (2) and (3) and 346.94 (3); to renumber and amend 943.203; to amend 346.95 (1), and 948.15 (2) and (3) as renumbered; and to create chapter 948 of the statutes, relating to crimes against animals and providing penalties.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 173.31 (title), (1), (2) and (3) of the statutes are renumbered 948.15 (title), (2), (3) and (4), respectively, and 948.15 (2) and (3), as renumbered are amended to read:

948.15 (2) Any ~~sheriff, constable, village marshal, police officer or humane law enforcement~~ officer may remove, shelter and care for any ~~horse or other~~ animal found to be cruelly exposed to the weather, starved or denied adequate water, neglected or abandoned, or otherwise treated in a cruel manner and may deliver such animal to another person to be sheltered, cared for and given medical attention, if necessary; ~~but in~~ In all cases the owner, if known, shall be immediately notified; and such officer, or other person, having possession of the animal shall have a lien thereon for its care, keeping and medical attention and the expense of notice.

(3) If the owner or custodian ~~be is~~ unknown and cannot with reasonable effort be ascertained, or ~~shall does~~ not within 5 days after notice redeem ~~such the~~ animal by paying the expenses incurred ~~as aforesaid~~, it may be treated as a stray and dealt with as such.

SECTION 2. 346.94 (3) of the statutes is renumbered 948.04.

SECTION 3. 346.95 (1) of the statutes is amended to read:

346.95 (1) Any person violating s. 346.87, 346.88, 346.89 (2), 346.90 to 346.92 or 346.94 (1), ~~(3)~~, (9), (10) or (11) may be required to forfeit not less than \$20 nor more than \$40 for the first offense and not less than \$50 nor more than \$100 for the 2nd or subsequent conviction within a year.

SECTION 4. 943.203 of the statutes is renumbered 948.03 and amended to read:

948.03 (1) ~~Whoever does any of the following may be penalized under sub. (2):~~

(a) ~~Takes~~ No person may take the dog or cat of another from one place to another without the owner's consent or cause such a dog or cat to be confined or carried out of this state or held for any purpose without the owner's consent.

(2) ~~Any person violating this section may be:~~

(a) ~~Fined not more than \$500 or imprisoned not more than one year in the county jail or both.~~

(3) This section does not apply to ~~county humane officers, sheriffs and their deputies, marshals or constables or other police law enforcement~~ law enforcement officers or humane society agents engaged in the exercise of their official duties.

SECTION 5. 947.10 of the statutes is repealed.

SECTION 6. Chapter 948 of the statutes is created to read:

CHAPTER 948
CRIMES AGAINST ANIMALS

948.01 Definitions. In this chapter:

(1) "Animal" includes every living, warmblooded creature except a human being.

(2) "Cruel" means causing unnecessary and excessive pain or suffering or unjustifiable injury or death.

(3) "Law enforcement officer" has the meaning assigned under s. 967.02 (5) and includes a humane officer under s. 58.07 but does not include a conservation warden appointed under s. 23.10.

(4) "Farm animal" means any warmblooded animal normally raised on farms in the United States and used or intended for use as food or fiber.

948.015 Construction and application. This chapter shall not be interpreted as controverting any law regulating the taking of game as defined in s. 29.01 (3), the trapping of animals, the use of live animals in dog trials or in the training of hunting dogs or the slaughter of animals by persons acting under state or federal law.

948.02 Mistreating animals. No person may treat any animal, whether belonging to himself or another, in a cruel manner. This section does not prohibit bona fide experiments carried on for scientific research or normal and accepted veterinary practices.

948.05 Transportation of animals. No person may transport any animal in or upon any vehicle in a cruel manner.

948.06 Use of poisonous and controlled substances. No person may expose any domestic animal owned by another to any known poisonous substance or controlled substance listed in s. 161.14, whether mixed with meat or other food or not, so that the substance is liable to be eaten by the animal and for the purpose of harming the animal. This section shall not apply to poison used on one's own premises and designed for the purpose of rodent or pest extermination nor to the use of a controlled substance in bona fide experiments carried on for scientific research or in accepted veterinary practices.

948.07 Use of certain devices prohibited. No person may directly or indirectly, or by aiding, abetting or permitting the doing thereof, either put, place, fasten, use or fix

upon or to any animal used or readied for use for a work purpose or for use in an exhibition, competition, rodeo, circus or other performance, any of the following devices: a bristle bur, tack bur or like device; or a poling device used to train a horse to jump which is charged with electricity or to which have been affixed nails, tacks or other sharp points.

948.08 Instigating fights between animals. (1) No person may instigate, promote, aid or abet as a principal, agent, employe or spectator, or participate in the earnings from, or intentionally maintain or allow any place to be used for a cockfight, dog fight, bullfight or other fight between the same or different kinds of animals or between an animal and a person. This section does not prohibit events or exhibitions commonly featured at rodeos or bloodless bullfights.

(2) No person may own, possess, keep or train any animal with the intent that the animal be engaged in an exhibition of fighting.

948.09 Shooting at caged or staked animals. No person may instigate, promote, aid or abet as a principal, agent, employe, participant or spectator, or participate in the earnings from, or intentionally maintain or allow any place to be used for the shooting, killing or wounding with a firearm or any deadly weapon, any animal that is tied, staked out, caged or otherwise intentionally confined in a man-made enclosure, regardless of size. Nothing in this section prohibits the shooting of any wild game in its wild state or the shooting of game birds and waterfowl at licensed game farms or licensed shooting preserves.

948.10 Sale of baby rabbits, chicks and other fowl. (1) No person may sell, offer for sale, barter or give away living chicks, ducklings or other fowl unless he provides proper brooder facilities for the care of such chicks, ducklings or other fowl during the time they are in his possession.

(2) No retailer, as defined in s. 100.30 (2) (g), may sell, offer for sale, barter or give away living baby rabbits, baby chicks, ducklings or other fowl under 2 months of age in any quantity less than 6 unless he is in the business of selling these animals for agricultural, wildlife or scientific purposes.

948.11 Artificially colored animals; sale. No person may sell, offer for sale, raffle, give as a prize or premium, use as an advertising device or display living chicks, ducklings, other fowl or rabbits that have been dyed or otherwise colored artificially.

948.13 Providing proper food and drink to confined animals. No person owning or responsible for confining or impounding any animal may refuse or neglect to supply the animal with a sufficient supply of food and water as prescribed in this section.

(1) **FOOD.** The food shall be sufficient to maintain all animals in good health.

(2) **WATER.** If potable water is not accessible to the animals at all times, it shall be provided daily and in sufficient quantity for the health of the animal.

948.14 Providing proper shelter. No person owning or responsible for confining or impounding any animal may fail to provide the animal with proper shelter as prescribed in this section. In the case of farm animals, nothing in this section shall be construed as imposing shelter requirements or standards more stringent than normally accepted husbandry practices in the particular county where the animal or shelter is located.

(1) **INDOOR STANDARDS.** Minimum indoor standards of shelter shall include:

(a) *Ambient temperatures.* The ambient temperature shall be compatible with the health of the animal.

(b) *Ventilation.* Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animals at all times.

(2) **OUTDOOR STANDARDS.** Minimum outdoor standards of shelter shall include:

(a) *Shelter from sunlight.* When sunlight is likely to cause heat exhaustion of an animal tied or caged outside, sufficient shade by natural or artificial means shall be provided to protect the animal from direct sunlight. As used in this paragraph, "caged" does not include farm fencing used to confine farm animals.

(b) *Shelter from inclement weather.* 1. 'Animals generally.' Natural or artificial shelter appropriate to the local climatic conditions for the species concerned shall be provided as necessary for the health of the animal.

2. 'Dogs.' If a dog is tied or confined unattended outdoors under weather conditions which adversely affect the health of the dog, a shelter of suitable size to accommodate the dog shall be provided.

(3) **SPACE STANDARDS.** Minimum space requirements for both indoor and outdoor enclosures shall include:

(a) *Structural strength.* The housing facilities shall be structurally sound and maintained in good repair to protect the animals from injury and to contain the animals.

(b) *Space requirements.* Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of debility, stress or abnormal behavior patterns.

(4) **SANITATION STANDARDS.** Minimum standards of sanitation for both indoor and outdoor enclosures shall include periodic cleaning to remove excreta and other waste materials, dirt and trash so as to minimize health hazards.

948.15 (1) No person may intentionally abandon any animal.

948.16 Investigation of cruelty complaints. Any person who has reason to believe that a violation of this chapter has taken place or is taking place may apply to any circuit or county court for a search warrant. The court shall examine under oath the person so applying and any witnesses he may produce and shall take his sworn affidavit in writing. The affidavit shall set forth the facts tending to establish probable cause to believe that a violation of this chapter has occurred or is occurring. If the court is satisfied that probable cause exists, it shall issue a search warrant directing a law enforcement officer in the county to proceed immediately to the location of the alleged violation taking with him a doctor of veterinary medicine, if the court determines that a veterinarian is necessary for purposes of the search, and directing the law enforcement officer to search the place designated in the warrant, retaining in his custody subject to the order of the court such property or things as are specified in the warrant, including any animal. The warrant shall be executed and returned to the court which issued the warrant in accordance with ss. 968.15 and 968.17. The warrant issued pursuant to this section shall have the same force and effect as a warrant issued pursuant to s. 968.12. This section shall not affect other powers and duties of law enforcement officers.

948.17 Expenses of investigation. The expenses of the search authorized by s. 948.16 including the fee of the doctor of veterinary medicine, the expenses of keeping or disposing of any animal taken into custody pursuant to such search and all other expenses reasonably incident to such search shall be assessed against the person alleged

to have violated this chapter, if the person is found guilty of such violation. If the person is found innocent of such violation, the expenses shall be paid by the county treasurer from the general fund of the county.

948.18 Penalties. (1) Any person violating s. 948.02, 948.03, 948.05, 948.06, 948.07, 948.08, 948.09, 948.13, 948.14 or 948.15 (1) may be fined not more than \$500 or imprisoned not more than one year in the county jail or both.

(2) Any person violating s. 948.04, 948.10 or 948.11 may be fined not more than \$200 or imprisoned not more than 60 days or both.

(3) In addition to penalties applicable to this chapter under this section, a district attorney may apply to any court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating this chapter.

SECTION 7. Effective date. This act shall take effect January 1, 1974, or the first day after its publication, whichever is later.
