

By Representative Melvin

1                                   A bill to be entitled  
2           An act relating to cruelty to animals; amending  
3           s. 828.12, F.S.; providing for the mandatory  
4           forfeiture of animals by persons found guilty  
5           of, or having had adjudication of guilt  
6           withheld for, cruelty to animals; providing a  
7           first degree misdemeanor penalty for unlawful  
8           possession of an animal in violation of the  
9           act; providing exceptions; authorizing the  
10          issuance of a court order allowing possession  
11          of animals under specified circumstances;  
12          providing for construction of the act;  
13          providing an effective date.

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15 Be It Enacted by the Legislature of the State of Florida:

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17           Section 1. Subsection (4) is added to section 828.12,  
18 Florida Statutes, to read:

19           828.12 Cruelty to animals.--

20           (1) A person who unnecessarily overloads, overdrives,  
21 torments, deprives of necessary sustenance or shelter, or  
22 unnecessarily mutilates, or kills any animal, or causes the  
23 same to be done, or carries in or upon any vehicle, or  
24 otherwise, any animal in a cruel or inhumane manner, is guilty  
25 of a misdemeanor of the first degree, punishable as provided  
26 in s. 775.082 or by a fine of not more than \$5,000, or both.

27           (2) A person who intentionally commits an act to any  
28 animal which results in the cruel death, or excessive or  
29 repeated infliction of unnecessary pain or suffering, or  
30 causes the same to be done, is guilty of a felony of the third  
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1 degree, punishable as provided in s. 775.082 or by a fine of  
2 not more than \$10,000, or both.

3 (3) A veterinarian licensed to practice in the state  
4 shall be held harmless from either criminal or civil liability  
5 for any decisions made or services rendered under the  
6 provisions of this section. Such a veterinarian is, therefore,  
7 under this subsection, immune from a lawsuit for his or her  
8 part in an investigation of cruelty to animals.

9 (4)(a) A person who has been found guilty of, entered  
10 a plea of guilty or nolo contendere to, or had adjudication of  
11 guilt withheld for, a violation of subsection (1) or  
12 subsection (2) shall immediately forfeit to the county,  
13 municipality, or local humane society, for adoption or  
14 euthanasia, as appropriate, all animals in his or her  
15 possession which were the subject of the violation, without  
16 any order of forfeiture or additional proceeding.

17 (b) A court may issue an order allowing possession of  
18 one or more animals by a person who has been found guilty of,  
19 entered a plea of guilty or nolo contendere to, or had  
20 adjudication of guilt withheld for, a violation of subsection  
21 (1) or subsection (2) at any time upon a showing to the  
22 satisfaction of the court that such animal or animals will be  
23 well treated.

24 (c) A person who possesses an animal after having been  
25 found guilty of, having entered a plea of guilty or nolo  
26 contendere to, or having had adjudication of guilt withheld  
27 for, a violation of subsection (1) or subsection (2) commits a  
28 misdemeanor of the first degree, punishable as provided in s.  
29 775.082 or s. 775.083; however, the provisions of this  
30 paragraph shall not apply if:

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- 1           1. The person shows proof that he or she has  
2 petitioned the court and received an order allowing possession  
3 of an animal as provided in paragraph (b); or  
4           2. The person possesses animals for sale or resale, or  
5 for the sale of a byproduct thereof, is properly licensed, and  
6 receives at least 30 percent of his or her annual gross income  
7 from the sale or resale of animals, or the sale of animal  
8 byproducts.  
9           (d) Nothing in this subsection shall be construed to  
10 prohibit a court from ordering that a person be prohibited  
11 from possessing an animal as a condition of probation.

12           Section 2. This act shall take effect upon becoming a  
13 law.

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16           HOUSE SUMMARY

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18 Provides that a person who has been found guilty of, or  
19 has had adjudication of guilt withheld for, cruelty to  
20 animals shall forfeit to the county, municipality, or  
21 local humane society all animals in his or her possession  
22 which were the subject of the violation. Provides a  
23 first degree misdemeanor penalty for possessing an animal  
24 in violation of the act. Authorizes the court to issue  
25 an order allowing possession of one or more animals by a  
26 person previously convicted of cruelty to animals upon a  
27 showing to the satisfaction of the court that such  
28 animals will be well treated. Provides that the  
29 provisions of the act shall not apply to persons who have  
30 received an order from the court allowing possession of  
31 an animal, or to a person who possesses animals for sale  
or resale or for the sale of animal byproducts, is  
properly licensed, and receives at least 30 percent of  
his or her annual gross income from such sale or resale  
of animals, or the sale of animal byproducts. Provides  
that nothing in the act shall be construed to prohibit a  
court from ordering that a person be prohibited from  
possessing an animal as a condition of probation.