

Prevention of Cruelty to Animals Act

[RSBC 1996] CHAPTER 372

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Part 1 — Interpretation and Application

Definitions

1 (1) In this Act:

"authorized agent" means a person appointed as an authorized agent under section 10 (1);

"justice" means a justice as defined in the *Offence Act*;

"operator" means a person who engages in a regulated activity, and includes any person who assists, directs, supervises or employs that person for the purpose of doing the regulated activity;

"person responsible for an animal" or **"person responsible for the animal"** includes a person who

(a) owns an animal,

(b) has custody or control of an animal, or

(c) is an operator in relation to an animal;

"registered veterinarian" means an individual who is authorized under the *Veterinarians Act* to practise veterinary medicine;

"regulated activity" means a prescribed activity in relation to the breeding, care, keeping, training, use, transportation, disposition, assembly or killing of animals;

"rules", in relation to the society, include except in section 5 the constitution, bylaws and regulations of the society;

"service animal" means an animal that is trained

(a) to assist in law enforcement activities, whether the animal is used by a peace officer or a person acting under the direction of a peace officer, or

(b) for use

(i) by a person within a prescribed class of persons, or

(ii) for prescribed purposes,

and that is engaged in activities relating to the service for which it is trained;

"society" means the society continued under section 3.

(2) For the purposes of this Act, an animal is in distress if it is

(a) deprived of adequate food, water, shelter, ventilation, light, space, exercise, care or veterinary treatment,

(a.1) kept in conditions that are unsanitary,

(a.2) not protected from excessive heat or cold,

(b) injured, sick, in pain or suffering, or

(c) abused or neglected.

(3) [Repealed 2011-7-1.]

Application

2 This Act does not apply to wildlife, as defined in the *Wildlife Act*, that is not in captivity.

Society continued

3 The society under the name of "The British Columbia Society for the Prevention of Cruelty to Animals" is continued with perpetual succession and a corporate seal.

Membership of society

4 (1) In addition to those persons who immediately before April 6, 1968, were members of the society, the membership of the society consists of those persons who, in accordance with the rules of the society, are admitted to membership.

(2) The rules of the society may provide for different categories of members.

(3) The members of the society are subject to the rules and hold their membership subject to the rules.

Constitution of society

5 (1) The society may amend or replace its constitution, bylaws, rules and regulations.

(2) Subject to subsection (1), the constitution, bylaws, rules and regulations of the society in force immediately before April 6, 1968 continue in force, and the society is governed by them.

(3) Subject to subsection (4), the power to make bylaws, rules or regulations may be delegated to any committee, branch or officer of the society.

(4) No delegation may be made under subsection (3)

(a) with respect to a matter reserved by the constitution, bylaws, rules or regulations to a meeting of the members of the society, or

(b) with respect to a bylaw relating to policies and operational procedures of the society for administering the enforcement powers of this Act.

Monitoring of enforcement bylaws

6 (1) The society must file with the minister a copy of every bylaw made under section 5 that relates to policies and operational procedures of the society for administering the enforcement powers of this Act within 7 days after it is made.

(2) The Lieutenant Governor in Council may disallow a bylaw that relates to the matters described in subsection (1).

(3) The power of disallowance under subsection (2) applies to bylaws made both before and after the day on which this section comes into force.

Powers of society

7 The society may do one or more of the following:

- (a) receive, take, hold, enjoy and manage all gifts, devises, bequests, legacies, subscriptions and donations of property that are made or given to it;
- (b) acquire, hold, lease, sell, convey and mortgage any property necessary to carry out the work of the society;
- (c) establish and operate public shelters for stray and seized animals;
- (d) enter agreements with the government and with any municipality or regional district to act as pound keeper in a defined area in British Columbia.

Branches

8 (1) Subject to subsection (3), the branches of the society are continued.

(2) The society may form and establish branches in its discretion anywhere in British Columbia.

(3) Branches are subject to the control and direction of the society and may, in accordance with the rules of the society, be

- (a) dissolved by the society, or
- (b) suspended by the society or its executive committee.

(4) If the society establishes a branch, it must promptly send the Registrar of Companies a notice setting out the date the branch was formed, the title of the branch, the locality and powers of the branch, and the other information the registrar may require.

(5) The society must notify the registrar when a branch ceases to exist.

Corporate duties and obligations

9 (1) The society must

- (a) have an address in British Columbia to which all communications and notices may be sent and at which all process may be served, and
 - (b) file with the Registrar of Companies notice of every change of address within 14 days after the change is made.
- (2) Every general meeting of the society must be held in British Columbia.

(3) The society must hold an annual general meeting.

(4) Within 14 days after the annual general meeting, the society must file with the Registrar of Companies

(a) an audited financial statement in the form of

(i) a balance sheet containing general particulars of assets and liabilities, and

(ii) a statement of income and expenditure, and

(b) a list of directors of the society, stating for each director his or her address and date of appointment or election.

(5) In addition to the filings required under subsection (4) (b), on request by the Registrar of Companies, the society must furnish the registrar with particulars of directors of the society.

(6) The society and each of its branches must

(a) maintain a register of members, and

(b) record in it the name and address of every person admitted as a member of the society.

(7) Failure, refusal or neglect by the society to observe or perform a duty or obligation created or imposed by this section or section 8 (4) or (5) is an offence.

(8) If the society commits an offence under subsection (7), it is liable on conviction to a penalty of not more than \$100.

Part 2.1 — Standards of Care

Duties of persons responsible for animals

9.1 (1) A person responsible for an animal must care for the animal, including protecting the animal from circumstances that are likely to cause the animal to be in distress.

(2) A person responsible for an animal must not cause or permit the animal to be, or to continue to be, in distress.

Duties of operators

9.2 (1) An operator engaging in a regulated activity

(a) must comply with each requirement and duty set out in, and

(b) must not engage in any practice or carry out any procedure that is prohibited under

a regulation respecting the regulated activity.

(2) An operator who is an employer must ensure that employees are adequately trained and sufficiently equipped to comply with any requirement or duty set out in a regulation respecting the regulated activity in which the operator is engaged.

Transportation of animals

9.3 (1) A person responsible for an animal must not transport the animal by vehicle unless the animal is

(a) inside the passenger compartment, or

(b) confined or secured in a manner that will prevent the animal from

(i) falling from the vehicle,

(ii) being injured during transport, or

(iii) causing a hazard to the safe operation of other vehicles.

(2) A person responsible for an animal must not attach the animal to a vehicle that is in operation unless the animal is confined or secured as described in subsection (1) (b).

(3) Subsections (1) and (2) do not apply to a person operating a vehicle that is designed for use as a mobility aid for persons with a disability and that is being used for that purpose.

Part 3 — Relieving Distress in Animals

Authorized agents

10 (1) The society may appoint an officer or employee of the society or any other person as an authorized agent for the purposes of this Act.

(2) An authorized agent may exercise the powers of an authorized agent under this Act or any other law relating to the prevention of cruelty to animals only if he or she has been appointed as a special provincial constable under the *Police Act*.

Abandoned animals

10.1 (1) In this section, "**abandoned animal**" includes an animal that

(a) is apparently ownerless,

(b) is found straying,

(c) is found in a rental unit after expiry of the tenancy agreement in respect of the rental unit, or

(d) if a person agreed to care for the animal, is not retrieved from that person within 4 days following the end of that agreement.

(2) If an authorized agent is of the opinion that an animal is an abandoned animal, the authorized agent may take custody of the animal and arrange for food, water, shelter, care and veterinary treatment for it.

Relieving distress in animals

11 If an authorized agent is of the opinion that an animal is in distress and the person responsible for the animal

(a) does not promptly take steps that will relieve its distress, or

(b) cannot be found immediately and informed of the animal's distress,

the authorized agent may, in accordance with sections 13 and 14, take any action that the authorized agent considers necessary to relieve the animal's distress, including, without limitation, taking custody of the animal and arranging for food, water, shelter, care and veterinary treatment for it.

Relieving critical distress in animals

12 (1) In this section, "**critical distress**" means distress in an animal of such a nature that

(a) immediate veterinary treatment cannot prolong the animal's life, or

(b) prolonging the animal's life would result in the animal suffering unduly.

(2) If, in the opinion of

(a) a registered veterinarian, or

(b) an authorized agent, if a registered veterinarian is not readily available,

an animal is in critical distress, the authorized agent may destroy the animal or have the animal destroyed.

Authority to enter with a warrant

13 (1) An authorized agent who believes, on reasonable grounds,

(a) that there is an animal in distress in any premises, vehicle, aircraft or vessel, or

(b) that an offence under section 24 has been committed and that there is in any premises, vehicle, aircraft or vessel, any thing that will afford evidence of that offence,

may enter the premises, vehicle, aircraft or vessel with a warrant issued under subsection (2) for the purpose of

(c) determining whether any action authorized by this Act should be taken to relieve the animal's distress, or

(d) searching for, and seizing, any thing that will afford evidence of an offence under section 24.

(2) A justice who is satisfied by information on oath in the prescribed form that there are reasonable grounds

(a) under paragraph (1) (a), may issue a warrant in the prescribed form authorizing an authorized agent to enter the premises, vehicle, aircraft or vessel for the purpose of taking any action authorized by this Act to relieve the animal's distress, and

(b) under paragraph (1) (b), may issue a warrant in the prescribed form authorizing an authorized agent to enter the premises, vehicle, aircraft or vessel for the purpose of searching for, and seizing, a thing that will afford evidence of an offence under section 24.

(2.1) If an authorized agent believes that it would be impracticable to appear personally before a justice to apply for a warrant under this section, the authorized agent may submit an information on oath by telephone or other means of telecommunication and, for this purpose, section 22 of the *Offence Act* applies.

(3) A justice may issue a warrant under subsection (2) or (2.1) for either or both of the purposes referred to in subsection (2).

(4) A warrant issued under subsection (2) or (2.1) is subject to the conditions specified in the warrant.

Authority to enter without a warrant

14 (1) In this section, "**critical distress**" means distress in an animal of such a nature that

(a) immediate veterinary treatment cannot prolong the animal's life,

(b) prolonging the animal's life would result in the animal suffering unduly, or

(c) immediate veterinary intervention is necessary to prevent the imminent death of the animal.

(2) An authorized agent who believes on reasonable grounds that there is an animal in critical distress in any premises, other than a dwelling house, or in any vehicle, aircraft or vessel, may

enter the premises, vehicle, aircraft or vessel without a warrant for the purpose of taking any action authorized by this Act to relieve that critical distress.

Entry to determine distress

15 An authorized agent may, without a warrant, during ordinary business hours enter any premises, other than a dwelling house, where animals are kept for sale, hire or exhibition for the purpose of determining whether any animal is in distress in the premises.

Inspection

15.1 (1) Subject to subsection (3), an authorized agent may enter any premises or a vehicle where an operator is engaging in a regulated activity for the purpose of determining whether this Act and the regulations made under it are being complied with.

(2) Subject to subsection (3), an authorized agent who believes on reasonable grounds that premises or a vehicle is being used for the purposes of carrying out a regulated activity may enter the premises to determine

(a) whether the premises or vehicle is being used for the purposes of carrying out a regulated activity, and

(b) if so, who the operator is in relation to the regulated activity being carried out.

(3) Entry under subsection (1) or (2) may be without a warrant or the consent of the person responsible for the premises or vehicle only if

(a) the premises or vehicle is not used as a dwelling house, and

(b) entry is during ordinary business hours.

Inspection powers

15.2 (1) For the purposes of an inspection under section 15.1, an authorized agent may do one or more of the following:

(a) be accompanied or assisted by a person who has special, expert or professional knowledge of a matter relevant to the inspection;

(b) require a person to produce relevant records or things in the person's possession or control;

(c) inspect, copy or remove relevant records or things;

(d) require a person to

(i) demonstrate a skill, or

(ii) operate a thing or carry out a procedure as directed by the authorized agent

in relation to a requirement set out in a regulation made under section 26 (2) (e), (f), (g), (h) or (j);

(e) make records in respect of a person, place or thing;

(f) take samples and perform analyses and tests, including tests in which a sample is destroyed.

(2) If an authorized agent removes records or things under subsection (1) (c), the authorized agent must

(a) provide a receipt for the records or things to the person from whom they were taken, and

(b) subject to a power under this or any other enactment to order a thing destroyed, promptly return the records or things

(i) when they have served the purposes for which they were taken, or

(ii) if an action or a proceeding is taken under this or any other enactment as a result of an inspection, and the records or things are relevant to the action or proceeding, no later than 3 months after the conclusion of the action or proceeding.

(3) Sections 23 to 24.2 of the *Offence Act* do not apply to the removal of records or things under subsection (1) (c) of this Act.

Identification

16 An authorized agent exercising a power under section 13, 14 or 15 must, on demand, produce his or her certificate of appointment to the owner or occupant of any premises, vehicle, aircraft or vessel entered under those sections.

Disposition of abandoned animals taken into custody

17 If an animal is taken into custody under section 10.1 and

(a) the owner is unknown, the society may destroy, sell or otherwise dispose of the animal after the society has held the animal for a period of at least 4 days, or

(b) the owner is known, the society may destroy, sell or otherwise dispose of the animal 4 days after the society has given notice to the owner in accordance with section 19.

Disposition of animals removed from custody of owner

18 If an animal is removed from the custody of its owner under section 11 and taken into the custody of the society, the society may destroy, sell or otherwise dispose of the animal 14 days after the society has given notice to the owner in accordance with section 19.

Form of notice

19 The notice referred to in sections 17 (b) and 18 must be in writing and

- (a) mailed to or served personally on the owner, or
- (b) if it cannot be mailed to or served personally on the owner,
 - (i) published at least 3 times at 2 day intervals in a newspaper circulating in the area in which the animal was taken into custody, or
 - (ii) posted in a conspicuous place at either the owner's last known address or the location at which the animal was taken into custody.

Animal is property of new owner

19.1 If an animal has been sold or otherwise disposed of under section 17 or 18, all rights and interests in the animal

- (a) vest in the person to whom it has been sold or otherwise disposed of, and
- (b) the former owner ceases to have any of those rights and interests.

Costs of taking action and proceeds of disposition

20 (1) The owner of an animal taken into custody or destroyed under this Act is liable to the society for the costs incurred by the society under this Act with respect to the animal.

(2) The society may require the owner to pay the costs for which he or she is liable under subsection (1) before returning the animal.

(3) Subject to subsection (4), the society may retain the proceeds of a sale or other disposition of an animal under section 17 or 18.

(4) If the proceeds of a sale or other disposition exceed the costs referred to in subsection (1), the owner of the animal may, within 6 months of the date the animal was taken into custody, claim the balance from the society.

Part 4 — General

Aid by police

21 A peace officer must assist the authorized agents of the society in enforcing this or any other law relating to the prevention of cruelty to animals.

Police powers

22 In a part of British Columbia in which the society does not function through a branch or authorized agent, a peace officer who has jurisdiction in the part has and may exercise any of the powers of an authorized agent of the society under this Act.

Duty to report distress

22.1 A registered veterinarian who believes on reasonable grounds that a person responsible for an animal is, or is likely, causing or permitting the animal to be in distress in contravention of this Act must promptly report, to the best of the registered veterinarian's knowledge and belief, all of the following information to an authorized agent:

- (a) the reason for believing that an animal is in distress;
- (b) sufficient information to contact the person responsible for the animal, including the person's name and address;
- (c) sufficient information to identify the animal.

Obstruction

23 A person must not wilfully or knowingly

- (a) interfere with or obstruct, or
- (b) provide false or misleading information to

a person in the discharge of duties or the exercise of powers under this Act.

Service animals

23.1 (1) A person must not do, or attempt to do, any of the following without lawful excuse or authority:

- (a) harm a service animal;
- (b) touch, directly or indirectly, a service animal;
- (c) interfere with or obstruct a service animal.

(2) A person responsible for an animal must take reasonable steps to prevent the animal from doing a thing described in subsection (1).

Harm to animals by persons

23.2 (1) A person must not cause an animal to be in distress.

(2) A person who kills an animal

(a) must comply with prescribed requirements, and

(b) must not, in killing the animal, cause the animal to be in distress or do anything that is prohibited by the regulations.

Harm to animals by animals

23.3 (1) A person responsible for an animal must take reasonable steps to prevent the animal from attacking or otherwise harming another animal.

(2) A person must not use an animal for, or breed, raise, train or dispose of an animal for the purpose of having the animal used for,

(a) baiting or fighting another animal, or

(b) another prescribed activity that involves an animal attacking or harming another animal.

(3) A person must not possess equipment ordinarily used for the breeding, raising or training of animals for a purpose described in subsection (2).

Offences

24 (1) A person who contravenes section 9.1, 9.2, 9.3, 23, 23.1, 23.2 or 23.3 commits an offence.

(2) [Repealed 2011-7-6.]

(3) If a person is convicted of an offence under subsection (1), a justice may, in addition to any other penalty that may be imposed for the offence, prohibit the person from owning or having custody or control of an animal for a period of time specified by the justice.

(4) A justice may make an order under subsection (3) on any terms the justice considers appropriate.

(5) A person who fails to comply with an order made under subsection (3) commits an offence.

(6) A proceeding for an offence under this Act may not be commenced in any court more than 3 years after the facts on which the proceeding is based first come to the knowledge of an authorized agent who is a special provincial constable under the *Police Act*.

Offence by corporation or employee

24.01 (1) If a corporation commits an offence under this Act, an employee, an officer, a director or an agent of the corporation who authorized, permitted or acquiesced in the offence commits the offence whether or not the corporation is convicted.

(2) If an employee commits an offence under this Act, an employer who authorized, permitted or acquiesced in the offence commits the offence whether or not the employee is identified or convicted.

Defence

24.02 A person must not be convicted of an offence under this Act in relation to an animal in distress if

(a) the person is

(i) a registered veterinarian,

(ii) an employee of a registered veterinarian who is acting under the supervision of the registered veterinarian, or

(iii) an enrolled student of veterinary medicine who is an employee of a registered veterinarian and is acting as authorized by the registered veterinarian, and

the person is practising veterinary medicine in accordance with the standards of the profession,

(b) if the person is an operator, the distress results from an activity that is carried out in accordance with the prescribed standards of care that apply to the regulated activity in which the operator is engaged, or

(c) the distress results from an activity that is carried out in accordance with reasonable and generally accepted practices of animal management that apply to the activity in which the person is engaged, unless the person is an operator and those practices are inconsistent with prescribed standards.

Penalties

24.1 A person who commits an offence under this Act is liable on conviction to a fine not exceeding \$75 000 or to imprisonment for a term not exceeding 2 years, or to both.

Animals taken into custody

24.2 Sections 23 to 24.2 of the *Offence Act* do not apply to an animal taken into custody under this Act.

Order of custody

25 (1) An authorized agent may apply to the Supreme Court for an order of custody of an animal in respect of which a charge has been laid under section 24.

(2) An applicant under subsection (1) may retain custody of an animal in respect of which the application is made pending the outcome of any proceedings under section 24, despite the fact that the owner of the animal

(a) has paid the costs incurred by the society for which the owner is liable under section 20, and

(b) has requested the authorized agent to return the animal.

(3) The Supreme Court may make an order under this section on any terms it considers appropriate.

Immunity

25.1 (1) Subject to subsection (2), no legal proceeding for damages lies or may be commenced or maintained against the society, an authorized agent or a member, officer, agent or employee of the society because of anything done or omitted

(a) in the performance or intended performance, by an authorized agent, of any duty under this Act, or

(b) in the exercise or intended exercise, by an authorized agent, of any power under this Act.

(2) Subsection (1) does not apply to a person referred to in that subsection in relation to anything done or omitted in bad faith.

Immunity for persons who report

25.2 (1) Subject to subsection (2), no legal proceeding for damages lies or may be commenced or maintained against a registered veterinarian because of anything done or omitted in the making of a report as required under section 22.1.

(2) Subsection (1) does not apply to a registered veterinarian in relation to anything done or omitted in bad faith.

Power to make regulations

26 (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:

- (a) requiring the society to make bylaws with respect to the policies and operational procedures of the society for administering the enforcement provisions of this Act;
 - (b) prescribing the form of an information to obtain a warrant and the form of a warrant for the purposes of section 13;
 - (c) prescribing activities for the purposes of the definition of "regulated activity" in section 1 (1);
 - (d) prescribing purposes and classes of persons for the purposes of the definition of "service animal" in section 1 (1);
 - (e) respecting standards that operators must comply with when engaging in a regulated activity;
 - (f) respecting standards in relation to design, construction, maintenance and operation of facilities used when engaging in a regulated activity;
 - (g) prohibiting operators from engaging in specified practices or carrying out specified procedures when engaging in a regulated activity;
 - (h) respecting practices and procedures to be used in the killing of animals, including prohibiting certain practices and procedures;
 - (i) prescribing activities for the purposes of section 23.3 (2);
 - (j) exempting
 - (i) operators engaging in regulated activities from one or more provisions of a regulation made under this section, or
 - (ii) persons from section 23.2 (2) or 23.3, or from one or more provisions of a regulation made under paragraph (h) of this section;
 - (k) imposing requirements or conditions on operators or other persons exempted under paragraph (j);
 - (l) respecting generally accepted practices of animal management that apply to a regulated activity;
 - (m) establishing classes of persons, animals or regulated activities and making different regulations for different classes.
- (3) A regulation made under this Act may adopt by reference, in whole or in part and with any changes the Lieutenant Governor in Council considers appropriate, a regulation, code, standard or rule
- (a) enacted as or under a law of another jurisdiction, including a foreign jurisdiction,

(b) set by a provincial, national or international body or any other body that may make codes, standards or rules, or

(c) set by or in consultation with

(i) the society, or

(ii) an organization, one purpose of which is to set standards in relation to a regulated activity.

(4) Unless otherwise stated, a code, standard or rule referred to in subsection (3) (a) or (b) is adopted as amended from time to time.