

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 85th General Assembly  
3 Regular Session, 2005  
4

As Engrossed: S3/17/05

# A Bill

SENATE BILL 1104

5 By: Senator J. Jeffress  
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## For An Act To Be Entitled

8  
9 *AN ACT CONCERNING CRUELTY TO ANIMALS AND RELATED*  
10 *OFFENSES; CONCERNING ANIMAL MANAGEMENT PRACTICES;*  
11 *AND FOR OTHER PURPOSES.*  
12

### Subtitle

13  
14 *AN ACT CONCERNING CRUELTY TO ANIMALS AND*  
15 *RELATED OFFENSES AND CONCERNING ANIMAL*  
16 *MANAGEMENT PRACTICES.*  
17  
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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21 SECTION 1. Arkansas Code § 5-62-101 is amended to read as follows:

22 5-62-101. Cruelty to animals.

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

25 (1) Abandons any animal;

26 (2) Subjects any animal to cruel mistreatment;

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

28 or

29 (4) Kills or injures any animal belonging to another without  
30 legal privilege or consent of the owner.

31 (b) If a person knows, or has reasonable cause to know, that an animal  
32 is stray, abandoned, or diseased and may be a threat to his or her person or  
33 property, the person may kill the animal and shall be immune from both civil  
34 action and criminal prosecution.

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

36 ~~(e)-(1)-(d)(1)~~ In addition to all other penalties provided by law, the



1 court may order any person found guilty of cruelty to animals to receive a  
2 psychiatric or psychological evaluation, and if determined appropriate,  
3 psychiatric or psychological counseling or treatment.

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

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

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

13 5-62-102. Aggravated cruelty to a dog, cat, or horse.

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

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

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

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

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

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

36

1           5-62-103. Exemptions.

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

4                   (1) Protecting livestock and poultry as authorized by § 20-19-  
5 102; or

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

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

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

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

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

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

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21           5-62-104. Animal research excluded.

22           This subchapter does not apply to research and education facilities:

23                   (1) Regulated under the provisions of:

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

26                           (B) The Health Research Extension Act of 1985, Pub. L. No.  
27 32 99-158; or

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

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

34                   (1) ~~“Animal” or “dumb animal” includes every living creature~~  
35 means a domesticated living creature or wild living creature under the care  
36 or control of any person when the care or control is outside the scope of

1 activities regulated by the Arkansas State Game and Fish Commission;  
2

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

4 5-62-112. Search warrant.

5 (a) Upon complaint under oath or affirmation to any magistrate or  
6 judge authorized to issue warrants in criminal cases that the complainant has  
7 any just and reasonable cause to suspect that any of the provisions of law  
8 relating to or ~~in anywise~~ affecting animals are being, or about to be,  
9 violated in any particular building or place, the magistrate or judge shall  
10 immediately issue and deliver a warrant to ~~any person authorized by law to~~  
11 ~~make arrests for such offenses authorizing him to enter and search such~~  
12 ~~building or place and to arrest any person there present found violating any~~  
13 ~~of the laws and to bring that person before the nearest magistrate of~~  
14 ~~competent jurisdiction, to be dealt with according to law~~ a properly  
15 certified agent of a society incorporated for the prevention of cruelty to  
16 animals.

17 (b) The warrant issued shall authorize:

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

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

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

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

27 (d) When any arrest is made in conjunction with the service of a  
28 warrant issued pursuant to this section, the arrest shall be made by the  
29 certified law enforcement officer who has accompanied the agent.  
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32 SECTION 5. Arkansas Code § 5-62-113 is amended to read as follows:

33 5-62-113. ~~Authority to make arrests~~ Agents of society – Training.

34 (a) ~~The agents~~ An agent of any society ~~which is~~ incorporated for the  
35 prevention of cruelty to animals, upon being appointed by the president of  
36 the society in any county of this state, ~~and upon proper certification as~~

1 required by this section may ~~within the county, make arrests and~~ bring before  
2 any court or magistrate having jurisdiction, any ~~offenders~~ person found  
3 violating the provisions of ~~this act~~ § 5-62-101, et seq.

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

7 (2) Training requirements shall include a minimum of:

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

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

12 (i) Laws on search and seizure;

13 (ii) Warrants; and

14 (iii) Report writing.

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

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

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

21 5-62-114. Authority to take charge of animals and vehicles of arrested  
22 person.

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

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32 SECTION 7. Arkansas Code § 20-19-102(a)(1), concerning injuries to  
33 domesticated animals by dogs, is amended to read as follows:

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

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*/s/ J. Jeffress*

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