

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 86th General Assembly  
3 Regular Session, 2007

# A Bill

HOUSE BILL 2788

4  
5 By: Representative Saunders  
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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.  
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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 tortures, mutilates, maims, burns, poisons,  
26 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 that 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 any other penalty provided by law, the court may  
35 order any person who pleads guilty or nolo contendere to or is found guilty  
36 of violating subsection (a) of this section to receive a psychiatric or



1 psychological evaluation, and if determined appropriate, psychiatric or  
 2 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 to a society that is incorporated for the  
 9 prevention of cruelty to animals.

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 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 (c) This subchapter does not apply to research and education  
 28 facilities:

29 (1) Regulated under the provisions of:

30 (A) The Animal Welfare Act, 7 U.S.C. 2131 et seq., as it  
 31 existed on January 1, 2007; or

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

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

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

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

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

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

23 (b) The warrant issued shall authorize:

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

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

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

29 (c) When serving a warrant issued pursuant to this section, the  
 30 certified agent of a society incorporated for the prevention of cruelty to  
 31 animals 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 search warrant issued pursuant to this section, the arrest shall be made by  
 36 the certified law enforcement officer who has accompanied the certified agent

1 of a society incorporated for the prevention of cruelty to animals.

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

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

6 (2) Consent of the owner; or

7 (3) An order of a magistrate or judge of a court of competent  
 8 jurisdiction.

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

11 5-62-113. ~~Authority to make arrests~~ Agents of society – Training.

12 (a) Upon being appointed by the president of any society which is  
 13 incorporated for the prevention of cruelty to animals in any county of this  
 14 state and upon proper certification as required by this section, an agent of  
 15 the society ~~within the county may make arrests and~~ bring before any court or  
 16 magistrate having jurisdiction any ~~offender~~ person found violating the  
 17 provisions of this section, §§ 5-62-110 - 5-62-112, and §§ 5-62-114 - 5-62-  
 18 119.

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

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

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

25 (B) Twenty (20) hours of legal training, to include,  
 26 without limitation:

27 (i) Laws on search and seizure;

28 (ii) Warrants; and

29 (iii) Report writing.

30 (3) The costs of obtaining training and certification shall be  
 31 paid by the certified agent of a society incorporated for the prevention of  
 32 cruelty to animals or society certified agent of a society incorporated for  
 33 the prevention of cruelty to animals seeking to obtain the certification.

34 (4) The requirement for certification shall become effective on  
 35 July 1, 2008.

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SECTION 5. 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.

(a) When any person arrested by a law enforcement officer is in charge at the time of the arrest 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, the vehicle, and the vehicle's 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 where the arrest was made.

(b) ~~The police or sheriff of the county~~ A society certified agent of a society incorporated for the prevention of cruelty to animals shall then assume the custody of the animal, the vehicle, and the vehicle's contents.

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

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

(a)(1) ~~"Domesticated animals" includes, but is not limited to,~~ As used in this section, "domesticated animals" means any animal living in captivity and relying on humans for survival, including without limitation, dogs, cats, sheep, goats, cattle, swine, horses, and poultry.

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

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

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

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

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

4           (c) The person sustaining loss or damage as mentioned in this section  
5 and desiring remuneration ~~therefor~~ for the loss or damage may go before some  
6 justice of the peace of the county wherein the loss or damage occurred and  
7 make oath of the character of the loss or damage sustained, the value of the  
8 loss or damage, the dog or dogs, and the owner, possessor, or controller of  
9 the dog and file the same with the justice of the peace, who shall issue a  
10 summons stating the nature of the plaintiff's claim, the amount claimed, and  
11 the cost accrued, which shall be served and returned as in ordinary actions.

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

16           (2) If the defendant fails, neglects, or refuses to pay that  
17 amount, the justice of the peace shall try the cause as in other ordinary  
18 actions and give judgment in favor of the plaintiff for the amount proved in  
19 the cause, for which the defendant may be liable under this section.

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

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