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Bill No. CS for SB 1002

Amendment No. \_\_\_\_ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Representative(s) Kottkamp offered the following:

**Amendment (with title amendment)**

Remove everything after the enacting clause

and insert:

Section 1. Section 828.12, Florida Statutes, is amended to read:

828.12 Cruelty to animals.--

(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

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1 not more than \$10,000, or both.

2 (a) A person convicted of a violation of this  
3 subsection, where the finder of fact determines that the  
4 violation includes the knowing and intentional torture or  
5 torment of an animal that injures, mutilates, or kills the  
6 animal, shall be ordered to pay a minimum mandatory fine of  
7 \$2,500 and undergo psychological counseling or complete an  
8 anger management treatment program.

9 (b) Any person convicted of a second or subsequent  
10 violation of this subsection shall be required to pay a  
11 minimum mandatory fine of \$5,000 and serve a minimum mandatory  
12 period of incarceration of 6 months. In addition, the person  
13 shall be released only upon expiration of sentence, shall not  
14 be eligible for parole, control release, or any form of early  
15 release, and must serve 100 percent of the court-imposed  
16 sentence. Any plea of nolo contendere shall be considered a  
17 conviction for purposes of this subsection.

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

24 (4) A person who intentionally trips, fells, ropes, or  
25 lassos the legs of a horse by any means for the purpose of  
26 entertainment or sport shall be guilty of a third degree  
27 felony, punishable as provided in s. 775.082, s. 775.083, or  
28 s. 775.084. As used in this subsection, "trip" means any act  
29 that consists of the use of any wire, pole, stick, rope, or  
30 other apparatus to cause a horse to fall or lose its balance,  
31 and "horse" means any animal of any registered breed of the

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1 genus Equus, or any recognized hybrid thereof. The provisions  
2 of this subsection shall not apply when tripping is used:

3 (a) To control a horse that is posing an immediate  
4 threat to other livestock or human beings;

5 (b) For the purpose of identifying ownership of the  
6 horse when its ownership is unknown; or

7 (c) For the purpose of administering veterinary care  
8 to the horse.

9 Section 2. For the purpose of incorporating the  
10 amendment to section 828.12, Florida Statutes, in references  
11 thereto, the sections or subdivisions of Florida Statutes set  
12 forth below are reenacted to read:

13 550.2415 Racing of animals under certain conditions  
14 prohibited; penalties; exceptions.--

15 (6)

16 (d) A conviction of cruelty to animals pursuant to s.  
17 828.12 involving a racing animal constitutes a violation of  
18 this chapter.

19 828.122 Fighting or baiting animals; offenses;  
20 penalties.--

21 (5) Whenever an indictment is returned or an  
22 information is filed charging a violation of s. 828.12 or of  
23 this section and, in the case of an information, a magistrate  
24 finds probable cause that a violation has occurred, the court  
25 shall order the animals seized and shall provide for  
26 appropriate and humane care or disposition of the animals.  
27 This provision shall not be construed as a limitation on the  
28 power to seize animals as evidence at the time of arrest.

29 (6) The provisions of subsection (3) and paragraph  
30 (4)(b) shall not apply to:

31 (a) Any person simulating a fight for the purpose of

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1 using the simulated fight as part of a motion picture which  
2 will be used on television or in a motion picture, provided s.  
3 828.12 is not violated.

4 828.17 Officer to arrest without warrant.--Any sheriff  
5 or any other peace officer of the state, or any police officer  
6 of any city or town of the state, shall arrest without warrant  
7 any person found violating any of the provisions of ss.  
8 828.04, 828.08, 828.12, and 828.13-828.16, and the officer  
9 making the arrest shall hold the offender until a warrant can  
10 be procured, and he or she shall use proper diligence to  
11 procure such warrant.

12 828.24 Prohibited acts; exemption.--

13 (3) Nothing in this section precludes the enforcement  
14 of s. 828.12 relating to cruelty to animals.

15 828.26 Penalties.--

16 (3) Nothing in this section precludes the enforcement  
17 of s. 828.12, relating to cruelty to animals.

18 828.29 Dogs and cats transported or offered for sale;  
19 health requirements; consumer guarantee.--

20 (14) The state attorney may bring an action to enjoin  
21 any violator of this section or s. 828.12 or s. 828.13 from  
22 being a pet dealer.

23 943.051 Criminal justice information; collection and  
24 storage; fingerprinting.--

25 (3)

26 (b) A minor who is charged with or found to have  
27 committed the following offenses shall be fingerprinted and  
28 the fingerprints shall be submitted to the department:

29 11. Cruelty to animals, as defined in s. 828.12(1).

30 985.212 Fingerprinting and photographing.--

31 (1)

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1 (b) A child who is charged with or found to have  
2 committed one of the following offenses shall be  
3 fingerprinted, and the fingerprints shall be submitted to the  
4 Department of Law Enforcement as provided in s. 943.051(3)(b):

5 11. Cruelty to animals, as defined in s. 828.12(1).  
6

7 A law enforcement agency may fingerprint and photograph a  
8 child taken into custody upon probable cause that such child  
9 has committed any other violation of law, as the agency deems  
10 appropriate. Such fingerprint records and photographs shall be  
11 retained by the law enforcement agency in a separate file, and  
12 these records and all copies thereof must be marked "Juvenile  
13 Confidential." These records are not available for public  
14 disclosure and inspection under s. 119.07(1) except as  
15 provided in ss. 943.053 and 985.04(5), but shall be available  
16 to other law enforcement agencies, criminal justice agencies,  
17 state attorneys, the courts, the child, the parents or legal  
18 custodians of the child, their attorneys, and any other person  
19 authorized by the court to have access to such records. In  
20 addition, such records may be submitted to the Department of  
21 Law Enforcement for inclusion in the state criminal history  
22 records and used by criminal justice agencies for criminal  
23 justice purposes. These records may, in the discretion of the  
24 court, be open to inspection by anyone upon a showing of  
25 cause. The fingerprint and photograph records shall be  
26 produced in the court whenever directed by the court. Any  
27 photograph taken pursuant to this section may be shown by a  
28 law enforcement officer to any victim or witness of a crime  
29 for the purpose of identifying the person who committed such  
30 crime.

31 921.0022 Criminal Punishment Code; offense severity

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1 ranking chart.--

2 (3) OFFENSE SEVERITY RANKING CHART

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4 Florida	Felony	
5 Statute	Degree	Description
		7 (c) LEVEL 3
8 316.1935(2)	3rd	Fleeing or attempting to elude 9 law enforcement officer in marked 10 patrol vehicle with siren and 11 lights activated.
12 319.30(4)	3rd	Possession by junkyard of motor 13 vehicle with identification 14 number plate removed.
15 319.33(1)(a)	3rd	Alter or forge any certificate of 16 title to a motor vehicle or 17 mobile home.
18 319.33(1)(c)	3rd	Procure or pass title on stolen 19 vehicle.
20 319.33(4)	3rd	With intent to defraud, possess, 21 sell, etc., a blank, forged, or 22 unlawfully obtained title or 23 registration.
24 328.05(2)	3rd	Possess, sell, or counterfeit 25 fictitious, stolen, or fraudulent 26 titles or bills of sale of 27 vessels.
28 328.07(4)	3rd	Manufacture, exchange, or possess 29 vessel with counterfeit or wrong 30 ID number.

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1	376.302(5)	3rd	Fraud related to reimbursement
2			for cleanup expenses under the
3			Inland Protection Trust Fund.
4	501.001(2)(b)	2nd	Tampers with a consumer product
5			or the container using materially
6			false/misleading information.
7	697.08	3rd	Equity skimming.
8	790.15(3)	3rd	Person directs another to
9			discharge firearm from a vehicle.
10	796.05(1)	3rd	Live on earnings of a prostitute.
11	806.10(1)	3rd	Maliciously injure, destroy, or
12			interfere with vehicles or
13			equipment used in firefighting.
14	806.10(2)	3rd	Interferes with or assaults
15			firefighter in performance of
16			duty.
17	810.09(2)(c)	3rd	Trespass on property other than
18			structure or conveyance armed
19			with firearm or dangerous weapon.
20	812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but
21			less than \$10,000.
22	815.04(4)(b)	2nd	Computer offense devised to
23			defraud or obtain property.
24	817.034(4)(a)3.	3rd	Engages in scheme to defraud
25			(Florida Communications Fraud
26			Act), property valued at less
27			than \$20,000.
28	817.233	3rd	Burning to defraud insurer.
29	817.234(8)&(9)	3rd	Unlawful solicitation of persons
30			involved in motor vehicle
31			accidents.

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1	817.234(11)(a)	3rd	Insurance fraud; property value
2			less than \$20,000.
3	817.505(4)	3rd	Patient brokering.
4	828.12(2)	3rd	Tortures any animal with intent
5			to inflict intense pain, serious
6			physical injury, or death.
7	831.28(2)(a)	3rd	Counterfeiting a payment
8			instrument with intent to defraud
9			or possessing a counterfeit
10			payment instrument.
11	831.29	2nd	Possession of instruments for
12			counterfeiting drivers' licenses
13			or identification cards.
14	838.021(3)(b)	3rd	Threatens unlawful harm to public
15			servant.
16	843.19	3rd	Injure, disable, or kill police
17			dog or horse.
18	870.01(2)	3rd	Riot; inciting or encouraging.
19	893.13(1)(a)2.	3rd	Sell, manufacture, or deliver
20			cannabis (or other s.
21			893.03(1)(c), (2)(c)1., (2)(c)2.,
22			(2)(c)3., (2)(c)5., (2)(c)6.,
23			(2)(c)7., (2)(c)8., (2)(c)9.,
24			(3), or (4) drugs).
25	893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s.
26			893.03(1)(c), (2)(c)1., (2)(c)2.,
27			(2)(c)3., (2)(c)5., (2)(c)6.,
28			(2)(c)7., (2)(c)8., (2)(c)9.,
29			(3), or (4) drugs within 200 feet
30			of university or public park.
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- 1 893.13(1)(f)2. 2nd Sell, manufacture, or deliver s.
- 2 893.03(1)(c), (2)(c)1., (2)(c)2.,
- 3 (2)(c)3., (2)(c)5., (2)(c)6.,
- 4 (2)(c)7., (2)(c)8., (2)(c)9.,
- 5 (3), or (4) drugs within 200 feet
- 6 of public housing facility.
- 7 893.13(6)(a) 3rd Possession of any controlled
- 8 substance other than felony
- 9 possession of cannabis.
- 10 893.13(7)(a)9. 3rd Obtain or attempt to obtain
- 11 controlled substance by fraud,
- 12 forgery, misrepresentation, etc.
- 13 893.13(7)(a)11. 3rd Furnish false or fraudulent
- 14 material information on any
- 15 document or record required by
- 16 chapter 893.
- 17 918.13(1)(a) 3rd Alter, destroy, or conceal
- 18 investigation evidence.
- 19 944.47
- 20 (1)(a)1.-2. 3rd Introduce contraband to
- 21 correctional facility.
- 22 944.47(1)(c) 2nd Possess contraband while upon the
- 23 grounds of a correctional
- 24 institution.
- 25 985.3141 3rd Escapes from a juvenile facility
- 26 (secure detention or residential
- 27 commitment facility).

28 Section 3. This act shall take effect upon becoming a  
 29 law.

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1 ===== T I T L E A M E N D M E N T =====

2 And the title is amended as follows:

3 remove: the entire title

4

5 and insert:

6

A bill to be entitled

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An act relating to cruelty to animals; amending

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s. 828.12, F.S.; providing that any person

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convicted of specified acts which constitute

10

cruelty to an animal, where the finder of fact

11

determines that the violation includes the

12

knowing and intentional torture or torment of

13

an animal, shall be ordered to undergo

14

psychological counseling or anger management

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treatment; providing a minimum mandatory fine;

16

providing penalties for second or subsequent

17

violations; reenacting ss. 550.2415(6)(d),

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828.122(5) and (6)(a), 828.17, 828.24(3),

19

828.26(3), 828.29(14), 943.051(3)(b)11.,

20

985.212(1)(b)11., and 921.0022(3)(c), F.S., to

21

incorporate the amendment to s. 828.12, F.S.,

22

in references thereto; providing an effective

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date.

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