

By: Representatives Byrd, Taylor

To: Judiciary B

HOUSE BILL NO. 1261

1 AN ACT TO CREATE CRIMINAL AND CIVIL PENALTIES FOR FAILING TO
2 KEEP DANGEROUS DOGS SECURELY CONFINED AND UNDER RESTRAINT, AND FOR
3 FAILING TO MEET CERTAIN REQUIREMENTS DESIGNED TO PROTECT THE
4 PUBLIC; TO DEFINE "DANGEROUS DOG" FOR PURPOSES OF THIS ACT; TO
5 PROVIDE EXCEPTIONS TO THE DEFINITION OF "DANGEROUS DOG" IN
6 INSTANCES OF WILLFUL TRESPASSING OR COMMITTING A TORT OR CRIME ON
7 THE PREMISES OF THE DOG'S OWNER, OF TEASING, TORMENTING OR ABUSING
8 THE DOG, OR OF PROTECTING OR DEFENDING A PERSON FROM UNJUSTIFIED
9 ATTACK; TO SET FORTH OTHER DEFINITIONS USED IN THIS ACT AND LEVELS
10 OF OFFENSES; TO PROVIDE THAT IF A DANGEROUS DOG'S BITE OR ATTACK
11 RESULTS IN THE DEATH OF A PERSON, OR IN THE SERIOUS BODILY INJURY
12 OF A CHILD, THE OWNER OF THE DOG MAY NOT CLAIM THAT HE DID NOT
13 KNOW THAT THE DOG WAS DANGEROUS AS A DEFENSE IN A CRIMINAL
14 PROSECUTION, OR AS THE BASIS FOR IMMUNITY FROM LIABILITY IN A
15 CIVIL ACTION FOR DAMAGES; TO REQUIRE THE OWNER OF A DANGEROUS DOG
16 THAT HAS INJURED A PERSON WITHOUT PROVOCATION, OR KILLED A
17 DOMESTIC ANIMAL, TO POSSESS CERTAIN LIABILITY INSURANCE COVERAGE;
18 TO PROVIDE THAT THIS ACT SHALL NOT APPLY IF THE DOG IS ASSISTING
19 IN THE PERFORMANCE OF LAW ENFORCEMENT OR MILITARY DUTIES; TO
20 PROVIDE THAT THIS ACT SHALL NOT BE CONSTRUED AS PROHIBITING A
21 PERSON FROM ENGAGING IN CERTAIN LAWFUL ACTIVITIES OR FROM
22 DEFENDING OR PROTECTING A PERSON OR PROPERTY; TO AMEND SECTIONS
23 41-53-11, 97-41-3, 97-41-16 and 97-41-19, MISSISSIPPI CODE OF
24 1972, IN CONFORMITY TO THE PROVISIONS OF THIS ACT; AND FOR RELATED
25 PURPOSES.

26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

27 **SECTION 1.** The provisions of Sections 1 through 6 shall be
28 known and may be cited as the "Mississippi Regulation of Dangerous
29 Dogs Act."



SECTION 2.

For purposes of Sections 1 through 6 of this act, the following words and phrases shall have the meanings ascribed below, unless the context clearly indicates otherwise:

(a) (i) "Dangerous dog" means:

1. Any pit bull dog in a class of dogs that specifically includes the breeds of American pit bull terrier, American Staffordshire terrier, Staffordshire bull terrier, American bulldog, and any other pure bred or mixed breed dog that is a combination of these dog breeds.

2. Any dog that has shown a propensity, tendency or disposition to make or attempt an unprovoked attack, to cause injury to, or to otherwise endanger the safety of human beings or domestic animals.

3. Any dog that, when unprovoked, bites, inflicts injury, assaults or otherwise attacks a human being or domestic animal on public or private property, or chases or approaches a person upon the streets, sidewalks or on any private or public property in a menacing or terrorizing manner or apparent attitude of attack.

4. Any dog that is owned or harbored primarily or in part for the purpose of dogfighting or any dog trained for dogfighting.

(ii) However, no dog may be considered a dangerous dog if:



54 1. The injury or damage caused by the dog is
55 sustained by a person who at the time: was committing a willful
56 trespass or other tort on the premises occupied by the owner of
57 the dog; was teasing, tormenting, abusing or assaulting the dog;
58 or was committing or attempting to commit a crime;

59 2. The injury or damage caused by the dog was
60 sustained by a domestic animal that at the time was teasing,
61 tormenting or abusing the dog; or

62 3. The dog was protecting or defending a
63 human being within the immediate vicinity of the dog from an
64 unjustified attack or assault.

65 (b) "Domestic animal" means a pet or any animal that is
66 kept for pleasure or utility.

67 (c) "Law enforcement officer" means any person
68 appointed or employed by the state or any political subdivision
69 thereof, who is duly sworn and vested with authority to bear arms
70 and make arrests.

71 (d) "Owner" means a person who owns, keeps or harbors,
72 or who has the charge, custody, control or possession of one or
73 more dangerous dogs. A dog is deemed to be "harbored" by a person
74 if it is fed or sheltered by that person.

75 (e) "Restraint" means the condition of securing any
76 dangerous dog, either by a leash, chain or lead having a minimum
77 tensile strength of three hundred (300) pounds and not exceeding



78 three (3) feet in length, or in a secure enclosure within the real
79 property boundaries of its owner.

80 (f) "Runs at large" or "running at large" means any
81 dangerous dog not under restraint.

82 (g) "Secure enclosure" means a fenced area, kennel, cage
83 or structure that safely confines a dangerous dog and:

84 (i) Locks in a manner that protects the general
85 public and prevents the entry of a person other than the owner,
86 including a child;

87 (ii) Prevents the exit or escape of the dog on its
88 own volition; and

89 (iii) Prevents the dog from extending its jaw,
90 mouth or nose beyond the enclosure.

91 **SECTION 3.** (1) It is unlawful for a person who is the owner
92 of a dangerous dog to:

93 (a) Fail to confine the dog securely and under
94 restraint, either indoors or in a secure enclosure upon the
95 premises of the person.

96 (b) Permit the dog to go beyond the premises of the
97 person unless the dog is:

98 (i) Secured by a leash, chain or lead having a
99 minimum tensile strength of three hundred (300) pounds and not
100 exceeding three (3) feet in length;

101 (ii) Is under the direct control of the owner of
102 the dog; and



(iii) Is muzzled in a manner that is sufficient to prevent the dog from injuring or biting a person or other animal.

(c) Leash, chain, tie or tether the dog to an inanimate object other than one within a secure enclosure, such as a tree or building.

(d) Keep the dog on a porch or patio or any part of a building or structure:

(i) In a manner that would allow the dog to exit or escape from the building or structure on its own volition; or

(ii) In which the windows are open or screened windows or doors are the only obstacles preventing the dog from exiting or escaping from the building or structure.

(e) Fail to display in a prominent place on the premises where the dog is located, as well as on the fenced area, kennel or structure confining the dog, a sign containing the words "Beware of Dangerous Dog."

(2) It is unlawful for a person who has been convicted of any felony to be the owner of a dangerous dog, or to reside within any premises upon which a dangerous dog is located.

(3) A person who is convicted of a violation of subsection (1), (2) or (7) of this section shall be punished by a fine of not less than One Hundred Dollars (\$100.00) and not more than One Thousand Dollars (\$1,000.00), imprisoned for not less than ten (10) days and not more than three (3) months, or both.



127 (4) It is unlawful for a person who is the owner of a
128 dangerous dog to fail to prevent the dog from going beyond the
129 premises of the owner and entering property other than that of its
130 owner, and while on that property, the dog bites or attacks
131 another person which results in the death of the person or which
132 results in the serious bodily injury of a person who is a child
133 under the age of eighteen (18) years.

134 (a) If at the time of such death or injury, the owner
135 was in violation of subsections (1), (2) or (7) of this section,
136 then upon conviction, the owner of the dog shall be guilty of a
137 felony and punished as follows:

138 (i) Imposition of a criminal fine of not less than
139 One Thousand Dollars (\$1,000.00) and not more than Five Thousand
140 Dollars (\$5,000.00);

141 (ii) Imprisonment for not less than one (1) year
142 and not more than five (5) years;

143 (iii) Imposition of a civil penalty of not more
144 than Five Thousand Dollars (\$5,000.00), which shall be retained by
145 the municipality in which the offense occurred, or if the offense
146 did not occur in a municipality, by the county in which the
147 offense occurred; and

148 (iv) Euthanization of the dog that bit or attacked
149 another person resulting in the death of a person, or in the
150 serious bodily injury of a child.



151 (b) If at the time of such death or injury, the owner
152 was in compliance with the requirements of Sections 1 through 3 of
153 this act to confine and restrain the dog and not in violation of
154 subsection (1), (2) or (7) of this section, then upon conviction,
155 the owner of the dog shall be punished as follows:

156 (i) Imposition of a criminal fine of not less than
157 One Thousand Dollars (\$1,000.00) and not more than Five Thousand
158 Dollars (\$5,000.00);

159 (ii) Imprisonment for not less than three (3)
160 months and not more than one (1) year; and

161 (iii) Euthanization of the dog that bit or
162 attacked another person resulting in the death of the person, or
163 in the serious bodily injury of a child.

164 (5) A person who is the owner of a dangerous dog may not
165 claim that he did not know that the dog was a dangerous dog as a
166 defense in a criminal prosecution, or as the basis for immunity
167 from liability in a civil action for damages, arising out of a
168 violation of subsection (4) of this section.

169 (6) A conviction and imposition of a sentence under this
170 section does not prevent a conviction and imposition of a sentence
171 under any other applicable provision of law.

172 (7) If, according to the records of the governing
173 authorities of a county or municipality, a dangerous dog has
174 caused serious bodily injury to a person without provocation, or
175 has killed a domestic animal, then the owner of the dog is



required to possess a liability insurance policy with coverage in a single incident amount of One Hundred Thousand Dollars (\$100,000.00) for bodily injury to or death of any person, or for damage to property caused by the dog. The insurance policy shall contain a provision that the policy may not be cancelled until ten (10) days' notice of cancellation has been given to the governing authorities of the municipality or county in which the dog is located. A dangerous dog may be seized by a law enforcement officer, if the owner cannot show proof that he possesses the liability insurance coverage required in this subsection.

(8) In order to determine if there is a violation of this section, a law enforcement officer, at any time, may enter the premises where a dangerous dog is kept, or is believed to be kept, for an on-site inspection of the premises.

SECTION 4. (1) If a dog is determined by a law enforcement officer to be a dangerous dog, then the dog may be destroyed by the law enforcement officer, or his designee, provided that two (2) of the following requirements are met:

(a) The dog is running at large or not under proper restraint when on the premises of its owner, or leashed, muzzled and under the direct control of the owner when off the premises of the owner, as required under this act;

(b) There is no vaccination tag around the dog's neck;

(c) Attempts to peacefully capture the dog have been made and proven unsuccessful.



(2) Use of deadly force is permitted when a law enforcement officer, who confronts a dangerous dog, reasonably fears for his or her safety or the safety of others in clear proximity to the dog.

SECTION 5. In the case of an attack by a dangerous dog resulting in any bodily injury to a person, the dog shall be impounded or confined by a law enforcement officer for observation for a period of ten (10) days. The owner of the dog may have the dog impounded for ten (10) days with a private veterinarian licensed to practice veterinary medicine within the state. If it is determined within such period of time that the dog has rabies, then the dog shall be destroyed.

SECTION 6. (1) The provisions of this act shall not apply if the dog is owned by the United States or the State of Mississippi, or an agency thereof, and it is engaged in assisting in the performance of law enforcement or military duties.

(2) The provisions of this act shall not be construed as prohibiting a person from:

(a) Engaging in lawful activities that are regulated by the Mississippi Department of Wildlife, Fisheries and Parks, including hunting, trapping and wildlife management, provided that if a violation of Section 3(4) of this act occurs contemporaneously with the lawful activities, then the owner of the dangerous dog that is involved in the violation is subject to all penalties for violations of Section 3 of this act.



(b) Defending or protecting himself or herself or another person from physical or economic injury being threatened or caused by a dangerous dog.

(c) Injuring or killing an animal, except those animals otherwise protected by state or federal law, reasonably believed to constitute a threat of injury or death to humans, livestock, poultry or other domestic or lawfully kept animals.

SECTION 7. Section 41-53-11, Mississippi Code of 1972, is amended as follows:

41-53-11. * * * Except as may be provided otherwise in Sections 1 through 6 of this act, or in Chapter 41, Title 97, Mississippi Code of 1972, it shall be lawful and it shall be * * * the duty for any sheriff, conservation officer or * * * law enforcement officer of a county or municipality to * * * destroy any dog * * * found running at large on whose neck there is no such collar and tag. No action shall be maintained by the owner for such killing. However, before the dog may be destroyed, it shall be the duty of said officer * * * to first keep * * * the dog * * * for a period of * * * ten (10) days and notify the sheriff of * * * the county that he has * * * confined the dog, * * * giving the sheriff a description of same. If anyone proves himself to be the owner of * * * the dog * * *, it shall be delivered to the owner.

* * *



250 **SECTION 8.** Section 97-41-3, Mississippi Code of 1972, is
251 amended as follows:

252 97-41-3. (1) Any sheriff, constable, policeman, or agent of
253 a society for the prevention of cruelty to animals may kill, or
254 cause to be killed, any animal other than a dog or cat found
255 neglected or abandoned, if in the opinion of three (3) respectable
256 citizens it is injured or diseased past recovery, or by age has
257 become useless.

258 (2) (a) After all reasonable attempts have been made to
259 locate the legal owner of a dog or cat that is found maimed,
260 wounded, injured or diseased, the dog or cat may be euthanized, or
261 caused to be euthanized, by:

262 (i) A law enforcement officer;

263 (ii) A veterinarian licensed in Mississippi;

264 (iii) An employee of an agency or department of a
265 political subdivision that is charged with the control or welfare
266 of dogs or cats within the subdivision; or

267 (iv) An employee or agent of an organization that
268 has the purpose of protecting the welfare of or preventing cruelty
269 to dogs or cats and that possesses nonprofit status under the
270 United States Internal Revenue Code.

271 (b) The provisions of this subsection (2) shall not be
272 construed to prevent the immediate euthanasia by the persons
273 enumerated in this subsection or by any other person, if it is
274 necessary to prevent unrelievable suffering of the dog or cat.



(3) Any person acting in good faith and without malice pursuant to this section shall be immune from civil and criminal liability for that action.

(4) The provisions of this section shall not be construed to prevent a law enforcement officer from destroying, or using deadly force when confronting, a dangerous dog pursuant to Sections 1 through 6 of this act.

SECTION 9. Section 97-41-16, Mississippi Code of 1972, is amended as follows:

97-41-16. (1) (a) The provisions of this section shall be known and may be cited as the "Mississippi Dog and Cat Pet Protection Law of 2011."

(b) The intent of the Legislature in enacting this law is to provide only for the protection of domesticated dogs and cats, as these are the animals most often serving as the loyal and beloved pets of the citizens of this state. Animals other than domesticated dogs and cats are specifically excluded from the enhanced protection described in this section for dogs and cats. The provisions of this section do not apply, and shall not be construed as applying, to any animal other than a domesticated dog or cat.

(2) (a) If a person shall intentionally or with criminal negligence wound, deprive of adequate shelter, food or water, or carry or confine in a cruel manner, any domesticated dog or cat, or cause any person to do the same, then he or she shall be guilty



of the offense of simple cruelty to a dog or cat. A person who is convicted of the offense of simple cruelty to a dog or cat shall be guilty of a misdemeanor and fined not more than One Thousand Dollars (\$1,000.00), or imprisoned not more than six (6) months, or both.

(b) If a person with malice shall intentionally torture, mutilate, maim, burn, starve or disfigure any domesticated dog or cat, or cause any person to do the same, then he or she shall be guilty of the offense of aggravated cruelty to a dog or cat.

(i) A person who is convicted of a first offense of aggravated cruelty to a dog or cat shall be guilty of a misdemeanor and fined not more than Two Thousand Five Hundred Dollars (\$2,500.00), or imprisoned for not more than six (6) months, or both.

(ii) A person who is convicted of a second or subsequent offense of aggravated cruelty to a dog or cat, the offenses being committed within a period of five (5) years, shall be guilty of a felony and fined not more than Five Thousand Dollars (\$5,000.00) and imprisoned for not less than one (1) year nor more than five (5) years.

(c) A conviction entered upon a plea of nolo contendere to a charge of aggravated cruelty to a dog or cat shall be counted as a conviction for the purpose of determining whether a later conviction is a first or subsequent offense.



(d) For purposes of this section, one or more alleged acts of the offenses of simple cruelty to a dog or cat or aggravated cruelty to a dog or cat, committed against one or more domesticated dogs or cats, or any combination thereof, shall constitute a single offense if the alleged acts occurred at the same time.

(3) In addition to such fine or imprisonment which may be imposed:

(a) The court shall order that restitution be made to the owner of such dog or cat. The measure for restitution in money shall be the current replacement value of such loss and the actual veterinarian fees, medicine, special supplies, loss of income and other costs incurred as a result of actions in violation of subsection (2) of this section; and

(b) The court may order that:

(i) The reasonable costs of sheltering, transporting and rehabilitating the dog or cat, and any other costs directly related to the care of the dog or cat, be reimbursed to:

1. Any law enforcement agency; or
2. Any agency or department of a political subdivision that is charged with the control, protection or welfare of dogs or cats within the subdivision. The agency or department may reimburse a nongovernmental organization for such costs, if the organization possesses nonprofit status under the



United States Internal Revenue Code and has the purpose of protecting the welfare of, or preventing cruelty to, dogs or cats.

(ii) The person convicted:

1. Receive a psychiatric or psychological evaluation and counseling or treatment for a length of time as prescribed by the court. The cost of any evaluation, counseling and treatment shall be paid by the offender upon order of the court, up to a maximum amount that is no more than the jurisdictional limit of the sentencing court.

2. Perform community service for a period not exceeding the applicable maximum term of imprisonment that may be imposed for conviction of the offense.

3. Be enjoined from employment in any position that involves the care of a dog or cat, or in any place where dogs or cats are kept or confined, for a period which the court deems appropriate.

(4) (a) Nothing in this section shall be construed as prohibiting a person from:

(i) Defending himself or herself or another person from physical or economic injury being threatened or caused by a dog or cat.

(ii) Defending himself or herself or another person from physical or economic injury being threatened or caused by a dangerous dog, or taking any other action pursuant to the



provisions of Sections 1 through 6 of this act, which is the
Mississippi Regulation of Dangerous Dogs Act.

(* * *iii) Injuring or killing an unconfined dog
or cat on the property of the person, if the unconfined dog or cat
is believed to constitute a threat of physical injury or damage to
any domesticated animal under the care or control of such person.

(* * *iv) Acting under the provisions of Section
95-5-19 to protect poultry or livestock from a trespassing dog
that is in the act of chasing or killing the poultry or livestock,
or acting to protect poultry or livestock from a trespassing cat
that is in the act of chasing or killing the poultry or livestock.

(* * *y) Engaging in practices that are licensed
or lawful under the Mississippi Veterinary Practice Act, Section
73-39-51 et seq., or engaging in activities by any licensed
veterinarian while following accepted standards of practice of the
profession within the State of Mississippi, including the
euthanizing of a dog or cat.

(* * *vi) Rendering emergency care, treatment, or
assistance to a dog or cat that is abandoned, ill, injured, or in
distress, if the person rendering the care, treatment, or
assistance is acting in good faith.

(* * *vii) Performing activities associated with
accepted agricultural and animal husbandry practices with regard
to livestock, poultry or other animals, including those activities
which involve:



399 1. Using dogs in such practices.
400 2. Raising, managing and using animals to
401 provide food, fiber or transportation.
402 3. Butchering animals and processing food.
403 (* * * viii) Training for, or participating in, a
404 rodeo, equine activity, dog show, event sponsored by a kennel club
405 or other bona fide organization that promotes the breeding or
406 showing of dogs or cats, or any other competitive event which
407 involves the lawful use of dogs or cats.
408 (* * * ix) Engaging in accepted practices of dog
409 or cat identification.
410 (* * * x) Engaging in lawful activities that are
411 regulated by the Mississippi Department of Wildlife, Fisheries and
412 Parks or the Mississippi Department of Marine Resources, including
413 without limitation, hunting, trapping, fishing, and wildlife and
414 seafood management.
415 (* * * xi) Performing scientific, research,
416 medical and zoological activities undertaken by research and
417 education facilities or institutions that are:
418 1. Regulated under the provisions of the
419 Animal Welfare Act, 7 USCS 2131 et seq., as in effect on July 1,
420 2011;
421 2. Regulated under the provisions of the
422 Health Research Extension Act of 1985, Public Law No. 99-158; or



3. Subject to any other applicable state or federal law or regulation governing animal research as in effect on July 1, 2011.

(* * *xii) Disposing of or destroying certain dogs under authority of Sections 19-5-50, 21-19-9 and 41-53-11, which allow counties, municipalities and certain law enforcement officers to destroy dogs running at large without proper identification indicating that such dogs have been vaccinated for rabies.

(* * *xiii) Engaging in professional pest control activities, including those activities governed by the Mississippi Pesticide Law of 1975, Section 69-23-1 et seq.; professional services related to entomology, plant pathology, horticulture, tree surgery, weed control or soil classification, as regulated under Section 69-19-1 et seq.; and any other pest control activities conducted in accordance with state law.

(* * *xiv) Performing the humane euthanization of a dog or cat pursuant to Section 97-41-3.

(b) If the owner or person in control of a dog or cat is precluded, by natural or other causes beyond his reasonable control, from acting to prevent an act or omission that might otherwise constitute an allegation of the offense of simple cruelty to a dog or cat or the offense of aggravated cruelty to a dog or cat, then that person shall not be guilty of the offense. Natural or other causes beyond the reasonable control of the



person include, without limitation, acts of God, declarations of disaster, emergencies, acts of war, earthquakes, hurricanes, tornadoes, fires, floods or other natural disasters.

(5) The provisions of this section shall not be construed to:

(a) Apply to any animal other than a dog or cat.

(b) Create any civil or criminal liability on the part of the driver of a motor vehicle if the driver unintentionally injures or kills a dog or cat as a result of the dog or cat being accidentally hit by the vehicle.

(6) (a) Except as otherwise provided in Section 97-35-47 for the false reporting of a crime, a person, who in good faith and acting without malice, reports a suspected incident of simple cruelty to a dog or cat, or aggravated cruelty to a dog or cat, to a local animal control, protection or welfare organization, a local law enforcement agency, or the Mississippi Department of Public Safety, shall be immune from civil and criminal liability for reporting the incident.

(b) A veterinarian licensed in Mississippi or a person acting at the direction of a veterinarian licensed in Mississippi, who in good faith and acting without malice, participates in the investigation of an alleged offense of simple or aggravated cruelty to a dog or cat, or makes a decision or renders services regarding the care of a dog or cat that is involved in the



investigation, shall be immune from civil and criminal liability for those acts.

(7) Other than an agency or department of a political subdivision that is charged with the control, protection or welfare of dogs or cats within the subdivision, any organization that has the purpose of protecting the welfare of, or preventing cruelty to, dogs or cats, shall register the organization with the sheriff of the county in which the organization operates a physical facility for the protection, welfare or shelter of dogs or cats, on or before the first day of October each year. The provisions of this subsection (7) shall apply to any organization that has the purpose of protecting the welfare of dogs or cats, or preventing cruelty to dogs or cats, regardless of whether the organization also protects animals other than dogs or cats.

(8) Nothing in this section shall limit the authority of the governing authorities of a municipality or county to adopt ordinances, rules, regulations or resolutions which may be, in whole or in part, more restrictive than the provisions of this section, and in those cases, the more restrictive ordinances, rules, regulations or resolutions will govern.

SECTION 10. Section 97-41-19, Mississippi Code of 1972, is amended as follows:

97-41-19. (1) If any person (a) shall sponsor, promote, stage or conduct a fight or fighting match between dogs, or (b) shall wager or bet, promote or encourage the wagering or betting



of any money or other valuable thing upon any such fight or upon the result thereof, or (c) shall own, possess or have custody of a dog with the intent to willfully enter it or to participate in any such fight, or (d) shall train or transport a dog for the purposes of participation in any such fight, he shall be guilty of a felony and, upon conviction, shall be punished by a fine of not less than One Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00), or by imprisonment in the State Penitentiary for a term of not less than one (1) nor more than three (3) years, or by both such fine and imprisonment, in the discretion of the court.

(2) If any person shall be present, as a spectator, at any location where preparations are being made for an exhibition of a fight between dogs with the intent to be present at such preparations, or if any person shall be present at an exhibition of a fight between dogs with the intent to be present at such exhibition, he shall be guilty of a felony and, upon conviction, shall be punished by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or by imprisonment in the State Penitentiary for a term of not more than one (1) year, or by both such fine and imprisonment, in the discretion of the court.

(3) Any law enforcement officer making an arrest under subsection (1) of this section may lawfully take possession of all dogs and all paraphernalia, implements, equipment or other



property used in violation of subsection (1) of this section. Such officer shall file with the circuit court of the county within which the alleged violation occurred an affidavit stating therein (a) the name of the person charged, (b) a description of the property taken, (c) the time and place of the taking, (d) the name of the person who claims to own such property, if known, and (e) that the affiant has reason to believe, stating the ground of such belief, that the property taken was used in such violation. He shall thereupon deliver the property to such court which shall, by order in writing, place such dogs, paraphernalia, implements, equipment, or other property in the custody of a licensed veterinarian, the local humane society or other animal welfare agency, or other suitable custodian, to be kept by such custodian until the conviction or final discharge of the accused, and shall send a copy of such order without delay to the district attorney of the county. The custodian named and designated in such order shall immediately assume the custody of such property and shall retain same, subject to order of the court.

Upon the certification of a licensed veterinarian or officer of the humane society or animal welfare agency that, in his professional judgment, a dog which has been seized is not likely to survive the final disposition of the charges or that, by reason of the physical condition of the dog, it should be humanely euthanized before such time, the court may order the dog humanely euthanized. The court shall make its finding of whether to issue



such an order within seven (7) days from the certification by the veterinarian or officer of the humane society or animal welfare agency. The owner of a dog which is euthanized without an order of the court with such certification of a licensed veterinarian or officer of the humane society or other animal welfare agency shall have a right of action for damages against the department or agency by which the arresting or seizing officer is employed. Upon conviction of the person charged with a violation of subsection (1) of this section, all dogs seized shall be adjudged by the court to be forfeited and the court shall order a humane disposition of the same. In no event shall the court order the dog to be euthanized without the certification of a licensed veterinarian or officer of the humane society or other animal welfare agency that, in his judgment, the dog is not likely to survive or that, by reason of its physical condition, the dog should be humanely euthanized. In the event of the acquittal or final discharge without conviction of the accused, the court shall direct the delivery of the property so held in custody to the owner thereof. All reasonable expenses incurred by the custodian of seized dogs and property shall be charged as costs of court, to be taxed against the owner or county in the discretion of the court.

(4) Nothing in subsection (1) or (3) of this section shall prohibit any of the following:



571 (a) The use of dogs in the management of livestock, by
572 the owner of such livestock or other persons in lawful custody
573 thereof;

574 (b) The use of dogs in lawful hunting; and

575 (c) The training of dogs for any purpose not prohibited
576 by law.

577 (5) A conviction and imposition of a sentence under this
578 section does not prevent a conviction and imposition of a sentence
579 under any other applicable provision of law.

580 **SECTION 11.** This act shall take effect and be in force from
581 and after July 1, 2015.

