

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009
4

A Bill

SENATE BILL 77

5 By: Senators Madison, J. Jeffress, Salmon, Whitaker, R. Thompson, D. Johnson, Bookout, Broadway,
6 Bryles, Capps, Crumbly, Elliott, Glover, Laverty, Luker, P. Malone, T. Smith, Teague, H. Wilkins, D.
7 Wyatt

8 By: Representatives Adcock, Webb, Saunders, Wills, L. Smith, Davenport, Abernathy, Allen, T. Baker,
9 Breedlove, J. Brown, Carroll, Carter, Cash, Cole, D. Creekmore, J. Edwards, George, Harrelson, House,
10 Hoyt, D. Hutchinson, Hyde, Lindsey, Moore, Nickels, Nix, Pennartz, Pierce, Powers, J. Roebuck, T.
11 Rogers, G. Smith, Stewart, Tyler, Wagner, B. Wilkins, Williams

For An Act To Be Entitled

12
13
14 AN ACT CONCERNING AGGRAVATED CRUELTY TO DOGS,
15 CATS, AND HORSES AND RELATED OFFENSES; CONCERNING
16 ANIMAL MANAGEMENT PRACTICES; AND FOR OTHER
17 PURPOSES.
18

Subtitle

19
20 AN ACT CONCERNING AGGRAVATED CRUELTY TO
21 DOGS, CATS, AND HORSES AND RELATED
22 OFFENSES AND CONCERNING ANIMAL
23 MANAGEMENT PRACTICES.
24

25
26
27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
28

29 SECTION 1. Arkansas Code §§ 5-4-701 and 5-4-702 are amended to read as
30 follows:

31 5-4-701. Definitions.

32 As used in this subchapter:

33 (1) "Child" means a person under sixteen (16) years of age; and

34 (2) "In the presence of a child" means in the physical presence of a
35 child or knowing or having reason to know that a child is present and may see
36 or hear an act of assault, battery, domestic battering, aggravated cruelty to



1 a dog, cat, or horse, or assault on a family member or household member.

2
 3 5-4-702. Enhanced penalties for offenses committed in presence of a
 4 child.

5 (a) Any person who commits a felony offense involving assault,
 6 battery, domestic battering, or assault on a family member or household
 7 member, ~~as provided in~~ under § 5-13-201 et seq. or § 5-26-303 – ~~5-26-311~~ 5-
 8 26-306, may be subject to an enhanced sentence of an additional term of
 9 imprisonment of not less than one (1) year and not greater than ten (10)
 10 years if the offense is committed in the presence of a child.

11 (b) Any person who commits the offense of aggravated cruelty to a dog,
 12 cat, or horse under § 5-62-104, may be subject to an enhanced sentence of an
 13 additional term of imprisonment not to exceed five (5) years if the offense
 14 is committed in the presence of a child.

15 (c)(1) To seek an enhanced penalty established in this section, a
 16 prosecuting attorney shall notify the defendant in writing that the defendant
 17 is subject to the enhanced penalty.

18 (2) If the defendant is charged by information or indictment,
 19 the prosecuting attorney may include the written notice in the information or
 20 indictment.

21 ~~(e)(d)~~ The enhanced portion of the sentence is consecutive to any
 22 other sentence imposed.

23 ~~(d)(e)~~ Any person convicted under this section is not eligible for
 24 early release on parole or community correction transfer for the enhanced
 25 portion of the sentence.

26
 27 SECTION 2. Arkansas Code § 5-62-101 is repealed.

28 ~~5-62-101. Cruelty to animals.~~

29 ~~(a) A person commits the offense of cruelty to animals if, except as~~
 30 ~~authorized by law, he or she knowingly:~~

31 ~~(1) Abandons any animal;~~

32 ~~(2) Subjects any animal to cruel mistreatment;~~

33 ~~(3) Subjects any animal in his or her custody to cruel neglect;~~

34 ~~or~~

35 ~~(4) Kills or injures any animal belonging to another without~~
 36 ~~legal privilege or consent of the owner.~~

1 ~~(b) Cruelty to animals is a Class A misdemeanor.~~

2 ~~(c)(1) In addition to any other penalty provided by law, the court may~~
 3 ~~order any person found guilty of cruelty to animals to receive a psychiatric~~
 4 ~~or psychological evaluation, and if determined appropriate, psychiatric or~~
 5 ~~psychological counseling or treatment.~~

6 ~~(2) The cost of any evaluation, counseling, or treatment may be~~
 7 ~~ordered paid by the defendant up to the jurisdictional limit of the court.~~

8 ~~(d) If a person pleads guilty or nolo contendere to or is found guilty~~
 9 ~~of cruelty to animals, the court may assign custody of the abused animal to a~~
 10 ~~society which is incorporated for the prevention of cruelty to animals.~~

11
 12 SECTION 3. Arkansas Code Title 5, Chapter 62, Subchapter 1 is amended
 13 to add the following new sections:

14 5-62-102. Definitions.

15 As used in this subchapter:

16 (1) "Abandon" means to desert, surrender, forsake, or to give up
 17 absolutely;

18 (2) "Animal" means any living vertebrate creature, except human
 19 beings and fish;

20 (3) "Animal control officer" means an officer employed by or
 21 under contract with an agency of the state, county, municipality, or other
 22 governmental or political subdivision of the state which is responsible for
 23 animal control operations in its jurisdiction;

24 (4)(A) "Animal husbandry practices" means the breeding, raising,
 25 production, and management of animals.

26 (B) "Animal husbandry practices" includes without
 27 limitation dehorning, docking, and castration;

28 (5) "Animal identification" means the use of a microchip,
 29 tattoo, an ear tag, an ear notch, branding, or any similar technology to
 30 identify the owner of an animal and that is generally accepted for the breed,
 31 species, and type of animal being identified;

32 (6) "Appropriate place of custody" means:

33 (A) A nonprofit animal shelter;

34 (B) An animal pound;

35 (C) A location owned or managed by a society incorporated
 36 for the prevention of cruelty to animals;

1 (D) A location owned or managed by an agency of the state,
2 county, municipality, or other governmental or political subdivision of the
3 state that is responsible for animal control operations in its jurisdiction;

4 (E) A location owned or managed by a public or private
5 custodian that provides shelter, care, and necessary medical treatment to an
6 animal; or

7 (F) The residence or other place owned by the owner of the
8 animal, if approved by written order of a court of competent jurisdiction;

9 (7) "Competitive activity" means a lawful activity that is
10 generally recognized as having an established schedule of events involving
11 competition of animals or exhibitions of animals;

12 (8) "Cruel mistreatment" means any act that causes or permits
13 the continuation of unjustifiable pain or suffering;

14 (9) "Equine" means a horse, pony, mule, donkey, or hinny;

15 (10) "Equine activity" means:

16 (A) Equine participation in equine shows, fairs,
17 competitions, performances, or parades that involve any breed of equine and
18 any of the equine disciplines, including without limitation dressage, hunter
19 and jumper horse shows, grand prix jumping, three-day events, combined
20 training, rodeos, pulling, cutting, polo, steeplechasing, endurance trail
21 riding and western games, and hunting;

22 (B) Teaching and training activities of an equine show or
23 rodeo;

24 (C) Boarding an equine;

25 (D) Riding, inspecting, or evaluating an equine owned by
26 another person, whether or not the owner has received some monetary
27 consideration or other thing of value for the use of the equine or is
28 permitting a prospective purchaser of the equine to ride, inspect, or
29 evaluate the equine; or

30 (E) Any activity that involves riding or hunting;

31 (11) "Euthanizing" means humanely killing an animal accomplished
32 by a method that utilizes anesthesia produced by an agent that causes
33 painless loss of consciousness and subsequent death, and administered by a
34 licensed veterinarian or a euthanasia technician licensed by the federal Drug
35 Enforcement Administration and certified by the Department of Health;

36 (12) "Humanely killing" means causing the death of an animal in

1 a manner intended to limit the pain or suffering of the animal as much as
2 reasonably possible under the circumstances;

3 (13) "Law enforcement officer" means any public servant vested
4 by law with a duty to maintain public order or to make an arrest for an
5 offense;

6 (14) "Licensed veterinarian" means a veterinarian licensed to
7 engage in the practice of veterinary medicine in Arkansas in accordance with
8 applicable Arkansas laws;

9 (15) "Livestock" means a horse, mule, bovine animal, goat,
10 sheep, swine, chicken, duck, or similar animal or fowl commonly raised or
11 used for farm purposes;

12 (16) "Local law enforcement agency" means the police force of a
13 municipality or the office of the county sheriff;

14 (17) "Owner" means a person that:

15 (A) Has a right of property or title in an animal;

16 (B) Keeps or harbors an animal;

17 (C) Has an animal in his, her, or its care;

18 (D) Acts as an animal's custodian; or

19 (E) Knowingly permits an animal to remain on or about any
20 premises occupied by him or her or it;

21 (18) "Person" means an individual, company, partnership, limited
22 liability company, joint venture, joint agreement, mutual association or
23 other, corporation, estate, trust, business trust, receiver, trustee,
24 syndicate, or any other private entity;

25 (19) "Professional pest control activities" means those
26 activities governed by the Arkansas Pesticide Control Act, § 2-16-401 et
27 seq., and the Arkansas Pest Control Law, § 17-37-101 et seq.;

28 (20) "Rodeo" means an event involving a practice accepted by the
29 Professional Rodeo Cowboys Association on January 1, 2009; and

30 (21) "Torture" means:

31 (A) The knowing commission of physical injury to a dog,
32 cat, or horse by the infliction of inhumane treatment or gross physical
33 abuse, causing the dog, cat, or horse intensive or prolonged pain, serious
34 physical injury, or thereby causing death; and

35 (B) Mutilating, maiming, burning, poisoning, drowning, or
36 starving a dog, cat, or horse.

1
2 5-62-103. Offense of cruelty to animals.

3 (a) A person commits the offense of cruelty to animals if he or she
4 knowingly:

5 (1) Subjects any animal to cruel mistreatment;

6 (2) Kills or injures any animal owned by another person without
7 legal privilege or consent of the owner;

8 (3) Abandons an animal at a location without providing for the
9 animal's continued care;

10 (4) Fails to supply an animal in his or her custody with a
11 sufficient quantity of wholesome food and water;

12 (5) Fails to provide an animal in his or her custody with
13 adequate shelter that is consistent with the breed, species, and type of
14 animal; or

15 (6) Carries or causes to be carried in or upon any motorized
16 vehicle or boat an animal in a cruel or inhumane manner.

17 (b) For purposes of this section, each alleged act of the offense of
18 cruelty to animals committed against more than one (1) animal may constitute
19 a separate offense.

20 (c) Any person who pleads guilty or nolo contendere to or is found
21 guilty of cruelty to animals is guilty of an unclassified misdemeanor and
22 shall be:

23 (1) Fined no less than one hundred fifty dollars (\$150) and no
24 more than one thousand dollars (\$1,000);

25 (2) Either:

26 (A) Imprisoned for no less than one (1) day and no more
27 than one (1) year in jail; or

28 (B) Ordered to complete community service; and

29 (3)(A) Both:

30 (i) Ordered to complete a psychiatric or
31 psychological evaluation; and

32 (ii) If determined appropriate, psychiatric or
33 psychological counseling or treatment for a length of time prescribed by the
34 court.

35 (B) The cost of any psychiatric or psychological
36 evaluation, counseling, or treatment may be ordered paid by the person up to

1 the jurisdictional limit of the court.

2 (d) Any person who pleads guilty or nolo contendere to or is found
3 guilty of the offense of cruelty to animals for a second offense occurring
4 within five (5) years of a previous offense of cruelty to animals or of any
5 other equivalent penal offense of another state or foreign jurisdiction is
6 guilty of an unclassified misdemeanor and shall be:

7 (1) Fined no less than four hundred dollars (\$400) and no more
8 than one thousand dollars (\$1,000);

9 (2) Either:

10 (A) Imprisoned for no fewer than seven (7) days and no
11 more than one (1) year; or

12 (B) Ordered to complete no fewer than thirty (30) days of
13 community service; and

14 (3)(A) Both:

15 (i) Ordered to receive a psychiatric or
16 psychological evaluation; and

17 (ii) If determined appropriate, ordered to receive
18 psychiatric or psychological counseling or treatment for a length of time
19 prescribed by the court.

20 (B) The cost of any psychiatric or psychological
21 evaluation, counseling, or treatment may be ordered paid by the person up to
22 the jurisdictional limit of the court.

23 (e) Any person who pleads guilty or nolo contendere to or is found
24 guilty of the offense of cruelty to animals for a third offense occurring
25 within five (5) years of a previous offense of cruelty to animals or of any
26 other equivalent penal offense of another state or foreign jurisdiction is
27 guilty of an unclassified misdemeanor and shall be:

28 (1) Fined no less than nine hundred dollars (\$900) and no more
29 than one thousand dollars (\$1,000);

30 (2) Either:

31 (A) Imprisoned for no fewer than ninety (90) days and no
32 more than one (1) year; or

33 (B) Ordered to complete no fewer than ninety (90) days of
34 community service; and

35 (3) Both:

36 (A) Ordered to receive a psychiatric or psychological

1 evaluation; and

2 (B) If determined appropriate, ordered to receive
3 psychiatric or psychological counseling or treatment for a length of time
4 prescribed by the court.

5 (f)(1) Any person who pleads guilty or nolo contendere to or is found
6 guilty of cruelty to animals for a fourth or subsequent offense occurring
7 within (5) five years of a previous offense of cruelty to animals or of any
8 other equivalent penal offense of another state or foreign jurisdiction is
9 guilty of a Class D felony and shall be:

10 (A) Ordered to receive a psychiatric or psychological
11 evaluation; and

12 (B) If determined appropriate, ordered to receive
13 psychiatric or psychological counseling or treatment for a length of time
14 prescribed by the court.

15 (2) The cost of any psychiatric or psychological evaluation,
16 counseling, or treatment may be ordered paid by the person.

17 (g)(1) For the sole purpose of calculating the number of previous
18 offenses under subsections (d), (e), and (f) of this section, all offenses
19 that are committed against one (1) or more animals and as part of the same
20 criminal episode are a single offense.

21 (2) As used in this section, "criminal episode" means an act
22 that constitutes the offense of cruelty to animals that is committed by a
23 person against one (1) or more animals within a period of twenty-four (24)
24 hours.

25
26 5-62-104. Offense of aggravated cruelty to a dog, cat, or horse.

27 (a) A person commits the offense of aggravated cruelty to a dog, cat,
28 or horse if he or she knowingly tortures any dog, cat, or horse.

29 (b) A person who pleads guilty or nolo contendere to or is found
30 guilty of aggravated cruelty to a dog, cat, or horse:

31 (1) Shall be guilty of a Class D felony;

32 (2) May be ordered to perform up to four hundred (400) hours of
33 community service; and

34 (3) Both:

35 (A) Ordered to receive a psychiatric or psychological
36 evaluation; and

1 (B) If determined appropriate, ordered to receive
2 psychiatric or psychological counseling or treatment for a length of time
3 prescribed by the court.

4 (b) A person who pleads guilty or nolo contendere to or is found
5 guilty of aggravated cruelty to a dog, cat, or horse for a subsequent offense
6 occurring within five (5) years from a previous offense of aggravated cruelty
7 to a dog, cat, or horse or of any other equivalent penal offense of another
8 state or foreign jurisdiction is guilty of a Class C felony and shall be:

9 (1) Ordered to receive a psychiatric or psychological
10 evaluation; and

11 (2) If determined appropriate, ordered to receive psychiatric or
12 psychological counseling or treatment for a length of time prescribed by the
13 court.

14 (c) The cost of any psychiatric or psychological evaluation,
15 counseling, or treatment ordered under this section shall be paid by the
16 person ordered to receive the psychiatric or psychological evaluation,
17 counseling, or treatment.

18 (d) For purposes of this section, each alleged act of the offense of
19 aggravated cruelty to a dog, cat, or horse committed against more than one
20 (1) dog, cat or horse may constitute a separate offense.

21 (e)(1) For the sole purpose of calculating the number of previous
22 offenses under subsection (b) of this section, all offenses of aggravated
23 cruelty to a dog, cat or horse that are committed against one (1) or more
24 dogs, cats, or horses, as part of the same criminal episode are a single
25 offense.

26 (2) As used in this section, "criminal episode" means an act
27 that constitutes the offense of aggravated cruelty to a dog, cat, or horse,
28 committed by a person against one (1) or more dogs, cats, or horses within a
29 period of twenty-four (24) hours.

30
31 5-62-105. Exemptions.

32 (a) This subchapter does not prohibit any of the following activities:

33 (1) Reasonably acting to protect a person or a person's property
34 from damage;

35 (2) Injuring or humanely killing an animal on the property of a
36 person if the person is acting as a reasonable person would act under similar

1 circumstances and if the animal is reasonably believed to constitute a threat
2 of physical injury or damage to any animal under the care or control of the
3 person;

4 (3) Engaging in practices lawful under the Arkansas Veterinary
5 Medical Practice Act, § 17-101-101 et seq., or engaging in activities by or
6 at the direction of any licensed veterinarian while following accepted
7 standards of practice of the profession, including the euthanizing of an
8 animal;

9 (4) Rendering emergency care, treatment, or assistance,
10 including humanely killing an animal, that is abandoned, ill, injured, or in
11 distress related to an accident or disaster, or where there appears to be no
12 reasonable probability that the life or usefulness of the animal can be
13 saved, if the person rendering the emergency care, treatment, or assistance
14 is:

15 (A) Acting in good faith;

16 (B) Not receiving compensation; and

17 (C) Acting as a reasonable person would act under similar
18 circumstances;

19 (5) Performing generally accepted animal husbandry practices;

20 (6) Performing professional pest control activities in a lawful
21 manner;

22 (7) Performing generally accepted training for or participating
23 in a rodeo, equine activity, or competitive activity;

24 (8) Engaging in generally accepted practices of animal
25 identification;

26 (9) Engaging in activities regulated by the Arkansas State Game
27 and Fish Commission;

28 (10) Conducting activities undertaken by research and education
29 facilities or institutions that are:

30 (A) Regulated under the Animal Welfare Act, 7 U.S.C. 2131
31 et seq., as in effect on January 1, 2009;

32 (B) Regulated under the Health Research Extension Act of
33 1985, Pub. L. No. 99-158; or

34 (C) Subject to any federal law or regulation governing
35 animal research that is in effect on January 1, 2009; and

36 (11) Applying generally accepted methods used to train dogs

1 engaged in hunting, field trials, service work, obedience training, or any
2 similar activities authorized by the Arkansas State Game and Fish Commission.

3 (b) In addition to the exemptions in subsection (a) of this section,
4 this subchapter does not prohibit a person from engaging in or performing
5 conduct that is otherwise permitted under the laws of this state or of the
6 United States, including without limitation agricultural activities,
7 butchering, food processing, marketing, medical activities, zoological
8 activities, or exhibitions.

9
10 5-62-106. Disposition of animal.

11 (a)(1) Unless otherwise ordered by a court, for purposes of this
12 subchapter, an animal that has been seized by a law enforcement officer or
13 animal control officer under this subchapter shall remain at the appropriate
14 place of custody for a period of at least fifteen (15) consecutive days,
15 including weekends and holidays, after written notice is received by the
16 owner.

17 (2) The written notice shall:

18 (A) Be left at the last known address of the owner; and

19 (B) Contain a description of the animal seized, the date
20 seized, the name and contact information of the law enforcement or animal
21 control officer seizing the animal, the location of the animal, and the
22 reason for the seizure.

23 (3) If the owner of the animal cannot be determined, a written
24 notice regarding the seizure of the animal shall be conspicuously posted
25 where the animal is seized at the time the seizure occurs if practicable and
26 a notice shall be published in a local newspaper of general circulation in
27 the jurisdiction where the animal was seized at least two (2) times each week
28 for two (2) consecutive weeks, with the first notice published within three
29 (3) days of the seizure, and no less than at least five (5) days before a
30 hearing conducted under this section.

31 (4)(A) After written notice is received by the owner or
32 published under subdivision (a)(3) of this section, the owner within fifteen
33 (15) business days may petition the district court having jurisdiction where
34 the animal was seized to determine the custody of the animal.

35 (B) If a petition is not filed by the owner within the
36 time period prescribed by this section, the prosecuting attorney shall file a

1 petition in the district court to divest the owner of ownership of the animal
2 and, after a hearing, the district court may order the animal transferred to
3 an appropriate place of custody, euthanized, or any other disposition the
4 district court deems appropriate.

5 (b)(1)(A) When an owner files a petition under subsection (a) of this
6 section and the district court determines that the owner shall be divested of
7 custody of the animal, the district court shall order the owner of the animal
8 to post a bond with the district court in an amount the district court
9 determines is sufficient to care for the animal for at least thirty (30)
10 days.

11 (B) The bond shall not prevent the appropriate place of
12 custody from disposing of the animal at the end of the thirty-day period
13 covered by the bond, unless a person claiming an interest in the animal posts
14 a new bond for an amount determined by the court for an additional thirty-day
15 period.

16 (2)(A) If a petition has been filed by the owner of an animal or
17 the prosecuting attorney under subsection (a) of this section, a person
18 claiming an interest in an animal seized may prevent disposition of the
19 animal as provided in subsection (a) of this section by posting a bond with
20 the district court in an amount the district court determines is sufficient
21 to care for the animal for at least thirty (30) days.

22 (B) If a person who claims an interest in the animal has
23 not posted bond in accordance with subdivision (b)(2)(A) of this section, the
24 district court shall determine final disposition of the animal in accordance
25 with reasonable practices for the humane treatment of animals.

26 (c)(1) A diseased or injured animal:

27 (A) Seized under this section may be appropriately treated
28 for injury or disease without a court order; and

29 (B) Is subject to being euthanized without a court order
30 when it is determined by a licensed veterinarian that euthanizing is
31 necessary to prevent the suffering of the animal.

32 (2)(A) Except as provided in subdivision (c)(1) of this section,
33 an appropriate place of custody shall not alter or modify an animal in any
34 manner, including without limitation the neutering, spaying, or castration of
35 the animal, without:

36 (i) A written court order that is issued after a

1 petition is filed by the prosecuting attorney requesting alteration or
2 modification and a hearing involving all interested parties as set forth in
3 subsection (a) of this section; or

4 (ii) The written consent of the owner.

5 (B) A violation of this subsection is a Class B
6 misdemeanor.

7 (d)(1) If a person pleads guilty or nolo contendere to or is found
8 guilty of either the offense of cruelty to animals or the offense of
9 aggravated cruelty to a dog, cat, or horse, and if that person is also the
10 owner of the animal, the court shall divest the person of ownership of the
11 animal, and the court shall either:

12 (A) Order the animal given to an appropriate place of
13 custody;

14 (B) Order the animal euthanized if the court decides that
15 the best interests of the animal or that the public health and safety would
16 be best served by euthanizing the animal based on the sworn testimony of a
17 licensed veterinarian or animal control officer; or

18 (C) Make any other disposition the court deems
19 appropriate.

20 (2) If a person pleads guilty or nolo contendere to or is found
21 guilty of either the offense of cruelty to animals or the offense of
22 aggravated cruelty to a dog, cat, or horse, and the person is not the owner
23 of the animal, the court shall order that the animal be returned to the
24 owner, if practicable, or, if not practicable, the court shall either:

25 (A) Order the animal given to an appropriate place of
26 custody;

27 (B) Order the animal euthanized if the court decides that
28 the best interests of the animal or that the public health and safety would
29 be best served by euthanizing the animal based on the sworn testimony of a
30 licensed veterinarian or animal control officer; or

31 (C) Make any other disposition the court deems
32 appropriate.

33 (e) The court shall order an animal seized under this section returned
34 to the owner if the owner:

35 (1) Filed a petition under subsection (a) of this section;

36 (2) Paid all reasonable expenses incurred in caring for the

1 animal; and

2 (3) Is found not guilty of the offense of cruelty to animals or
3 the offense of aggravated cruelty to a dog, cat, or horse, or the proceedings
4 against the owner have otherwise terminated.

5
6 5-62-107. Immunity for reporting cruelty to animals or aggravated
7 cruelty to a dog, cat, or horse.

8 Except as provided in § 5-54-122, a person who in good faith reports a
9 suspected incident of cruelty to animals or aggravated cruelty to a dog, cat,
10 or horse to a local law enforcement agency or to the Department of Arkansas
11 State Police is immune from civil and criminal liability for reporting the
12 incident.

13
14 5-62-108. Arrested persons -- Animal possession.

15 (a) If a law enforcement officer arrests a person in charge of any
16 vehicle drawn by or containing an animal, the law enforcement officer may
17 seize the animal and impound in any lawful manner the vehicle and the
18 contents of the vehicle.

19 (b)(1) A law enforcement officer that seizes an animal under
20 subsection (a) of this section shall place the animal with an appropriate
21 place of custody.

22 (2) If an animal is seized under this section, an owner of the
23 animal may petition to regain possession of the animal in the manner
24 proscribed in § 5-62-106.

25 (c) Any vehicle or contents of the vehicle impounded under subsection
26 (a) of this section shall be returned to the owner as soon as reasonably
27 practicable under the circumstances unless the vehicle or contents of the
28 vehicle are subject to seizure for any other lawful reason.

29
30 5-62-109. Immunity -- Veterinarians.

31 (a) A licensed veterinarian or a person acting at the direction of a
32 licensed veterinarian in Arkansas is:

33 (1) Held harmless from either criminal or civil liability for
34 any decision made or service rendered in conjunction with this subchapter;
35 and

36 (2) Immune from suit for his or her part in an investigation of

1 cruelty to animals.

2 (b) A veterinarian or person acting at the direction of a licensed
 3 veterinarian who participates or reports in bad faith or with malice is not
 4 protected under this subchapter.

5
 6 SECTION 4. Arkansas Code §§ 5-62-110 through 5-62-116 are amended to
 7 read as follows:

8 ~~5-62-110. Definitions—Construction.~~

9 ~~(a) As used in this section and §§ 5-62-111—5-62-119:~~

10 ~~(1) “Animal” or “dumb animal” includes every living creature;~~

11 ~~(2) “Cruelty”, “torture”, or “torment” include every act,~~
 12 ~~omission, or neglect in which unjustifiable physical pain, suffering, or~~
 13 ~~death is caused or permitted; and~~

14 ~~(3) “Owner” and “person” include a corporation as well as an~~
 15 ~~individual.~~

16 ~~(b) Nothing in this section and §§ 5-62-111—5-62-119 shall be~~
 17 ~~construed as prohibiting the shooting of a bird or other game for the purpose~~
 18 ~~of human food.~~

19
 20 5-62-111. Prevention of cruelty.

21 ~~(a) Any A officer, agent, or member of a society which is incorporated~~
 22 ~~for the prevention of cruelty to animals person may lawfully interfere to~~
 23 ~~prevent the imminent or ongoing perpetration of any act of cruelty offense of~~
 24 ~~cruelty to animals or aggravated cruelty to a dog, cat, or horse upon any~~
 25 ~~animal in his or her presence.~~

26 ~~(b) Any Upon a conviction, a person who knowingly interferes with or~~
 27 ~~obstructs any a officer, agent, or member of a society which is incorporated~~
 28 ~~for the prevention of cruelty to animals in the discharge of his or her duty~~
 29 ~~person acting under subsection (a) of this section is guilty of a Class A~~
 30 ~~misdemeanor.~~

31
 32 5-62-112. Search warrant.

33 ~~Upon complaint under oath or affirmation to any magistrate authorized~~
 34 ~~to issue warrants in criminal cases that the complainant has any just and~~
 35 ~~reasonable cause to suspect that any provision of law relating to or in~~
 36 ~~anywise affecting animals is being, or is about to be, violated in any~~

1 particular building or place, the magistrate shall immediately issue and
2 deliver a warrant to any person authorized by law to make arrests for such
3 offenses authorizing him or her to enter and search the building or place and
4 to arrest any person found present in the building or place violating any of
5 the laws and to bring that person before the nearest magistrate of competent
6 jurisdiction, to be dealt with according to law.

7 A search warrant related to an investigation under this subchapter may
8 be:

9 (1) Issued by a judge or magistrate if he or she has reasonable
10 cause to believe that the search will discover persons or things specified in
11 the application and subject to seizure; and

12 (2) Executed by any law enforcement officer.

13
14 5-62-113. Authority to make arrests.

15 ~~Upon being appointed by the president of any society which is~~
16 ~~incorporated for the prevention of cruelty to animals in any county of this~~
17 ~~state, an agent of the society within the county may make arrests and bring~~
18 ~~before any court or magistrate having jurisdiction any offender found~~
19 ~~violating the provisions of this section, §§ 5-62-110—5-62-112, and §§ 5-~~
20 ~~62-114—5-62-119. A law enforcement officer may make an arrest under the~~
21 ~~Arkansas Rules of Criminal Procedure and bring before a court or magistrate~~
22 ~~having jurisdiction any person alleged to have violated this subchapter.~~

23
24 ~~5-62-114. Authority to take charge of animals and vehicles of arrested~~
25 ~~person.~~

26 ~~(a) When any person arrested is in charge at the time of the arrest of~~
27 ~~any vehicle drawn by or containing any animal, any agent of a society for the~~
28 ~~prevention of cruelty to animals may take charge of the animal, the vehicle,~~
29 ~~and the vehicle's contents and deposit them in a safe place of custody or~~
30 ~~deliver them into the possession of the police or sheriff of the county or~~
31 ~~place where the arrest was made.~~

32 ~~(b) The police or sheriff of the county shall then assume the custody~~
33 ~~of the animal, the vehicle, and the vehicle's contents.~~

34
35 5-62-115. Injunction against society.

36 No injunction shall be granted against a society for the prevention of

1 ~~eruelty to animals or any of its officers or agents except upon motion after~~
 2 ~~due notice and a hearing on the motion.~~

3
 4 5-62-116. Diseased animals – Sale—Destruction.

5 (a) ~~Any~~ Upon conviction, a person who knowingly sells or offers for
 6 sale, or uses, or exposes, or causes or procures to be sold or offered for
 7 sale, or used, or to be exposed, any horse or other animal having the disease
 8 known as “glanders” or “farcy” or any other contagious or infectious disease
 9 known to the person to be dangerous to human life, or that is diseased past
 10 recovery, is guilty of a Class A misdemeanor.

11 (b)(1) Upon discovery or knowledge of the animal’s condition, any
 12 animal having glanders or farcy shall ~~immediately be deprived of life by the~~
 13 ~~owner or person having charge of the animal~~ humanely killed by the owner or
 14 person having charge of the animal, or arrangements shall be made to have the
 15 animal euthanized.

16 (2) ~~Any~~ Upon conviction, an owner or person having charge of the
 17 animal and knowingly omitting or refusing to comply with ~~a provision of this~~
 18 section is guilty of a Class A misdemeanor.

19 ~~(c) Any agent or officer of a society for the prevention of cruelty to~~
 20 ~~animals may lawfully destroy or cause to be destroyed any animal found~~
 21 ~~abandoned or otherwise and not properly cared for, appearing, in the judgment~~
 22 ~~of two (2) reputable citizens called by him or her to view the animal in his~~
 23 ~~or her presence, to be glandered, injured, or diseased past recovery for any~~
 24 ~~useful purpose.~~

25
 26 SECTION 5. Arkansas Code §§ 5-62-118 and 5-62-119 are repealed:

27 ~~5-62-118. Impounded animals—Food and water.~~

28 ~~(a)(1) Any person who impounds or causes to be impounded in any pound~~
 29 ~~or other place any creature shall supply to it during the confinement a~~
 30 ~~sufficient quantity of good wholesome food and water.~~

31 ~~(2) Upon conviction, a person who violates subdivision (a)(1) of~~
 32 ~~this section is guilty of a Class A misdemeanor.~~

33 ~~(b)(1) When any creature is at any time impounded as provided in~~
 34 ~~subsection (a) of this section and continues to be without necessary food and~~
 35 ~~water for more than twelve (12) successive hours, it is lawful from time to~~
 36 ~~time and as often as it is necessary for any person to enter into and upon~~

1 ~~any pound or other place in which the creature is so confined and to supply~~
 2 ~~it with necessary food and water so long as the creature remains so confined.~~

3 ~~(2)(A) A person is not liable to any action for the entry and~~
 4 ~~the reasonable cost of the food and water may be collected by him or her from~~
 5 ~~the owner of the creature.~~

6 ~~(B) The creature is not exempt from levy and sale upon~~
 7 ~~execution issued upon a judgment for the reasonable cost of the food and~~
 8 ~~water.~~

9
 10 ~~5-62-119. Cruelty in transportation.~~

11 ~~(a)(1) If any person carries or causes to be carried in or upon any~~
 12 ~~vehicle, boat, or otherwise any creature in a cruel or inhuman manner, he or~~
 13 ~~she is guilty of a misdemeanor.~~

14 ~~(2) When the person is taken into custody by any officer, the~~
 15 ~~officer may take charge of the vehicle, boat, etc., and its contents, and~~
 16 ~~deposit them in a safe place of custody.~~

17 ~~(b) Any necessary expenses that may be incurred for taking charge of~~
 18 ~~and keeping and sustaining the vehicle, boat, etc. is a lien on the vehicle,~~
 19 ~~boat, etc. to be paid before the vehicle, boat, etc. can lawfully be~~
 20 ~~recovered, or the expenses, or any part of the expenses, remaining unpaid may~~
 21 ~~be recovered by the person incurring the expenses of the owner of the~~
 22 ~~creature in any action therefor.~~

23
 24 SECTION 6. Arkansas Code § 5-62-120 is amended to read as follows:

25 5-62-120. Unlawful ~~dog~~ animal fighting.

26 (a)(1) A person commits the offense of unlawful ~~dog~~ animal fighting in
 27 the first degree if he or she knowingly:

28 (A) Promotes, engages in, or is employed at ~~dog~~ animal
 29 fighting;

30 (B) Receives money for the admission of another person to
 31 a place kept for ~~dog~~ animal fighting; or

32 (C) Sells, purchases, possesses, or trains a ~~dog~~ an animal
 33 for ~~dog~~ animal fighting.

34 (2) Unlawful ~~dog~~ animal fighting in the first degree is a Class
 35 D felony.

36 (b)(1) A person commits the offense of unlawful ~~dog~~ animal fighting in

1 the second degree if he or she knowingly:

2 (A) Purchases a ticket of admission to or is present at a
3 ~~dog~~ an animal fight; or

4 (B) Witnesses a ~~dog~~ an animal fight if it is presented as
5 a public spectacle.

6 (2) Unlawful ~~dog~~ animal fighting in the second degree is a Class
7 A misdemeanor.

8 (c) Upon the arrest of any person for violating a provision of this
9 section, the arresting law enforcement officer or animal control officer may
10 seize and take custody of all ~~dogs~~ animals in the possession of the arrested
11 person.

12 (d)(1) Upon the conviction of any person for violating a provision of
13 this section, any court of competent jurisdiction may order the forfeiture by
14 the convicted person of all ~~dogs~~ animals the use of which was the basis of
15 the conviction.

16 (2) Any ~~dog~~ animal ordered forfeited under a provision of this
17 subsection shall be placed ~~in the custody of a society which is incorporated~~
18 ~~for the prevention of cruelty to animals~~ with an appropriate place of custody
19 or an animal control agency.

20 (e) In addition to the fines, penalties, and forfeitures imposed under
21 ~~the provisions of~~ this section, the court may require the defendant to make
22 restitution to the state, any of its political subdivisions, or ~~a society~~
23 ~~which is incorporated for the prevention of cruelty to animals~~ an appropriate
24 place of custody for housing, feeding, or providing medical treatment to a
25 ~~dog~~ an animal used for unlawful ~~dog~~ animal fighting.

26 (f) As used in this section, "animal fighting" means fighting between
27 roosters or other birds or between dogs, bears, or other animals.

28
29 SECTION 7. Arkansas Code Title 5, Chapter 62 is amended to read as
30 follows:

31 5-62-122. Permitting livestock to run at large.

32 (a) A person commits the offense of permitting livestock to run at
33 large if being the owner or person charged with the custody and care of
34 livestock he or she knowingly permits the livestock to run at large.

35 (b) ~~As used in this section, "livestock" includes horses, mules,~~
36 ~~cattle, goats, sheep, swine, chickens, ducks, and similar animals and fowl~~

1 ~~commonly raised or used for farm purposes.~~

2 ~~(e)(b)(1)~~ Except as provided in subdivision ~~(e)(b)(2)~~ of this section,
3 permitting livestock to run at large is a violation and upon conviction a
4 person may be subject to a fine not to exceed one hundred dollars (\$100).

5 (2) Any person who knowingly allows any hog to run at large is
6 guilty of a violation and upon conviction is subject to a fine not to exceed
7 five hundred dollars (\$500).

8
9 SECTION 8. Arkansas Code Title 5, Chapter 62 is amended to add an
10 additional section to read as follows:

11 5-62-126. Acts of God -- Emergency conditions.

12 An owner of an animal or person in control of an animal is not guilty
13 of either the offense of cruelty to animals or the offense of aggravated
14 cruelty to a dog, cat, or horse if the owner of the animal or the person in
15 control of the animal was reasonably precluded as the result of an act of God
16 or emergency conditions from engaging in an act or omission that might
17 prevent an allegation of the offense of cruelty to animals or the offense of
18 aggravated cruelty to a dog, cat, or horse.

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