

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 *As Engrossed: S3/17/05 S3/24/05 S3/29/05 S4/1/05*

2 85th General Assembly

A Bill

3 Regular Session, 2005

SENATE BILL 1104

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5 By: Senator J. Jeffress

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For An Act To Be Entitled

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

12

13

Subtitle

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

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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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

23 *5-62-102. Aggravated cruelty to a dog, cat, or horse.*

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

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

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

34 *(c)(1) In addition to all other penalties provided by law, the court*
35 *may order any person who pleads guilty or nolo contendere to or is found*
36 *guilty of violating subsection (a) or (b) of this section to receive a*



1 psychiatric or psychological evaluation, and if determined appropriate,
2 psychiatric or psychological counseling or treatment.

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

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

10
11 5-62-103. Exemptions.

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

14 (1) Protecting livestock and poultry as authorized by § 20-19-
15 102; or

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

18 (b) Nothing in this subchapter shall be construed to prohibit a pet
19 breeder, his or her consignees, or his or her employees from performing the
20 routine accepted management practices of:

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

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

25 (3) Ear cropping performed by or under the supervision of
26 a veterinarian.

27
28 5-62-104. Animal research excluded.

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

30 (1) Regulated under the provisions of:

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

33 (B) The Health Research Extension Act of 1985, Pub. L. No.
34 32 99-158; or

35 (2) That have an institutional animal care and use committee
36 that reviews and approves research or maintenance protocols involving animals

1 in the facility.

2
3 SECTION 2. Arkansas Code § 5-62-110(a)(1), concerning the definition
4 of animal, is amended to read as follows:

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

9
10 SECTION 3. Arkansas Code § 5-62-112 is amended to read as follows:

11 5-62-112. Search warrant.

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

24 (b) The warrant issued shall authorize:

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

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

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

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

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

1 (e) No animal seized under this section shall be physically or
 2 surgically altered without:

3 (1) Authorization of a licensed veterinarian, as needed for the
 4 animal's health;

5 (2) Consent of the owner; or

6 (3) An order of a magistrate or judge of competent jurisdiction.

7
 8 SECTION 4. Arkansas Code § 5-62-113 is amended to read as follows:

9 5-62-113. ~~Authority to make arrests~~ Agents of society – Training.

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

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

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

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

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

24 (i) Laws on search and seizure;

25 (ii) Warrants; and

26 (iii) Report writing.

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

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

31
 32 SECTION 5. Arkansas Code § 5-62-114 is amended to read as follows:

33 5-62-114. Authority to take charge of animals and vehicles of arrested
 34 person.

35 When any person arrested by a law enforcement officer is, at the time
 36 of arrest, in charge of any vehicle drawn by or containing any animal, ~~any~~

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

7
8 SECTION 6. Arkansas Code § 20-19-102 is amended to read as follows:

9 20-19-102. Injuries to domesticated animals or persons by dogs or other
10 animals.

11 (a)(1) ~~"Domesticated~~ As used in this section, "domesticated animals"
12 includes, means any animal living in captivity and relying on humans for
13 survival, including, but ~~is~~ not limited to, dogs, cats, sheep, goats, cattle,
14 swine, horses, and poultry.

15 (2) Any person owning or having in possession or under control
16 any dog or other animal shall be liable in damages to the owner or owners of
17 any domesticated animals killed or injured by the dog or other animal in the
18 full value of the domesticated animal killed or injured.

19 (b)(1) Any person engaged in raising domesticated animals or owning
20 any domesticated animals who shall sustain any loss or damages to his or
21 ~~their~~ her domesticated animals by any dog or other animal shall have a right
22 of action against the owner, person, or controller of the dog.

23 (2) Any person having reason to believe that a dog or other
24 animal may be a threat, to any domesticated animal or person, shall have the
25 right to kill the dog or other animal.

26 (3) Any person knowing that any dog or other animal has killed
27 or is about to catch, injure, or kill any domesticated animal shall have the
28 right to kill the dog or other animal, ~~without in any way being liable to the~~
29 ~~owner of the dog in any courts of this state.~~

30 (4) Any person who kills a dog or other animal pursuant to
31 subdivision (b)(2) or (b)(3) of this section shall not be liable to the owner
32 of the dog or other animal in any court of this state.

33 (c) The person sustaining loss or damage as mentioned in this section
34 and desiring remuneration therefor may go before some justice of the peace of
35 the county wherein the loss or damage occurred and make oath of the character
36 of the loss or damage sustained, the value of the loss or damage, the dog or

1 dogs, and the owner, possessor, or controller of the dog and file the same
2 with the justice, who shall issue a summons stating the nature of the
3 plaintiff's claim, the amount claimed, and the cost accrued, which shall be
4 served and returned as in ordinary actions.

5 (d)(1) If the defendant shall pay to the officer serving the summons
6 the amount of damages claimed, the costs endorsed, and a further fee to the
7 officer of twenty-five cents (25¢) for making the return, the summons shall
8 be returned satisfied, and no further proceedings had.

9 (2) If the defendant fails, neglects, or refuses to pay that
10 amount, the justice shall try the cause as in other ordinary actions and give
11 judgment in favor of plaintiff for the amount proved in the cause, for which
12 the defendant may be liable by the provisions of this section.

13 (e) In a second suit and recovery by any plaintiff against the same
14 defendant on account of killing or injury done by the same dog, the justice
15 shall render judgment for double the amount of damages proven.

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/s/ J. Jeffress