

ARKANSAS SENATE
85th General Assembly - Regular Session, 2005
Amendment Form

Subtitle of Senate Bill No. 1104

"TO ALLOW A PERSON TO KILL AN ANIMAL AND BE IMMUNE FROM BOTH CIVIL
ACTION AND CRIMINAL PROSECUTION IF THAT ANIMAL IS STRAY, ABANDONED,
OR DISEASED AND MAY BE A THREAT TO HIS OR HER PERSON OR PROPERTY."

Amendment No. 1 to Senate Bill No. 1104.

Amend Senate Bill No. 1104 as originally introduced:

Delete the Title and substitute the following:

"AN ACT CONCERNING CRUELTY TO ANIMALS AND RELATED OFFENSES; CONCERNING ANIMAL
MANAGEMENT PRACTICES; AND FOR OTHER PURPOSES."

AND

Delete the Subtitle and substitute the following:

"AN ACT CONCERNING CRUELTY TO ANIMALS AND RELATED OFFENSES AND CONCERNING
ANIMAL MANAGEMENT PRACTICES."

AND

Delete Sections 2, 3, and 4 of the bill and substitute the following:

"SECTION 2. Arkansas Code Title 5, Chapter 62, Subchapter 1 is amended
to add additional sections to read as follows:

5-62-102. Aggravated cruelty to a dog, cat, or horse.

(a) A person commits the offense of aggravated cruelty to a dog, cat,
or horse if he or she knowingly and intentionally tortures, mutilates, maims,
burns, poisons, or starves any dog, cat, or horse.

(b)(1) Aggravated cruelty to a dog, cat, or horse is a Class A
misdemeanor.

(2) Any person who pleads guilty or nolo contendere to or is
found guilty of violating subsection (a) of this section for a second or
subsequent offense for conduct which occurred within the five (5) years
preceding the commission of the second or subsequent offense is guilty of a
Class D felony.

(c)(1) In addition to all other penalties provided by law, the court
may order any person who pleads guilty or nolo contendere to or is found
guilty of violating subsection (a) or (b) of this section to receive a
psychiatric or psychological evaluation, and if determined appropriate,



psychiatric or psychological counseling or treatment.

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

(d) If the person pleads guilty or nolo contendere to or is found guilty of aggravated cruelty to a dog, cat, or horse, the court may assign custody of the abused animal or animals to a society which is incorporated for the prevention of cruelty to animals.

5-62-103. Exemptions.

(a) Nothing in this subchapter shall be construed to prohibit the following conduct:

(1) Protecting livestock and poultry as authorized by § 20-19-102; or

(2) Engaging in practices lawful under the Arkansas Veterinary Medical Practice Act, § 17-101-101 et seq.

(b)(1) Nothing in this subchapter shall be construed to prohibit a pet breeder, his or her consignees, or his or her employees from performing routine accepted management practices on animals belonging to the pet breeder and produced for commerce.

(2) Routine accepted management practices include, but are not limited to, the following:

(A) Removal of dew claws and tail docking, if performed within seven (7) days of birth;

(B) Beyond seven (7) days of age, removal of dew claws and tail docking if performed by or under the supervision of a veterinarian; and

(C) Ear cropping performed by or under the supervision of a veterinarian.

5-62-104. Animal research excluded.

This subchapter does not apply to research and education facilities:

(1) Regulated under the provisions of:

(A) The Animal Welfare Act, 7 U.S.C. 2131 et seq., as it existed on January 1, 2005; or

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

(2) That have an institutional animal care and use committee that reviews and approves research or maintenance protocols involving animals in the facility.

SECTION 3. Arkansas Code § 5-62-110(a)(1), concerning the definition of animal, is amended to read as follows:

(1) "Animal" ~~or "dumb animal"~~ includes every living creature means a domesticated living creature or wild living creature under the care or control of any person when the care or control is outside the scope of activities regulated by the Arkansas State Game and Fish Commission;

SECTION 4. Arkansas Code § 5-62-112 is amended to read as follows:
5-62-112. Search warrant.

(a) Upon complaint under oath or affirmation to any magistrate or judge authorized to issue warrants in criminal cases that the complainant has any just and reasonable cause to suspect that any of the provisions of law

relating to or ~~in anywise~~ affecting animals are being, or about to be, violated in any particular building or place, the magistrate or judge shall immediately issue and deliver a warrant to any person authorized by law to make arrests for such offenses authorizing him to enter and search such building or place and to arrest any person there present found violating any of the laws and to bring that person before the nearest magistrate of competent jurisdiction, to be dealt with according to law a properly certified agent of a society incorporated for the prevention of cruelty to animals.

(b) The warrant issued shall authorize:

(1) Entry into and search of the building or place;

(2) Arrest of any person there present found violating any of the laws; and

(3) Bringing that person before the nearest magistrate or judge of a court of competent jurisdiction, to be dealt with according to law.

(c) When serving a warrant issued pursuant to this section, the agent shall be accompanied by a certified law enforcement officer having jurisdiction, and the search warrant shall be served by the certified law enforcement officer.

(d) When any arrest is made in conjunction with the service of a warrant issued pursuant to this section, the arrest shall be made by the certified law enforcement officer who has accompanied the agent.

SECTION 5. Arkansas Code § 5-62-113 is amended to read as follows:
5-62-113. ~~Authority to make arrests~~ Agents of society – Training.

(a) The agents An agent of any society ~~which is~~ incorporated for the prevention of cruelty to animals, upon being appointed by the president of the society in any county of this state, and upon proper certification as required by this section may ~~within the county, make arrests and bring before any court or magistrate having jurisdiction, any offenders~~ person found violating the provisions of ~~this act~~ § 5-62-101, et seq.

(b)(1) The Arkansas Law Enforcement Training Academy shall promulgate rules and regulations concerning the proper training and certification of the agent described in subsection (a) of this section.

(2) Training requirements shall include a minimum of:

(A) Twenty (20) hours of basic animal health and animal husbandry; and

(B) Twenty (20) hours of legal training, to include, but not be limited to:

(i) Laws on search and seizure;

(ii) Warrants; and

(iii) Report writing.

(3) The costs of obtaining training and certification shall be paid by the agent or society seeking to obtain the certification.

(4) The requirement for certification shall become effective on July 1, 2006.

SECTION 6. Arkansas Code § 5-62-114 is amended to read as follows:

5-62-114. Authority to take charge of animals and vehicles of arrested person.

When any person arrested by a law enforcement officer is, at the time

of arrest, in charge of any vehicle drawn by or containing any animal, ~~any agent of a society for the prevention of cruelty to animals~~ the law enforcement officer may take charge of the animal and the vehicle and its contents and deposit them in a safe place of custody, or deliver them into the possession of the police or sheriff of the county or place wherein the arrest was made, ~~who~~ or a society that is incorporated for the prevention of cruelty to animals that shall thereupon assume the custody thereof.

SECTION 6. Arkansas Code § 20-19-102(a)(1), concerning injuries to domesticated animals by dogs, is amended to read as follows:

(a)(1) "Domesticated animals" includes, but is not limited to, sheep, goats, horses, cattle, swine, and poultry."

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator J. Jeffress

JDF/JDF - 03-16-2005 14:59

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Secretary