

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

As Engrossed: S2/26/13

A Bill

SENATE BILL 13

5 By: Senator *G. Stubblefield*
6

For An Act To Be Entitled

8 AN ACT PROVIDING LEGAL PROTECTION TO ANIMAL OWNERS
9 AND THEIR ANIMALS; TO ENSURE THAT ONLY LAW
10 ENFORCEMENT AGENCIES INVESTIGATE CHARGES OF ANIMAL
11 CRUELTY; AND FOR OTHER PURPOSES.
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Subtitle

14 PROVIDING LEGAL PROTECTION TO ANIMAL
15 OWNERS AND THEIR ANIMALS AND TO ENSURE
16 THAT ONLY LAW ENFORCEMENT AGENCIES
17 INVESTIGATE CHARGES OF ANIMAL CRUELTY.
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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23 SECTION 1. Arkansas Code § 5-62-106(c), regarding treatment of a
24 diseased or injured animal, is amended to add new subdivisions to read as
25 follows:

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

32 (ii) A record shall be generated by the attending
33 veterinarian setting out the reason or reasons for the euthanasia, the manner
34 of euthanasia, and the ultimate disposal of the animal's body.

35 (iii) Except in the cases of severe suffering,
36 irreparable damage, or the potential spread of disease, the owner will be



1 given notice of the intent to euthanize any animal in a time period that will
2 allow the owner to petition a district court to prohibit the euthanasia from
3 taking place.

4 (2)(A) Except as provided in subdivision (c)(1) of this section,
5 an appropriate place of custody shall not foster out, alter, or modify an
6 animal in any manner, including without limitation the neutering, spaying,
7 gelding, or castration of the animal, without:

8 (i) A written court order that is issued after a
9 petition is filed by the prosecuting attorney requesting alteration or
10 modification and a hearing involving all interested parties as set forth in
11 subsection (a) of this section; or

12 (ii) The written consent of the owner.

13 (B) A violation of this subsection is a Class B
14 misdemeanor.

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16 SECTION 2. Arkansas Code Title 5, Chapter 62, Subchapter 1, is amended
17 to add a new section to read as follows:

18 5-62-127. Protection for animal owners.

19 (a) The following legal protections are available for an animal owner:

20 (1) Seizure of an animal is prohibited except when a valid
21 warrant has been issued by a court with jurisdiction and executed by a
22 certified law enforcement officer;

23 (2)(A)(i) Allegations of probable cause and factual support of a
24 criminal offense under this subchapter shall be set forth by at least two (2)
25 licensed veterinarians in an affidavit in support of a search warrant.

26 (ii) One (1) of the veterinarians shall be chosen by
27 the law enforcement agency having jurisdiction and one (1) of the
28 veterinarians shall be chosen by the person against whom charges of a
29 criminal offense have been alleged.

30 (B) At least one (1) of the veterinarians shall be a
31 species specialist for the animal that was subject to the alleged criminal
32 offense.

33 (C) This section does not abridge a judicial determination
34 of probable cause in support of a search warrant under the Arkansas Rules of
35 Criminal Procedure;

36 (3)(A) An investigation into an alleged criminal offense under

1 this subchapter shall be conducted exclusively by the law enforcement agency
2 having jurisdiction.

3 (B) The law enforcement agency having jurisdiction shall
4 consult animal specialists while conducting the investigation;

5 (4)(A) An owner of an animal that is the subject of an
6 investigation of abuse still shall have the responsibility to care for and
7 monitor the animal and may provide a veterinarian of his or her choice to be
8 present during any testing or treatment of his or her animal.

9 (B)(i) Where practicable, the animal shall remain in the
10 location it was found when a warrant is issued but in no event shall it be
11 moved to a location farther than sixty (60) miles of the owner's residence.

12 (ii) The animal shall at all times remain within the
13 jurisdiction of the law enforcement agency conducting the investigation.

14 (C) Records, including without limitation a record of who
15 has assumed custody of the animal at what time, shall be kept by the local
16 law enforcement agency conducting the investigation that detail the animal's
17 care if an animal is seized by the local law enforcement agency;
18 and

19 (5)(A) An owner of an animal seized from his or her possession
20 under this subchapter and transferred to a facility that is not under the
21 direct control of the seizing law enforcement agency shall not be liable for
22 any costs of the animal's housing, food, or maintenance until the owner
23 pleads guilty or nolo contendere to or is found guilty of a criminal offense
24 related to the circumstances of the animal's seizure.

25 (B) If the animal's owner is found not guilty of an
26 offense related to the seizure of his or her animal or if charges are not
27 filed, the owner is not liable for any costs associated with housing,
28 feeding, or otherwise maintaining the animal.

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30 SECTION 3. Arkansas Code Title 5, Chapter 62, Subchapter 1, is amended
31 to add a new section to read as follows:

32 5-62-128. Improper animal investigation.

33 (a) A person who is not a certified law enforcement officer who
34 knowingly conducts an investigation, including collection of evidence into
35 alleged claims of criminal conduct involving an animal by another person or
36 entity, or coerces a person to surrender his or her personal property through

1 threat of criminal investigation or prosecution related to alleged claims of
2 criminal conduct involving an animal by another person or entity upon
3 conviction is guilty of a Class B misdemeanor.

4 (b) A person who is convicted under this section also shall be liable
5 for a civil penalty of five thousand dollars (\$5,000) per incident as well as
6 the loss of any state-issued license to operate.

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8 SECTION 4. Arkansas Code Title 5, Chapter 62, Subchapter 1, is amended
9 to add a new section to read as follows:

10 5-62-129. Equine quarantine.

11 A law enforcement agency investigating criminal conduct involving an
12 equine shall seize and quarantine the equine until the Arkansas Livestock and
13 Poultry Commission has verified that the equine is in compliance with all
14 required disease testing, including testing for equine infectious anemia.

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16 SECTION 5. Arkansas Code Title 5, Chapter 62, Subchapter 1, is amended
17 to add a new section to read as follows:

18 5-62-130. Improper spaying, neutering, gelding, or euthanizing of an
19 animal.

20 (a)(1) A person who knowingly spays, neuters, gelds, or euthanizes an
21 animal that he or she does not own without first receiving the consent of the
22 owner is guilty of a Class A misdemeanor.

23 (2) The court also may:

24 (A) Revoke a person's or entity's license to operate any
25 entity that violates this section; and

26 (B) Order a civil penalty of up to three (3) times the
27 fair market value of the animal that was improperly spayed, neutered, gelded,
28 or euthanized.

29 (b) It is a defense to prosecution if the spay, neuter, geld, or
30 euthanasia was performed under § 5-62-106(c).

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32 SECTION 6. Arkansas Code Title 5, Chapter 62, Subchapter 1, is amended
33 to add a new section to read as follows:

34 5-62-131. Civil liability.

35 (a)(1) A person or nongovernmental entity that unlawfully interferes
36 with this subchapter and the unlawful interference results in an injury to

1 or the loss of use of an animal is liable to the owner of that animal.

2 (2) The amount for which a person or nongovernmental entity is
3 liable under subdivision (a)(2) of this section is equal to three (3) times
4 the value of the animal and three (3) times the amount of the loss of the use
5 of the animal.

6 (b) A federal, state, or local government agency or a person employed
7 by or working under the direction of a federal, state, or local government
8 agency exempt from this section.

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10 */s/J. Hutchinson*
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