

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.

**Act 33 of the Regular Session**

1 State of Arkansas  
2 87th General Assembly  
3 Regular Session, 2009  
4

*As Engrossed: S1/21/09*

**A Bill**

SENATE BILL 77

5 By: Senators Madison, J. Jeffress, Salmon, Whitaker, R. Thompson, D. Johnson, Bookout, Broadway,  
6 Bryles, Capps, Crumbly, Elliott, Glover, Laverty, Luker, P. Malone, T. Smith, Teague, H. Wilkins, D.  
7 Wyatt

8 By: Representatives Adcock, Webb, Saunders, Wills, L. Smith, Davenport, Abernathy, Allen, T. Baker,  
9 Breedlove, J. Brown, Carroll, Carter, Cash, Cole, D. Creekmore, J. Edwards, George, Harrelson, House,  
10 Hoyt, D. Hutchinson, Hyde, Lindsey, Moore, Nickels, Nix, Pennartz, Pierce, Powers, J. Roebuck, T.  
11 Rogers, G. Smith, Stewart, Tyler, Wagner, B. Wilkins, Williams, *M. Burris, Carnine, Cheatham, Cook,*  
12 *Dunn, Gaskill, Kerr, Kidd, Lovell, Maloch, Reep, Sample, Shelby*  
13  
14

**For An Act To Be Entitled**

15 AN ACT CONCERNING AGGRAVATED CRUELTY TO DOGS,  
16 CATS, AND HORSES AND RELATED OFFENSES; CONCERNING  
17 ANIMAL MANAGEMENT PRACTICES; AND FOR OTHER  
18 PURPOSES.  
19

**Subtitle**

20 AN ACT CONCERNING AGGRAVATED CRUELTY TO  
21 DOGS, CATS, AND HORSES AND RELATED  
22 OFFENSES AND CONCERNING ANIMAL  
23 MANAGEMENT PRACTICES.  
24  
25  
26  
27

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

29  
30 SECTION 1. Arkansas Code §§ 5-4-701 and 5-4-702 are amended to read as  
31 follows:

32 5-4-701. Definitions.

33 As used in this subchapter:

34 (1) "Child" means a person under sixteen (16) years of age; and

35 (2) "In the presence of a child" means in the physical presence of a



1 child or knowing or having reason to know that a child is present and may see  
2 or hear an act of assault, battery, domestic battering, aggravated cruelty to  
3 a dog, cat, or horse, or assault on a family member or household member.

4  
5 5-4-702. Enhanced penalties for offenses committed in presence of a  
6 child.

7 (a) Any person who commits a felony offense involving assault,  
8 battery, domestic battering, or assault on a family member or household  
9 member, ~~as provided in~~ under § 5-13-201 et seq. or § 5-26-303 – ~~5-26-311~~ 5-  
10 26-306, may be subject to an enhanced sentence of an additional term of  
11 imprisonment of not less than one (1) year and not greater than ten (10)  
12 years if the offense is committed in the presence of a child.

13 (b) Any person who commits the offense of aggravated cruelty to a dog,  
14 cat, or horse under § 5-62-104, may be subject to an enhanced sentence of an  
15 additional term of imprisonment not to exceed five (5) years if the offense  
16 is committed in the presence of a child.

17 (c)(1) To seek an enhanced penalty established in this section, a  
18 prosecuting attorney shall notify the defendant in writing that the defendant  
19 is subject to the enhanced penalty.

20 (2) If the defendant is charged by information or indictment,  
21 the prosecuting attorney may include the written notice in the information or  
22 indictment.

23 ~~(e)(d)~~ The enhanced portion of the sentence is consecutive to any  
24 other sentence imposed.

25 ~~(d)(e)~~ Any person convicted under this section is not eligible for  
26 early release on parole or community correction transfer for the enhanced  
27 portion of the sentence.

28  
29 SECTION 2. Arkansas Code § 5-62-101 is repealed.

30 ~~5-62-101. Cruelty to animals.~~

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

33 ~~(1) Abandons any animal;~~

34 ~~(2) Subjects any animal to cruel mistreatment;~~

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

36 ~~or~~

1           ~~(4) Kills or injures any animal belonging to another without~~  
2 ~~legal privilege or consent of the owner.~~

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

4           ~~(c)(1) In addition to any other penalty provided by law, the court may~~  
5 ~~order any person found guilty of cruelty to animals to receive a psychiatric~~  
6 ~~or psychological evaluation, and if determined appropriate, psychiatric or~~  
7 ~~psychological counseling or treatment.~~

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

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

13  
14          SECTION 3. Arkansas Code Title 5, Chapter 62, Subchapter 1 is amended  
15 to add the following new sections:

16          5-62-102. Definitions.

17          As used in this subchapter:

18                 (1) "Abandon" means to desert, surrender, forsake, or to give up  
19 absolutely;

20                 (2) "Animal" means any living vertebrate creature, except human  
21 beings and fish;

22                 (3) "Animal control officer" means an officer employed by or  
23 under contract with an agency of the state, county, municipality, or other  
24 governmental or political subdivision of the state which is responsible for  
25 animal control operations in its jurisdiction;

26                 (4)(A) "Animal husbandry practices" means the breeding, raising,  
27 production, and management of animals.

28                 (B) "Animal husbandry practices" includes without  
29 limitation dehorning, docking, and castration;

30                 (5) "Animal identification" means the use of a microchip,  
31 tattoo, an ear tag, an ear notch, branding, or any similar technology to  
32 identify the owner of an animal and that is generally accepted for the breed,  
33 species, and type of animal being identified;

34                 (6) "Appropriate place of custody" means:

35                         (A) A nonprofit animal shelter;

36                         (B) An animal pound;

1                   (C) A location owned or managed by a society incorporated  
2 for the prevention of cruelty to animals;

3                   (D) A location owned or managed by an agency of the state,  
4 county, municipality, or other governmental or political subdivision of the  
5 state that is responsible for animal control operations in its jurisdiction;

6                   (E) A location owned or managed by a public or private  
7 custodian that provides shelter, care, and necessary medical treatment to an  
8 animal; or

9                   (F) The residence or other place owned by the owner of the  
10 animal, if approved by written order of a court of competent jurisdiction;

11                   (7) "Competitive activity" means a lawful activity that is  
12 generally recognized as having an established schedule of events involving  
13 competition of animals or exhibitions of animals;

14                   (8) "Cruel mistreatment" means any act that causes or permits  
15 the continuation of unjustifiable pain or suffering;

16                   (9) "Equine" means a horse, pony, mule, donkey, or hinny;

17                   (10) "Equine activity" means:

18                   (A) Equine participation in equine shows, fairs,  
19 competitions, performances, or parades that involve any breed of equine and  
20 any of the equine disciplines, including without limitation dressage, hunter  
21 and jumper horse shows, grand prix jumping, three-day events, combined  
22 training, rodeos, pulling, cutting, polo, steeplechasing, endurance trail  
23 riding and western games, and hunting;

24                   (B) Teaching and training activities of an equine show or  
25 rodeo;

26                   (C) Boarding an equine;

27                   (D) Riding, inspecting, or evaluating an equine owned by  
28 another person, whether or not the owner has received some monetary  
29 consideration or other thing of value for the use of the equine or is  
30 permitting a prospective purchaser of the equine to ride, inspect, or  
31 evaluate the equine; or

32                   (E) Any activity that involves riding or hunting;

33                   (11) "Euthanizing" means humanely killing an animal accomplished  
34 by a method that utilizes anesthesia produced by an agent that causes  
35 painless loss of consciousness and subsequent death, and administered by a  
36 licensed veterinarian or a euthanasia technician licensed by the federal Drug

1 Enforcement Administration and certified by the Department of Health;

2 (12) "Humanely killing" means causing the death of an animal in  
3 a manner intended to limit the pain or suffering of the animal as much as  
4 reasonably possible under the circumstances;

5 (13) "Law enforcement officer" means any public servant vested  
6 by law with a duty to maintain public order or to make an arrest for an  
7 offense;

8 (14) "Licensed veterinarian" means a veterinarian licensed to  
9 engage in the practice of veterinary medicine in Arkansas in accordance with  
10 applicable Arkansas laws;

11 (15) "Livestock" means a horse, mule, bovine animal, goat,  
12 sheep, swine, chicken, duck, or similar animal or fowl commonly raised or  
13 used for farm purposes;

14 (16) "Local law enforcement agency" means the police force of a  
15 municipality or the office of the county sheriff;

16 (17) "Owner" means a person that:

17 (A) Has a right of property or title in an animal;

18 (B) Keeps or harbors an animal;

19 (C) Has an animal in his, her, or its care;

20 (D) Acts as an animal's custodian; or

21 (E) Knowingly permits an animal to remain on or about any  
22 premises occupied by him or her or it;

23 (18) "Person" means an individual, company, partnership, limited  
24 liability company, joint venture, joint agreement, mutual association or  
25 other, corporation, estate, trust, business trust, receiver, trustee,  
26 syndicate, or any other private entity;

27 (19) "Professional pest control activities" means those  
28 activities governed by the Arkansas Pesticide Control Act, § 2-16-401 et  
29 seq., and the Arkansas Pest Control Law, § 17-37-101 et seq.;

30 (20) "Rodeo" means an event involving a practice accepted by the  
31 Professional Rodeo Cowboys Association on January 1, 2009; and

32 (21) "Torture" means:

33 (A) The knowing commission of physical injury to a dog,  
34 cat, or horse by the infliction of inhumane treatment or gross physical  
35 abuse, causing the dog, cat, or horse intensive or prolonged pain, serious  
36 physical injury, or thereby causing death; and

1                   (B) Mutilating, maiming, burning, poisoning, drowning, or  
2 starving a dog, cat, or horse.

3  
4           5-62-103. Offense of cruelty to animals.

5           (a) A person commits the offense of cruelty to animals if he or she  
6 knowingly:

7                   (1) Subjects any animal to cruel mistreatment;

8                   (2) Kills or injures any animal owned by another person without  
9 legal privilege or consent of the owner;

10                   (3) Abandons an animal at a location without providing for the  
11 animal's continued care;

12                   (4) Fails to supply an animal in his or her custody with a  
13 sufficient quantity of wholesome food and water;

14                   (5) Fails to provide an animal in his or her custody with  
15 adequate shelter that is consistent with the breed, species, and type of  
16 animal; or

17                   (6) Carries or causes to be carried in or upon any motorized  
18 vehicle or boat an animal in a cruel or inhumane manner.

19           (b) For purposes of this section, each alleged act of the offense of  
20 cruelty to animals committed against more than one (1) animal may constitute  
21 a separate offense.

22           (c) Any person who pleads guilty or nolo contendere to or is found  
23 guilty of cruelty to animals is guilty of an unclassified misdemeanor and  
24 shall be:

25                   (1) Fined no less than one hundred fifty dollars (\$150) and no  
26 more than one thousand dollars (\$1,000);

27                   (2) Either:

28                           (A) Imprisoned for no less than one (1) day and no more  
29 than one (1) year in jail; or

30                           (B) Ordered to complete community service; and

31                   (3)(A) Both:

32                           (i) Ordered to complete a psychiatric or  
33 psychological evaluation; and

34                           (ii) If determined appropriate, psychiatric or  
35 psychological counseling or treatment for a length of time prescribed by the  
36 court.

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

4           (d) Any person who pleads guilty or nolo contendere to or is found  
5 guilty of the offense of cruelty to animals for a second offense occurring  
6 within five (5) years of a previous offense of cruelty to animals or of any  
7 other equivalent penal offense of another state or foreign jurisdiction is  
8 guilty of an unclassified misdemeanor and shall be:

9                   (1) Fined no less than four hundred dollars (\$400) and no more  
10 than one thousand dollars (\$1,000);

11                   (2) Either:

12                   (A) Imprisoned for no fewer than seven (7) days and no  
13 more than one (1) year; or

14                   (B) Ordered to complete no fewer than thirty (30) days of  
15 community service; and

16                   (3)(A) Both:

17                   (i) Ordered to receive a psychiatric or  
18 psychological evaluation; and

19                   (ii) If determined appropriate, ordered to receive  
20 psychiatric or psychological counseling or treatment for a length of time  
21 prescribed by the court.

22                   (B) The cost of any psychiatric or psychological  
23 evaluation, counseling, or treatment may be ordered paid by the person up to  
24 the jurisdictional limit of the court.

25           (e) Any person who pleads guilty or nolo contendere to or is found  
26 guilty of the offense of cruelty to animals for a third offense occurring  
27 within five (5) years of a previous offense of cruelty to animals or of any  
28 other equivalent penal offense of another state or foreign jurisdiction is  
29 guilty of an unclassified misdemeanor and shall be:

30                   (1) Fined no less than nine hundred dollars (\$900) and no more  
31 than one thousand dollars (\$1,000);

32                   (2) Either:

33                   (A) Imprisoned for no fewer than ninety (90) days and no  
34 more than one (1) year; or

35                   (B) Ordered to complete no fewer than ninety (90) days of  
36 community service; and

1           (3) Both:

2                   (A) Ordered to receive a psychiatric or psychological  
3 evaluation; and

4                   (B) If determined appropriate, ordered to receive  
5 psychiatric or psychological counseling or treatment for a length of time  
6 prescribed by the court.

7           (f)(1) Any person who pleads guilty or nolo contendere to or is found  
8 guilty of cruelty to animals for a fourth or subsequent offense occurring  
9 within (5) five years of a previous offense of cruelty to animals or of any  
10 other equivalent penal offense of another state or foreign jurisdiction is  
11 guilty of a Class D felony and shall be:

12                   (A) Ordered to receive a psychiatric or psychological  
13 evaluation; and

14                   (B) If determined appropriate, ordered to receive  
15 psychiatric or psychological counseling or treatment for a length of time  
16 prescribed by the court.

17           (2) The cost of any psychiatric or psychological evaluation,  
18 counseling, or treatment may be ordered paid by the person.

19           (g)(1) For the sole purpose of calculating the number of previous  
20 offenses under subsections (d), (e), and (f) of this section, all offenses  
21 that are committed against one (1) or more animals and as part of the same  
22 criminal episode are a single offense.

23           (2) As used in this section, "criminal episode" means an act  
24 that constitutes the offense of cruelty to animals that is committed by a  
25 person against one (1) or more animals within a period of twenty-four (24)  
26 hours.

27  
28           5-62-104. Offense of aggravated cruelty to a dog, cat, or horse.

29           (a) A person commits the offense of aggravated cruelty to a dog, cat,  
30 or horse if he or she knowingly tortures any dog, cat, or horse.

31           (b) A person who pleads guilty or nolo contendere to or is found  
32 guilty of aggravated cruelty to a dog, cat, or horse:

33                   (1) Shall be guilty of a Class D felony;

34                   (2) May be ordered to perform up to four hundred (400) hours of  
35 community service; and

36           (3) Both:



1                   (A) Ordered to receive a psychiatric or psychological  
2 evaluation; and

3                   (B) If determined appropriate, ordered to receive  
4 psychiatric or psychological counseling or treatment for a length of time  
5 prescribed by the court.

6           (b) A person who pleads guilty or nolo contendere to or is found  
7 guilty of aggravated cruelty to a dog, cat, or horse for a subsequent offense  
8 occurring within five (5) years from a previous offense of aggravated cruelty  
9 to a dog, cat, or horse or of any other equivalent penal offense of another  
10 state or foreign jurisdiction is guilty of a Class C felony and shall be:

11                   (1) Ordered to receive a psychiatric or psychological  
12 evaluation; and

13                   (2) If determined appropriate, ordered to receive psychiatric or  
14 psychological counseling or treatment for a length of time prescribed by the  
15 court.

16           (c) The cost of any psychiatric or psychological evaluation,  
17 counseling, or treatment ordered under this section shall be paid by the  
18 person ordered to receive the psychiatric or psychological evaluation,  
19 counseling, or treatment.

20           (d) For purposes of this section, each alleged act of the offense of  
21 aggravated cruelty to a dog, cat, or horse committed against more than one  
22 (1) dog, cat or horse may constitute a separate offense.

23           (e)(1) For the sole purpose of calculating the number of previous  
24 offenses under subsection (b) of this section, all offenses of aggravated  
25 cruelty to a dog, cat or horse that are committed against one (1) or more  
26 dogs, cats, or horses, as part of the same criminal episode are a single  
27 offense.

28                   (2) As used in this section, "criminal episode" means an act  
29 that constitutes the offense of aggravated cruelty to a dog, cat, or horse,  
30 committed by a person against one (1) or more dogs, cats, or horses within a  
31 period of twenty-four (24) hours.

32  
33           5-62-105. Exemptions.

34           (a) This subchapter does not prohibit any of the following activities:

35                   (1) Reasonably acting to protect a person or a person's property  
36 from damage;

1           (2) Injuring or humanely killing an animal on the property of a  
2 person if the person is acting as a reasonable person would act under similar  
3 circumstances and if the animal is reasonably believed to constitute a threat  
4 of physical injury or damage to any animal under the care or control of the  
5 person;

6           (3) Engaging in practices lawful under the Arkansas Veterinary  
7 Medical Practice Act, § 17-101-101 et seq., or engaging in activities by or  
8 at the direction of any licensed veterinarian while following accepted  
9 standards of practice of the profession, including the euthanizing of an  
10 animal;

11           (4) Rendering emergency care, treatment, or assistance,  
12 including humanely killing an animal, that is abandoned, ill, injured, or in  
13 distress related to an accident or disaster, or where there appears to be no  
14 reasonable probability that the life or usefulness of the animal can be  
15 saved, if the person rendering the emergency care, treatment, or assistance  
16 is:

17                   (A) Acting in good faith;

18                   (B) Not receiving compensation; and

19                   (C) Acting as a reasonable person would act under similar  
20 circumstances;

21           (5) Performing generally accepted animal husbandry practices;

22           (6) Performing professional pest control activities in a lawful  
23 manner;

24           (7) Performing generally accepted training for or participating  
25 in a rodeo, equine activity, or competitive activity;

26           (8) Engaging in generally accepted practices of animal  
27 identification;

28           (9) Engaging in the taking of game or fish through hunting,  
29 trapping, or fishing, or engaging in any other activity authorized by  
30 Amendment 35 of the Arkansas Constitution, by § 15-41-101 et seq., or by any  
31 Arkansas State Game and Fish Commission regulation promulgated under either  
32 Amendment 35 of the Arkansas Constitution or statute;

33           (10) Conducting activities undertaken by research and education  
34 facilities or institutions that are:

35                   (A) Regulated under the Animal Welfare Act, 7 U.S.C. 2131  
36 et seq., as in effect on January 1, 2009;

1                   (B) Regulated under the Health Research Extension Act of  
2 1985, Pub. L. No. 99-158; or

3                   (C) Subject to any federal law or regulation governing  
4 animal research that is in effect on January 1, 2009; and

5                   (11) Applying generally accepted methods used to train dogs  
6 engaged in hunting, field trials, service work, obedience training, or any  
7 similar activities authorized by the Arkansas State Game and Fish Commission.

8                   (b) In addition to the exemptions in subsection (a) of this section,  
9 this subchapter does not prohibit a person from engaging in or performing  
10 conduct that is otherwise permitted under the laws of this state or of the  
11 United States, including without limitation agricultural activities,  
12 butchering, food processing, marketing, medical activities, zoological  
13 activities, or exhibitions.

14  
15                   5-62-106. Disposition of animal.

16                   (a)(1) Unless otherwise ordered by a court, for purposes of this  
17 subchapter, an animal that has been seized by a law enforcement officer or  
18 animal control officer under this subchapter shall remain at the appropriate  
19 place of custody for a period of at least fifteen (15) consecutive days,  
20 including weekends and holidays, after written notice is received by the  
21 owner.

22                   (2) The written notice shall:

23                   (A) Be left at the last known address of the owner; and

24                   (B) Contain a description of the animal seized, the date  
25 seized, the name and contact information of the law enforcement or animal  
26 control officer seizing the animal, the location of the animal, and the  
27 reason for the seizure.

28                   (3) If the owner of the animal cannot be determined, a written  
29 notice regarding the seizure of the animal shall be conspicuously posted  
30 where the animal is seized at the time the seizure occurs if practicable and  
31 a notice shall be published in a local newspaper of general circulation in  
32 the jurisdiction where the animal was seized at least two (2) times each week  
33 for two (2) consecutive weeks, with the first notice published within three  
34 (3) days of the seizure, and no less than at least five (5) days before a  
35 hearing conducted under this section.

36                   (4)(A) After written notice is received by the owner or

1 published under subdivision (a)(3) of this section, the owner within fifteen  
2 (15) business days may petition the district court having jurisdiction where  
3 the animal was seized to determine the custody of the animal.

4 (B) If a petition is not filed by the owner within the  
5 time period prescribed by this section, the prosecuting attorney shall file a  
6 petition in the district court to divest the owner of ownership of the animal  
7 and, after a hearing, the district court may order the animal transferred to  
8 an appropriate place of custody, euthanized, or any other disposition the  
9 district court deems appropriate.

10 (b)(1)(A) When an owner files a petition under subsection (a) of this  
11 section and the district court determines that the owner shall be divested of  
12 custody of the animal, the district court shall order the owner of the animal  
13 to post a bond with the district court in an amount the district court  
14 determines is sufficient to care for the animal for at least thirty (30)  
15 days.

16 (B) The bond shall not prevent the appropriate place of  
17 custody from disposing of the animal at the end of the thirty-day period  
18 covered by the bond, unless a person claiming an interest in the animal posts  
19 a new bond for an amount determined by the court for an additional thirty-day  
20 period.

21 (2)(A) If a petition has been filed by the owner of an animal or  
22 the prosecuting attorney under subsection (a) of this section, a person  
23 claiming an interest in an animal seized may prevent disposition of the  
24 animal as provided in subsection (a) of this section by posting a bond with  
25 the district court in an amount the district court determines is sufficient  
26 to care for the animal for at least thirty (30) days.

27 (B) If a person who claims an interest in the animal has  
28 not posted bond in accordance with subdivision (b)(2)(A) of this section, the  
29 district court shall determine final disposition of the animal in accordance  
30 with reasonable practices for the humane treatment of animals.

31 (c)(1) A diseased or injured animal:

32 (A) Seized under this section may be appropriately treated  
33 for injury or disease without a court order; and

34 (B) Is subject to being euthanized without a court order  
35 when it is determined by a licensed veterinarian that euthanizing is  
36 necessary to prevent the suffering of the animal.

1           (2)(A) Except as provided in subdivision (c)(1) of this section,  
2 an appropriate place of custody shall not alter or modify an animal in any  
3 manner, including without limitation the neutering, spaying, or castration of  
4 the animal, without:

5                   (i) A written court order that is issued after a  
6 petition is filed by the prosecuting attorney requesting alteration or  
7 modification and a hearing involving all interested parties as set forth in  
8 subsection (a) of this section; or

9                   (ii) The written consent of the owner.

10                   (B) A violation of this subsection is a Class B  
11 misdemeanor.

12           (d)(1) If a person pleads guilty or nolo contendere to or is found  
13 guilty of either the offense of cruelty to animals or the offense of  
14 aggravated cruelty to a dog, cat, or horse, and if that person is also the  
15 owner of the animal, the court shall divest the person of ownership of the  
16 animal, and the court shall either:

17                   (A) Order the animal given to an appropriate place of  
18 custody;

19                   (B) Order the animal euthanized if the court decides that  
20 the best interests of the animal or that the public health and safety would  
21 be best served by euthanizing the animal based on the sworn testimony of a  
22 licensed veterinarian or animal control officer; or

23                   (C) Make any other disposition the court deems  
24 appropriate.

25           (2) If a person pleads guilty or nolo contendere to or is found  
26 guilty of either the offense of cruelty to animals or the offense of  
27 aggravated cruelty to a dog, cat, or horse, and the person is not the owner  
28 of the animal, the court shall order that the animal be returned to the  
29 owner, if practicable, or, if not practicable, the court shall either:

30                   (A) Order the animal given to an appropriate place of  
31 custody;

32                   (B) Order the animal euthanized if the court decides that  
33 the best interests of the animal or that the public health and safety would  
34 be best served by euthanizing the animal based on the sworn testimony of a  
35 licensed veterinarian or animal control officer; or

36                   (C) Make any other disposition the court deems

1 appropriate.

2 (e) The court shall order an animal seized under this section returned  
3 to the owner if the owner:

4 (1) Filed a petition under subsection (a) of this section;

5 (2) Paid all reasonable expenses incurred in caring for the  
6 animal; and

7 (3) Is found not guilty of the offense of cruelty to animals or  
8 the offense of aggravated cruelty to a dog, cat, or horse, or the proceedings  
9 against the owner have otherwise terminated.

10  
11 5-62-107. Immunity for reporting cruelty to animals or aggravated  
12 cruelty to a dog, cat, or horse.

13 Except as provided in § 5-54-122, a person who in good faith reports a  
14 suspected incident of cruelty to animals or aggravated cruelty to a dog, cat,  
15 or horse to a local law enforcement agency or to the Department of Arkansas  
16 State Police is immune from civil and criminal liability for reporting the  
17 incident.

18  
19 5-62-108. Arrested persons -- Animal possession.

20 (a) If a law enforcement officer arrests a person in charge of any  
21 vehicle drawn by or containing an animal, the law enforcement officer may  
22 seize the animal and impound in any lawful manner the vehicle and the  
23 contents of the vehicle.

24 (b)(1) A law enforcement officer that seizes an animal under  
25 subsection (a) of this section shall place the animal with an appropriate  
26 place of custody.

27 (2) If an animal is seized under this section, an owner of the  
28 animal may petition to regain possession of the animal in the manner  
29 proscribed in § 5-62-106.

30 (c) Any vehicle or contents of the vehicle impounded under subsection  
31 (a) of this section shall be returned to the owner as soon as reasonably  
32 practicable under the circumstances unless the vehicle or contents of the  
33 vehicle are subject to seizure for any other lawful reason.

34  
35 5-62-109. Immunity -- Veterinarians.

36 (a) A licensed veterinarian or a person acting at the direction of a

1 licensed veterinarian in Arkansas is:

2 (1) Held harmless from either criminal or civil liability for  
 3 any decision made or service rendered in conjunction with this subchapter;  
 4 and

5 (2) Immune from suit for his or her part in an investigation of  
 6 cruelty to animals.

7 (b) A veterinarian or person acting at the direction of a licensed  
 8 veterinarian who participates or reports in bad faith or with malice is not  
 9 protected under this subchapter.

10  
 11 SECTION 4. Arkansas Code §§ 5-62-110 through 5-62-116 are amended to  
 12 read as follows:

13 ~~5-62-110. Definitions—Construction.~~

14 ~~(a) As used in this section and §§ 5-62-111—5-62-119:~~

15 ~~(1) “Animal” or “dumb animal” includes every living creature;~~

16 ~~(2) “Cruelty”, “torture”, or “torment” include every act,~~  
 17 ~~omission, or neglect in which unjustifiable physical pain, suffering, or~~  
 18 ~~death is caused or permitted; and~~

19 ~~(3) “Owner” and “person” include a corporation as well as an~~  
 20 ~~individual.~~

21 ~~(b) Nothing in this section and §§ 5-62-111—5-62-119 shall be~~  
 22 ~~construed as prohibiting the shooting of a bird or other game for the purpose~~  
 23 ~~of human food.~~

24  
 25 5-62-111. Prevention of cruelty.

26 ~~(a) Any A officer, agent, or member of a society which is incorporated~~  
 27 ~~for the prevention of cruelty to animals person may lawfully interfere to~~  
 28 ~~prevent the imminent or ongoing perpetration of any act of cruelty offense of~~  
 29 ~~cruelty to animals or aggravated cruelty to a dog, cat, or horse upon any~~  
 30 ~~animal in his or her presence.~~

31 ~~(b) Any Upon a conviction, a person who knowingly interferes with or~~  
 32 ~~obstructs any a officer, agent, or member of a society which is incorporated~~  
 33 ~~for the prevention of cruelty to animals in the discharge of his or her duty~~  
 34 ~~person acting under subsection (a) of this section is guilty of a Class A~~  
 35 ~~misdemeanor.~~

36

1 5-62-112. Search warrant.

2 ~~Upon complaint under oath or affirmation to any magistrate authorized~~  
3 ~~to issue warrants in criminal cases that the complainant has any just and~~  
4 ~~reasonable cause to suspect that any provision of law relating to or in~~  
5 ~~anywise affecting animals is being, or is about to be, violated in any~~  
6 ~~particular building or place, the magistrate shall immediately issue and~~  
7 ~~deliver a warrant to any person authorized by law to make arrests for such~~  
8 ~~offenses authorizing him or her to enter and search the building or place and~~  
9 ~~to arrest any person found present in the building or place violating any of~~  
10 ~~the laws and to bring that person before the nearest magistrate of competent~~  
11 ~~jurisdiction, to be dealt with according to law.~~

12 A search warrant related to an investigation under this subchapter may  
13 be:

14 (1) Issued by a judge or magistrate if he or she has reasonable  
15 cause to believe that the search will discover persons or things specified in  
16 the application and subject to seizure; and

17 (2) Executed by any law enforcement officer.

18  
19 5-62-113. Authority to make arrests.

20 ~~Upon being appointed by the president of any society which is~~  
21 ~~incorporated for the prevention of cruelty to animals in any county of this~~  
22 ~~state, an agent of the society within the county may make arrests and bring~~  
23 ~~before any court or magistrate having jurisdiction any offender found~~  
24 ~~violating the provisions of this section, §§ 5-62-110—5-62-112, and §§ 5-~~  
25 ~~62-114—5-62-119. A law enforcement officer may make an arrest under the~~  
26 ~~Arkansas Rules of Criminal Procedure and bring before a court or magistrate~~  
27 ~~having jurisdiction any person alleged to have violated this subchapter.~~

28  
29 ~~5-62-114. Authority to take charge of animals and vehicles of arrested~~  
30 ~~person.~~

31 ~~(a) When any person arrested is in charge at the time of the arrest of~~  
32 ~~any vehicle drawn by or containing any animal, any agent of a society for the~~  
33 ~~prevention of cruelty to animals may take charge of the animal, the vehicle,~~  
34 ~~and the vehicle's contents and deposit them in a safe place of custody or~~  
35 ~~deliver them into the possession of the police or sheriff of the county or~~  
36 ~~place where the arrest was made.~~



1           ~~(b) The police or sheriff of the county shall then assume the custody~~  
2 ~~of the animal, the vehicle, and the vehicle's contents.~~

3  
4           ~~5-62-115. Injunction against society.~~

5           ~~No injunction shall be granted against a society for the prevention of~~  
6 ~~eruelty to animals or any of its officers or agents except upon motion after~~  
7 ~~due notice and a hearing on the motion.~~

8  
9           5-62-116. Diseased animals - Sale—Destruction.

10          (a) Any Upon conviction, a person who knowingly sells or offers for  
11 sale, or uses, or exposes, or causes or procures to be sold or offered for  
12 sale, or used, or to be exposed, any horse or other animal having the disease  
13 known as “glanders” or “farcy” or any other contagious or infectious disease  
14 known to the person to be dangerous to human life, or that is diseased past  
15 recovery, is guilty of a Class A misdemeanor.

16          (b)(1) Upon discovery or knowledge of the animal's condition, any  
17 animal having glanders or farcy shall ~~immediately be deprived of life by the~~  
18 ~~owner or person having charge of the animal~~ humanely killed by the owner or  
19 person having charge of the animal, or arrangements shall be made to have the  
20 animal euthanized.

21          (2) Any Upon conviction, an owner or person having charge of the  
22 animal and knowingly omitting or refusing to comply with a ~~provision of this~~  
23 section is guilty of a Class A misdemeanor.

24          ~~(c) Any agent or officer of a society for the prevention of cruelty to~~  
25 ~~animals may lawfully destroy or cause to be destroyed any animal found~~  
26 ~~abandoned or otherwise and not properly cared for, appearing, in the judgment~~  
27 ~~of two (2) reputable citizens called by him or her to view the animal in his~~  
28 ~~or her presence, to be glandered, injured, or diseased past recovery for any~~  
29 ~~useful purpose.~~

30  
31          SECTION 5. Arkansas Code §§ 5-62-118 and 5-62-119 are repealed:

32          ~~5-62-118. Impounded animals—Food and water.~~

33          ~~(a)(1) Any person who impounds or causes to be impounded in any pound~~  
34 ~~or other place any creature shall supply to it during the confinement a~~  
35 ~~sufficient quantity of good wholesome food and water.~~

36          ~~(2) Upon conviction, a person who violates subdivision (a)(1) of~~

1 ~~this section is guilty of a Class A misdemeanor.~~

2 ~~(b)(1) When any creature is at any time impounded as provided in~~  
 3 ~~subsection (a) of this section and continues to be without necessary food and~~  
 4 ~~water for more than twelve (12) successive hours, it is lawful from time to~~  
 5 ~~time and as often as it is necessary for any person to enter into and upon~~  
 6 ~~any pound or other place in which the creature is so confined and to supply~~  
 7 ~~it with necessary food and water so long as the creature remains so confined.~~

8 ~~(2)(A) A person is not liable to any action for the entry and~~  
 9 ~~the reasonable cost of the food and water may be collected by him or her from~~  
 10 ~~the owner of the creature.~~

11 ~~(B) The creature is not exempt from levy and sale upon~~  
 12 ~~execution issued upon a judgment for the reasonable cost of the food and~~  
 13 ~~water.~~

14  
 15 ~~5-62-119. Cruelty in transportation.~~

16 ~~(a)(1) If any person carries or causes to be carried in or upon any~~  
 17 ~~vehicle, boat, or otherwise any creature in a cruel or inhuman manner, he or~~  
 18 ~~she is guilty of a misdemeanor.~~

19 ~~(2) When the person is taken into custody by any officer, the~~  
 20 ~~officer may take charge of the vehicle, boat, etc., and its contents, and~~  
 21 ~~deposit them in a safe place of custody.~~

22 ~~(b) Any necessary expenses that may be incurred for taking charge of~~  
 23 ~~and keeping and sustaining the vehicle, boat, etc. is a lien on the vehicle,~~  
 24 ~~boat, etc. to be paid before the vehicle, boat, etc. can lawfully be~~  
 25 ~~recovered, or the expenses, or any part of the expenses, remaining unpaid may~~  
 26 ~~be recovered by the person incurring the expenses of the owner of the~~  
 27 ~~creature in any action therefor.~~

28  
 29 SECTION 6. Arkansas Code § 5-62-120 is amended to read as follows:

30 5-62-120. Unlawful ~~dog~~ animal fighting.

31 (a)(1) A person commits the offense of unlawful ~~dog~~ animal fighting in  
 32 the first degree if he or she knowingly:

33 (A) Promotes, engages in, or is employed at ~~dog~~ animal  
 34 fighting;

35 (B) Receives money for the admission of another person to  
 36 a place kept for ~~dog~~ animal fighting; or

1 (C) Sells, purchases, possesses, or trains ~~a dog~~ an animal  
2 for ~~dog~~ animal fighting.

3 (2) Unlawful ~~dog~~ animal fighting in the first degree is a Class  
4 D felony.

5 (b)(1) A person commits the offense of unlawful ~~dog~~ animal fighting in  
6 the second degree if he or she knowingly:

7 (A) Purchases a ticket of admission to or is present at a  
8 ~~dog~~ an animal fight; or

9 (B) Witnesses a ~~dog~~ an animal fight if it is presented as  
10 a public spectacle.

11 (2) Unlawful ~~dog~~ animal fighting in the second degree is a Class  
12 A misdemeanor.

13 (c) Upon the arrest of any person for violating a provision of this  
14 section, the arresting law enforcement officer or animal control officer may  
15 seize and take custody of all ~~dogs~~ animals in the possession of the arrested  
16 person.

17 (d)(1) Upon the conviction of any person for violating a provision of  
18 this section, any court of competent jurisdiction may order the forfeiture by  
19 the convicted person of all ~~dogs~~ animals the use of which was the basis of  
20 the conviction.

21 (2) Any ~~dog~~ animal ordered forfeited under a provision of this  
22 subsection shall be placed ~~in the custody of a society which is incorporated~~  
23 ~~for the prevention of cruelty to animals~~ with an appropriate place of custody  
24 or an animal control agency.

25 (e) In addition to the fines, penalties, and forfeitures imposed under  
26 ~~the provisions of~~ this section, the court may require the defendant to make  
27 restitution to the state, any of its political subdivisions, or ~~a society~~  
28 ~~which is incorporated for the prevention of cruelty to animals~~ an appropriate  
29 place of custody for housing, feeding, or providing medical treatment to a  
30 ~~dog~~ an animal used for unlawful ~~dog~~ animal fighting.

31 (f) As used in this section, "animal fighting" means fighting between  
32 roosters or other birds or between dogs, bears, or other animals.

33  
34 SECTION 7. Arkansas Code Title 5, Chapter 62 is amended to read as  
35 follows:

36 5-62-122. Permitting livestock to run at large.

1 (a) A person commits the offense of permitting livestock to run at  
2 large if being the owner or person charged with the custody and care of  
3 livestock he or she knowingly permits the livestock to run at large.

4 ~~(b) As used in this section, "livestock" includes horses, mules,  
5 eattle, goats, sheep, swine, chickens, ducks, and similar animals and fowl  
6 commonly raised or used for farm purposes.~~

7 ~~(e)(b)(1)~~ Except as provided in subdivision ~~(e)(b)(2)~~ of this section,  
8 permitting livestock to run at large is a violation and upon conviction a  
9 person may be subject to a fine not to exceed one hundred dollars (\$100).

10 (2) Any person who knowingly allows any hog to run at large is  
11 guilty of a violation and upon conviction is subject to a fine not to exceed  
12 five hundred dollars (\$500).

13  
14 SECTION 8. Arkansas Code Title 5, Chapter 62 is amended to add an  
15 additional section to read as follows:

16 5-62-126. Acts of God -- Emergency conditions.

17 An owner of an animal or person in control of an animal is not guilty  
18 of either the offense of cruelty to animals or the offense of aggravated  
19 cruelty to a dog, cat, or horse if the owner of the animal or the person in  
20 control of the animal was reasonably precluded as the result of an act of God  
21 or emergency conditions from engaging in an act or omission that might  
22 prevent an allegation of the offense of cruelty to animals or the offense of  
23 aggravated cruelty to a dog, cat, or horse.

24  
25 /s/ Madison

26  
27 **APPROVED: 2/4/2009**