

ONE HUNDRED FOURTH LEGISLATURE - FIRST SESSION - 2015
COMMITTEE STATEMENT
LB377

Hearing Date: Tuesday February 17, 2015
Committee On: Agriculture
Introducer: Kolterman
One Liner: Change provisions and procedures relating to the disposition, care, custody, and costs associated with the impoundment of dogs or cats

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye:	6	Senators Chambers, Harr, Johnson, Kolterman, Larson, Riepe
Nay:	1	Senator Bloomfield
Absent:		
Present Not Voting:	1	Senator Schilz

Verbal Testimony:

Proponents:

Senator Mark Kolterman
Mark Langan
Patrick Condon
Lori Hook
Jocelyn Nickerson

Representing:

Introducer
Nebraska Humane Society
Lancaster County Attorney's Office
Hearts United for Animals
Humane Society of the United States

Opponents:

Clem Disterhaupt
Sheila Goffe

Representing:

Nebraska Professional Pet Breeders Association
American Kennel Society

Neutral:

Representing:

Summary of purpose and/or changes:

LB377 establishes a judicial process (modeled after Sec. 54-913 of the Livestock Animal Welfare Act) for determining disposition, assigning financial responsibility, and other remedies for animals impounded pursuant to Sec. 54-633 of the Commercial Dog and Cat Operator Inspection Act.

As introduced, LB377 would insert section 3 of the bill as a new section of the Act. Section 3 would establish the judicial procedure described below for determining disposition of cats or dogs impounded pursuant to Sec. 54-633 for violations of the Act or regulations or observed offense against animals that pose a significant threat to the health and safety of dogs or cats.

After impoundment of animals, the Department shall have 7 days to petition for a hearing before the district court, with the hearing scheduled for within 10 days of the petition unless otherwise directed by the court. Notice of the hearing is to be provided to seized animal owners or custodians and lien or security holders of record. Upon a finding of probable cause that a violation of 54-633 has occurred, the court may:

- a. Order immediate forfeiture to the Department and authorize ultimate disposition as approved by the court;
- b. Issue an order setting forth conditions to be met to restore custody to the original owner, or with other person having an interest in the animals. Such order may include management actions to reduce the number of dogs and cats and to secure veterinary care and other maintenance requirements; or
- c. Order bond or security, or regular payments to secure the Department's cost of care for animals. The bill directs that the Department shall provide an accounting of use of funds, and provides for subsequent bond or payment hearing application. Any unused proceeds of bond or other security are to be returned to the owner.

If custody is returned to the owner, any residual proceeds of security or payments not utilized for care of the animal while in the agency's custody shall be returned to the owner. The process does not preclude humane destruction as determined necessary by a veterinarian.

Procedures for appeal are prescribed. Should the person be found not guilty of criminal charges associated with the animals seized, any proceeds of bond or security, or direct payment for care of seized animals, remaining after actual expenses incurred for care of animals shall be repaid.

Explanation of amendments:

The committee amendment (AM1149) strikes the original provisions and becomes the bill. The bill incorporates the disposition process as provided in LB377 into Chapter 28, Article 10 and would become the process available for judicial determination of disposition of seized non-livestock animals and assignment of financial responsibility for care of animals in custody of a seizing entity. Other modifications to provisions of Chapter 28, Article 10 are made to coordinate with this disposition process.

Section 4 of AM1149 inserts into Chapter 28, Article 10 a new section containing the seized animal disposition concepts contained in Section 3 of LB377 as introduced. Section 4 of AM would essentially replace the process for judicial assignment of financial responsibility for the care of seized animals set forth in Sec. 29-818(2), which is stricken by the amendment, although certain concepts of Sec. 29-818(2) were incorporated as a judicial disposition option in Section 3 of LB377 as introduced and are carried over into Section 4. Section 4 differs from Section 3 of LB377 by not specifying that the hearing requested is filed in district court but is heard in the court having jurisdiction of an underlying criminal complaint.

Apart from the primary substantive provision inserted by Section 4, harmonizing revisions are made throughout sections of Chapter 28, Article 10 to conform internal references and use of defined terms.

Jerry Johnson, Chairperson