

Changes to C.R.S. § 18-9-201. Current law defines sexual acts with an animal narrowly and excepts any activity consistent with “accepted animal husbandry practices.” The Initiative would make two changes. First, the term “sexual act with an animal” would be expanded to include intrusion or penetration of an object or any part of a person’s body into the animal’s anus or genitals. Second, sexual acts would be allowed only when they dispense care “in the interest of improving that animal’s health,” so accepted animal husbandry practices would no longer be protected. Because artificial insemination and pregnancy diagnosis involves penetration but may not improve an animal’s health, the Initiative could prohibit those activities.

Changes to C.R.S. § 18-9-201.5. The law currently protects “accepted animal husbandry practices” utilized “in the care of companion of livestock animals” by stating that nothing in “part 2” (specifically, C.R.S. §§ 18-9-201 through -209, which includes the animal cruelty law), applies to those practices. The Initiative would remove that protection entirely.

Additionally, the law currently provides that part 2 does not apply to animal care that is otherwise authorized by law. The Initiative says the opposite: that the new restrictions have the power to override other laws on the books. For instance, if the Initiative’s definition of cruelty to animals covers branding or ear-marking, those practices would become illegal even though other statutes expressly authorize them. *See, e.g.*, C.R.S. § 35-42-101 (“It is lawful to mark cattle and horses with the owner’s brand.”); C.R.S. § 35-42-103 (“Any stock grower of this state may adopt and use an earmark.”). Likewise, if spaying and neutering animals is deemed animal cruelty, those practices would be prohibited despite existing laws allowing—and sometimes even requiring—them. *See, e.g.*, C.R.S. § 35-80-106.4 (“An animal shelter or pet animal rescue shall not release a dog or cat to a prospective owner unless the animal has been sterilized by a licensed veterinarian.”).

Changes to C.R.S. § 18-9-202.

- The current definition of cruelty to animals is not very precise. It provides that a person engages in cruelty if she or he “knowingly, recklessly, or with criminal negligence overdrives, overloads, overworks, torments, deprives of necessary sustenance, unnecessarily or cruelly beats, allows to be housed in a manner that results in chronic or repeated serious physical harm, carries or confines in or upon any vehicles in a cruel or reckless manner, engages in a sexual act with an animal, or otherwise mistreats or neglects any animal, or causes or procures it to be done, or, having the charge or custody of any animal, fails to provide it with proper food, drink, or protection from the weather consistent with the species, breed, and type of animal involved, or abandons an animal.” The statute defines “mistreatment,” “neglect,” and “serious physical harm^[1] but not the remaining terms. However, because C.R.S. § 18-9-201.5 currently exempts “accepted animal husbandry practices” from the animal cruelty statute, whether common agricultural practices do or do not fall under these undefined terms has not been at issue. Importantly, the Initiative would eliminate the exception for accepted husbandry practices, which opens the door to allegations that even the most common practices constitute animal cruelty. For example, if a court concluded that branding, docking, or castrating causes unnecessary or unjustifiable pain or suffering (which is the definition of mistreatment), the rancher could be convicted—perhaps once for each animal. Even someone who does not cause but simply “permits” such pain could be convicted.

- Slaughtering is excepted from the definition of cruelty, but only when the animal “has lived one quarter of their natural lifespan” and the “animal is slaughtered in such a way that the animal does not needlessly suffer.” Under the Initiative, the natural lifespan would be 20 years for a cow, 15 years for a sheep or pig, 10 years for a turkey, 8 years for a chicken, and 6 years for a duck or rabbit. The Initiative does not consider whether a longer lifespan means enhanced quality of life; it simply prohibits slaughtering an animal before it has reached a certain age. Furthermore, the Initiative does not define what constitutes “needless suffering,” which will likely require court interpretation.
- Under the Initiative, any action deemed cruelty to animals would be a crime. Specifically, cruelty to animals would be a class 1 misdemeanor, which is the most serious type of misdemeanor. The minimum sentence for a misdemeanor is six months in prison, a \$500 fine, or both. The maximum sentence is 18 months in prison, a \$5,000 fine, or both. C.R.S. § 18-1.3-501. A second offense would be a class 6 felony.
- Subsection (2)(a.5) currently creates special penalties for engaging in cruelty to animals, which can include a mental evaluation, anger management treatment, and—for repeat offenders—a heightened minimum fine and prohibition on owning pets in the future. Subsection (2)(a.5)(VII) currently excepts from these additional penalties convictions that arise from: 1) treatment of livestock and farm animals when the treatment is in accordance with accepted animal husbandry practices; 2) treatment of pack or draft animals by negligently overworking them; 3) treatment of rodeo animals; and 4) treatment of dogs used in lethal hunting activities, among other exceptions. The Initiative would remove these exceptions, and, as a result, these activities—including activities consistent with accepted animal husbandry practices—could result in a heightened criminal sentencing. Because (2)(a.5)(VII) says it only applies to subsection (2)(a.5), it should not affect the use of “accepted agricultural animal husbandry practices” in subsection (1.9).

^[1] “‘Mistreatment’ means every act or omission that causes or unreasonably permits the continuation of unnecessary or unjustifiable pain or suffering. ‘Neglect’ means failure to provide food, water, protection from the elements, or other care generally considered to be normal, usual, and accepted for an animal’s health and well-being consistent with the species, breed, and type of animal. . . . ‘Serious physical harm’, as used in section 18-9-202, means any of the following: (a) Any physical harm that carries a substantial risk of death; (b) Any physical harm that causes permanent maiming or that involves some temporary, substantial maiming; or (c) Any physical harm that causes acute pain of a duration that results in substantial suffering.” C.R.S. § 18-9-201(3), (4), (4.5).