

STORAGE NAME: h0055c.cp

DATE: October 20, 1999

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
CRIME AND PUNISHMENT
ANALYSIS**

BILL #: HB 55

RELATING TO: Sale of Dog and Cat Fur

SPONSOR(S): Representative Russell

TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) AGRICULTURE YEAS 9 NAYS 0
 - (2) CRIME AND PUNISHMENT
 - (3) CRIMINAL JUSTICE APPROPRIATIONS
 - (4)
 - (5)
-

I. SUMMARY:

HB 55 prohibits knowingly selling, buying or possessing any dog or cat fur or pelt and prohibits the selling of any clothing item made from dog or cat fur or pelt. The bill also prohibits killing a cat or dog for the purpose of selling the pelt and prohibits possessing, buying or selling a cat or dog with the intent of killing the cat or dog for the purpose of selling the pelt. The bill further provides that it is unlawful for any person to knowingly engage in the business of a dealer in the pelts of cats or dogs. The bill prohibits a common carrier from knowingly shipping any dog or cat furs or pelts within the state.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

(1) If enacted, violations would create more work for law enforcement agencies and the circuit courts.

B. PRESENT SITUATION:

The Humane Society of the United States has reported that garments made from the fur of domesticated dogs and cats are being produced in Asia and marketed in the United States. These products consist of coats, jackets, fur trimmed garments, and animal figurines.

Presently, Florida has no statute dealing with the sale of garments containing dog or cat fur, the possession, the sale or purchase of dog or cat pelts, or the killing of dogs or cats for the sole purpose of selling or giving away the pelt.

Federal legislation has been introduced which would make it unlawful to import dog or cat fur products or sell them in interstate commerce. It would also require labeling of fur species on all products regardless of price. The offense is punishable by up to one year in prison and a fine of not more than \$25,000. (Dog and Cat Protection Act of 1999; S.1197, H.R.1622, 106th Cong., 1st Sess. (1999)). California, Georgia, Pennsylvania and Virginia have statutes making it unlawful to sell or buy dog or cat fur or pelts. (Cal. Penal Code s. 598a; Ga. Code s. 27-3-63; 18 Pa.C.S.A. s. 5511; Va. Code Ann. s. 3.1-796.122, s. 3.1-796.128:2)

Cruelty to Animals

Chapter 828 of the Florida Statutes deals generally with treatment of animals. Section 828.12 prohibits cruelty to animals as follows:

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

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

Confinement of Animals

Section 828.13(2) prohibits the confinement of animals without sufficient food, water or exercise as follows:

(2) Whoever:

(a) Impounds or confines any animal in any place and fails to supply the animal during such confinement with a sufficient quantity of good and wholesome food and water,

(b) Keeps any animals in any enclosure without wholesome exercise and change of air, or

© Abandons to die any animal that is maimed, sick, infirm, or diseased,

is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or by a fine of not more than \$5,000, or by both imprisonment and a fine.

Fur and Hide Dealers

Section 372.66 provides that it is unlawful for any person to engage in the business of a dealer or buyer in alligator skins or green or dried furs until such person has been licensed as provided in the section.

C. EFFECT OF PROPOSED CHANGES:

Sale of Garments Containing Dog and Cat Fur

HB 55 creates section 828.1231, F.S., which prohibits any person from knowingly selling or offering for sale in this state any item of clothing containing dog or cat fur. This section also prohibits any person from knowingly selling or offering for sale or giving away the pelt of any dog or cat. Violations of these provisions constitute a misdemeanor of the first degree, punishable by up to one year in jail.

A second or subsequent violation of this section constitutes a third degree felony, punishable as provided in s. 775.082, 775.083 or 775.084. The bill also provides that any law enforcement agency or humane officer as defined in s. 828.03, F.S., may institute proceedings in the appropriate circuit court to enforce compliance with the provisions of this section and seek a civil penalty of up to \$5,000 for each violation.

Dealing in the Business of Buying Pelts or Furs

HB 55 also creates section 828.123, F.S., which prohibits the killing of any dog or cat with the sole intent of selling or giving away the pelt. A violation of this provision is a felony of the third degree, punishable by a fine of not more than \$10,000 or by both imprisonment and a fine.

The bill also prohibits any person from possessing, importing, selling, buying, giving away, or accepting any pelt of a dog or cat with the sole intent of selling or giving away the pelt of the dog or cat. A violation of this provision constitutes a misdemeanor of the first degree,

punishable by up to one year in prison or by a fine of \$5,000 or by both imprisonment and a fine.

This section also prohibits the possession, importation into the state, selling, buying, giving away, or accepting of any dog or cat with the sole intent of killing said animal, or having said animal killed, for the purpose of selling or giving away the pelt of the animal. A violation of this provision is a felony of the third degree, punishable by a term of imprisonment not exceeding five years or by a fine of not more than \$10,000 or by both imprisonment and a fine.

This section further prohibits any person from engaging in the business of dealing or buying the pelts or furs of any dog or cat in the state or to purchase such pelts or furs within the state. This section also prohibits a common carrier from knowingly shipping or transporting any dog or cat pelts or furs within the state. Violations of these provisions constitute a felony of the third degree punishable as provided in s. 775.082, s. 775.083 or s. 775.084.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Prohibits any person from killing a dog or cat with the sole intent of selling or giving away the pelt. Prohibits the possession, importation into this state, selling, buying, or giving away of a pelt of a dog or cat. Prohibits the possession, importation into this state, selling, buying, giving away, or accepting any dog or cat with the sole intent of killing said animal, or having said animal killed, for the purpose of selling or giving away the pelt of the animal. Prohibits any person from knowingly engaging in the business of dealing or buying pelts or furs of any dog or cat in the state or to purchase such pelts or furs within the state. Prohibits any common carrier from knowingly shipping or transporting or receive for transporting any dog or cat pelts or furs within the state. Provides penalties.

Section 2: Prohibits any person from knowingly selling or offering for sale in this state any item of clothing containing dog or cat fur. Prohibits any person from knowingly selling or offering for sale or giving away, in this state, the pelt of any dog or cat. Provides for penalties and enforcement.

Section 3: Provides an effective date.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The Criminal Justice Estimating Conference has not met to determine the fiscal impact of this bill on the Department of Corrections. However, it is unlikely that the creation of these unranked third degree felony offenses will have any significant prison bed impact.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenue in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce any state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

STORAGE NAME: h0055c.cp

DATE: October 20, 1999

PAGE 6

C. OTHER COMMENTS:

This bill is identical to CS/HB 379, sponsored by Rep. Russell during the 1999 session which died on the House calendar.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON AGRICULTURE:

Prepared by:

Debbi Kaiser

Staff Director:

Susan D. Reese

AS REVISED BY THE COMMITTEE ON CRIME AND PUNISHMENT:

Prepared by:

Trina Kramer

Staff Director:

David De La Paz