

1988 BILL 18

Third Session, 21st Legislature, 37 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 18

ANIMAL PROTECTION ACT

DR. WEST

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 18
Dr. West

BILL 18

1988

ANIMAL PROTECTION ACT

(Assented to _____, 1988)

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

- Interpretation **1(1)** In this Act,
- (a) “animal” does not include a human being;
 - (b) “business day” means a day on which
 - (i) if an animal is delivered to a humane society under section 3(2)(a), the humane society, or
 - (ii) if an animal is delivered to a caretaker under section 3(2)(b), the office of the peace officer who delivered the animalis open for business;
 - (c) “caretaker” means an individual who has an appropriate facility in which to keep an animal and agrees to care for the animal in accordance with this Act;
 - (d) “Court”, except in section 13, means the Provincial Court;

(e) “humane society” means an organization that is approved as a humane society under section 9;

(f) “Minister” means the member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Act;

(g) “peace officer” means

(i) a member of the Royal Canadian Mounted Police,

(ii) a member of a municipal police force, or

(iii) a special constable appointed under the *Police Act* for the purposes of this Act;

(h) “registered veterinarian” means a registered veterinarian as defined in the *Veterinary Profession Act*.

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

(a) deprived of adequate food, water, care or shelter,

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

(c) abused or subjected to undue hardship, privation or neglect.

Prohibition
against causing
distress

2 No person shall cause or permit an animal of which he is the owner or the person ordinarily in charge to be or to continue to be in distress.

Powers of
peace officer

3(1) If, in the opinion of a peace officer, an animal is in distress and

(a) the owner or person in charge of the animal does not forthwith take steps that in the opinion of the peace officer will relieve its distress, or

(b) the owner or person in charge of the animal cannot be found immediately and informed of the animal’s distress,

the peace officer may, in accordance with section 4, take any action he considers necessary to locate the animal and relieve its distress, including taking custody of the animal in accordance with the regulations and arranging for transportation, food, water, care, shelter and veterinary treatment for the animal, if necessary.

(2) A peace officer who takes custody of an animal pursuant to subsection (1) shall deliver the animal

(a) to a humane society, or

(b) to a caretaker, if there is no humane society close to the location where the animal is found or if the humane society does not have an appropriate facility in which to keep the animal.

(3) If an animal is found to be in such distress that, in the opinion of

(a) a registered veterinarian, or

(b) if a registered veterinarian is not readily available, a peace officer,

the animal cannot be relieved of its distress and live without undue suffering, the peace officer may destroy the animal or cause the ani-

mal to be destroyed and the owner of the animal is liable for the costs of destroying it.

Authority to enter premises

4(1) A peace officer who on reasonable and probable grounds believes

(a) that there is an animal that is in distress on any land or in any vehicle or place other than a private dwelling house, and

(b) that obtaining a warrant is not practical in the circumstances

may enter the land, vehicle or place for the purpose of determining whether the animal is in distress and, if necessary, carrying out his duties under section 3.

(2) A peace officer who on reasonable and probable grounds believes that there is an animal that is in distress in a private dwelling house shall obtain a warrant to enter the private dwelling house for the purpose of carrying out his duties under section 3.

(3) A peace officer acting under the authority of this section shall, on request, produce his certificate of appointment to the owner or occupant of any land, vehicle or place entered pursuant to this section.

(4) A peace officer shall use no more force than is reasonably required to enter or search any land, vehicle or place.

Duty to provide care

5(1) A peace officer who takes custody of an animal pursuant to section 3(1) shall take reasonable steps to ensure that the animal is provided with transportation, food, water, care, shelter and veterinary treatment, if necessary.

(2) A caretaker to whom an animal is delivered under section 3(2)(b) may recover any expenses incurred in respect of the animal from the Minister.

(3) A humane society to whom an animal is delivered under section 3(2)(a) or the Minister may recover any expenses incurred in respect of an animal from the owner of the animal and may require the owner to pay the expenses before the animal is returned to the owner.

(4) A humane society or the Minister may recover unpaid expenses incurred in respect of an animal in an action in debt against the owner of the animal.

Duty to locate owner

6 If an animal is delivered

(a) under section 3(2)(a), the humane society, or

(b) under section 3(2)(b), the peace officer who delivered the animal

shall take reasonable steps to locate the owner of the animal, including a search of the brand record under the *Brand Act*, and shall notify the owner of the actions taken in respect of the animal.

Sale or gift of animal

7(1) If the owner of an animal that has been delivered to a humane society or caretaker under section 3(2)

(a) is not located and notified within 3 business days after the date on which the animal was delivered, or

(b) is located and notified but does not, within 3 business days of the date on which the animal was delivered, pay the expenses incurred in respect of the animal pursuant to sections 3(1) and 5 or enter into an agreement for the payment of the expenses that is satisfactory to the humane society or the peace officer who delivered the animal, as the case may be,

the animal may be sold or given to any person by

(c) the humane society, if the animal was delivered to a humane society, or

(d) the peace officer who delivered the animal, if the animal was delivered to a caretaker,

and the animal becomes the property of the person to whom it is sold or given.

(2) Notwithstanding subsection (1), if in the opinion of the humane society or a peace officer the animal appears to be a purebred animal or if it bears an obvious identification tattoo, brand, mark, tag or licence, the applicable time limit under subsection (1) is 10 days after the date on which the animal was delivered.

(3) The proceeds of a sale of an animal pursuant to subsection (1) shall be disbursed in the following order of priority, on proof of the expenses having been incurred:

(a) to pay the expenses of selling the animal;

(b) to pay the expenses incurred in respect of the animal pursuant to sections 3(1) and 5.

(4) A balance of the sale proceeds remaining after the payment of the expenses referred to in subsection (3) shall be

(a) paid to the former owner of the animal, if he has been located at the date of distribution of the sale proceeds, or

(b) held by the Minister for a period of 1 year after the date of the sale, if the former owner has not been located.

(5) The Minister may pay the balance remaining

(a) to a person who claims within the period set out in subsection (4)(b) and establishes to the satisfaction of the Minister that he was the owner of the animal prior to the sale, or

(b) if no claim is made under clause (a), into the General Revenue Fund on the expiration of the period set out in subsection (4)(b).

Destruction
of animal

8 A humane society, in respect of an animal that has been delivered to it, or a peace officer, in respect of an animal that has been delivered to a caretaker, may destroy the animal or cause the animal to be destroyed if it has not been claimed by its owner and in the opinion of the humane society or peace officer, as the case may be, the animal is not suitable to be sold or given away in accordance with section 7.

Approval of humane society	<p>9 Subject to the regulations, the Minister may approve as a humane society an organization that</p> <p style="padding-left: 40px;">(a) has as one of its principal objects the prevention of cruelty to animals, and</p> <p style="padding-left: 40px;">(b) meets the requirements of the Minister</p> <p>and may suspend or revoke the approval.</p>
Inspection re: standards	<p>10(1) A peace officer may without a warrant during ordinary business hours enter</p> <p style="padding-left: 40px;">(a) any premises, other than a private dwelling house, where animals are kept for sale, hire or exhibition, or</p> <p style="padding-left: 40px;">(b) any vehicle used to transport animals</p> <p>to inspect the animals or any vehicle in which animals are transported for the purpose of enforcing this Act, the regulations under this Act and any regulations prescribing standards for vehicles used to transport animals.</p> <p>(2) A peace officer acting under the authority of this section shall, on request, produce his certificate of appointment to the owner or occupant of any premises or vehicle entered pursuant to subsection (1).</p>
Prohibition against obstruction	<p>11 No person shall in any manner hinder or obstruct a peace officer in the performance of his duties under this Act or the regulations.</p>
Offence	<p>12(1) A person who contravenes this Act or the regulations is guilty of an offence and liable</p> <p style="padding-left: 40px;">(a) for a first offence, to a fine of not more than \$5000, and</p> <p style="padding-left: 40px;">(b) for a 2nd and every subsequent offence, to a fine of not more than \$10 000.</p> <p>(2) If the owner of an animal is found guilty of an offence under section 2, the Court may make an order restraining the owner from continuing to have custody of the animal for a period of time specified by the Court.</p> <p>(3) The Court may make an order under subsection (2) on any terms and conditions it considers appropriate.</p>
Order of custody	<p>13(1) A peace officer may apply by originating notice to the Court of Queen's Bench for an order granting to the peace officer custody of an animal in respect of which a charge has been laid under section 12.</p> <p>(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 12, notwithstanding that the owner of the animal</p> <p style="padding-left: 40px;">(a) pays the expenses incurred in respect of the animal under sections 3(1) and 5, and</p> <p style="padding-left: 40px;">(b) requests the peace officer, or any humane society or caretaker to whom the peace officer has delivered the animal, to return the animal to him.</p>

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

Protection
from action

14 No action lies against a peace officer, registered veterinarian, caretaker, humane society or an officer or employee of a humane society for anything done in good faith under this Act or the regulations.

Regulations

15 The Lieutenant Governor in Council may make regulations

- (a) respecting the approval of organizations as humane societies and the suspension and revocation of approvals;
- (b) respecting the manner in which animals may be taken into custody;
- (c) prescribing a tariff of expenses that may be charged by a humane society or a caretaker for the provision of transportation, food, water, care, shelter and veterinary treatment of an animal that has been taken into custody under this Act.

Repeal

16 *The Animal Protection Act, chapter A-42 of the Revised Statutes of Alberta 1980, is repealed.*

Coming
into force

17 *This Act comes into force on Proclamation.*