

By the Committee on Agriculture; and Senators Klein and Posey

303-2502-03

1 A bill to be entitled
2 An act relating to animal fighting or baiting;
3 amending s. 828.122, F.S., the "Animal Fighting
4 Act"; defining the term "animal fighting";
5 revising the elements of the crime of animal
6 fighting or baiting; prohibiting certain acts
7 associated with animal fighting or baiting;
8 providing for the seizure, impoundment, and
9 euthanasia of animals under certain conditions;
10 providing penalties; amending ss. 933.02,
11 933.18, F.S.; amending provisions relating to
12 search warrants; providing an effective date.

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

16 Section 1. Section 828.122, Florida Statutes, is
17 amended to read:

18 828.122 Fighting or baiting animals; offenses;
19 penalties.--

20 (1) This act may be cited as "The Animal Fighting
21 Act."

22 (2) As used in this section, the term:

23 (a) "Animal fighting" means a fight between roosters
24 or other birds or between dogs, bears, or any other animals.

25 (b)~~(a)~~ "Baiting" means to attack with violence, to
26 provoke, or to harass an animal with one or more animals for
27 the purpose of training an animal for, or to cause an animal
28 to engage in, fights with or among other animals. In
29 addition, "baiting" means the use of live animals in the
30 training of racing greyhounds.

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1 ~~(c)(b)~~ "Person" means every natural person, firm,
2 copartnership, association, or corporation.

3 (3) Any person who knowingly commits any of the
4 following acts commits ~~is guilty of~~ a felony of the third
5 degree, punishable as provided in s. 775.082, s. 775.083, or
6 s. 775.084:

7 (a) Baiting, breeding, training, transporting,
8 selling, owning, possessing, or using any wild or domestic
9 animal for the purpose of animal fighting or baiting; any
10 ~~other animal.~~

11 (b) Owning, possessing, or selling equipment for use
12 in any activity described in paragraph (a);

13 ~~(c)(b)~~ Knowingly Owning, leasing, managing, or
14 operating, or having control of any property facility kept or
15 used for any activity described in paragraph (a) or paragraph
16 (b); the purpose of fighting or baiting any animal.

17 ~~(d)(c)~~ Promoting, staging, advertising, or charging
18 any admission fee to a fight or baiting between two or more
19 animals;—

20 (e) Performing any service or act to facilitate animal
21 fighting or baiting, including, but not limited to, providing
22 security, refereeing, or handling or transporting animals or
23 being a stakeholder of any money wagered on animal fighting or
24 baiting;

25 (f) Removing or facilitating the removal of any animal
26 impounded under this section from an agency where the animals
27 are impounded or location designated by the court under
28 subsection (4), subsection (5), or subsection (7), without the
29 prior authorization of the court;

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1 ~~(4) Any person who willfully commits any of the~~
2 ~~following acts is guilty of a misdemeanor of the first degree,~~
3 ~~punishable as provided in s. 775.082 or s. 775.083:~~

4 (g)(a) Betting or wagering any money or other valuable
5 consideration on the fighting or baiting of animals; or

6 (h)(b) Attending the fighting or baiting of animals.

7 (4) Notwithstanding anything to the contrary in
8 subsection (3), possession of the animal alone shall not
9 constitute a violation of this section.

10 (5) If a court finds probable cause to believe that a
11 violation of this section or s. 828.12 has occurred, the court
12 shall order the seizure of any animals and equipment used in
13 committing the violation ~~Whenever an indictment is returned or~~
14 ~~an information is filed charging a violation of s. 828.12 or~~
15 ~~of this section and, in the case of an information, a~~
16 ~~magistrate finds probable cause that a violation has occurred,~~
17 ~~the court shall order the animals seized and shall provide for~~
18 ~~appropriate and humane care or disposition of the animals.~~
19 This subsection is not ~~provision shall not be construed as a~~
20 ~~limitation on the power to seize animals as evidence at the~~
21 ~~time of arrest.~~

22 (6) If an animal shelter or other location is
23 unavailable, a court may order the animal to be impounded on
24 the property of its owner or possessor and shall order such
25 person to provide all necessary care for the animal and to
26 allow regular inspections of the animal by a person designated
27 by the court.

28 (7) If a veterinarian finds that an animal kept or
29 used in violation of this section is suffering from an injury
30 or a disease severe enough that it is not possible to humanely
31 house and care for the animal pending completion of a hearing

1 held under subsection (4), final disposition of the criminal
2 charges, or court-ordered forfeiture, the veterinarian may
3 euthanize the animal as specified in s. 828.058. A
4 veterinarian licensed to practice in this state shall be held
5 harmless from criminal or civil liability for any decisions
6 made or services rendered under this subsection.

7 (8) If an animal can be housed in a humane manner
8 until a hearing is held under subsection (4), s. 828.073
9 applies.

10 (9) In addition to other penalties prescribed by law,
11 the court may issue an order prohibiting a person who is
12 convicted of a violation of this section from owning,
13 possessing, keeping, harboring, or having custody or control
14 over any animals for a period of time determined by the court.

15 (10)(6) This section does ~~The provisions of subsection~~
16 ~~(3) and paragraph (4)(b) shall not apply to:~~

17 (a) Any person simulating a fight for the purpose of
18 using the simulated fight as part of a motion picture which
19 will be used on television or in a motion picture, provided s.
20 828.12 is not violated.

21 (b) Any person using animals to pursue or take
22 wildlife or to participate in any hunting regulated or subject
23 to being regulated by the rules and regulations of the Fish
24 and Wildlife Conservation Commission.

25 (c) Any person using animals to work livestock for
26 agricultural purposes.

27 (d) Any person violating s. 828.121.

28 (e) Any person using dogs ~~animals~~ to hunt wild hogs or
29 to retrieve domestic hogs pursuant to customary hunting or
30 agricultural practices.

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1 (11)~~(7)~~ ~~Nothing in~~ This section does not ~~shall be~~
2 ~~construed to~~ prohibit, impede, or otherwise interfere with
3 recognized animal husbandry and training techniques or
4 practices not otherwise specifically prohibited by law.

5 Section 2. Section 933.02, Florida Statutes, is
6 amended to read:

7 933.02 Grounds for issuance of search warrant.--Upon
8 proper affidavits being made, a search warrant may be issued
9 under the provisions of this chapter upon any of the following
10 grounds:

11 (1) When the property shall have been stolen or
12 embezzled in violation of law;

13 (2) When any property shall have been used:

14 (a) As a means to commit any crime,

15 (b) In connection with gambling, gambling implements
16 and appliances, or

17 (c) In violation of s. 847.011 or other laws in
18 reference to obscene prints and literature;

19 (3) When any property constitutes evidence relevant to
20 proving that a felony has been committed;

21 (4) When any property is being held or possessed:

22 (a) In violation of any of the laws prohibiting the
23 manufacture, sale, and transportation of intoxicating liquors,
24 or

25 (b) In violation of the fish and game laws, or

26 (c) In violation of the laws relative to food and
27 drug, or

28 (d) In violation of a quarantine for citrus canker
29 pursuant to s. 581.184, or

30 (e) Which may be inspected, treated, seized, or
31 destroyed pursuant to s. 581.184; or

1 (5) When the laws in relation to cruelty to animals,
2 as provided in chapter 828, have been or are violated in any
3 particular building or place, ~~but no search shall be made in~~
4 ~~such building or place after sunset, unless specially~~
5 ~~authorized by the officer issuing the warrant upon~~
6 ~~satisfactory cause shown; in which case such property may be~~
7 ~~taken on the warrant so issued from any house or place in~~
8 ~~which it is concealed, or from any vehicle, aircraft, or~~
9 ~~watercraft in which it may be found, or from the possession of~~
10 ~~any person by whom it shall have been used in the commission~~
11 ~~of any offense or from any person in whose possession it may~~
12 ~~be.~~

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14 This section also applies ~~The provisions of this section shall~~
15 ~~apply also~~ to any papers or documents used as a means of or in
16 aid of the commission of any offense against the laws of the
17 state.

18 Section 3. Section 933.18, Florida Statutes, is
19 amended to read:

20 933.18 When warrant may be issued for search of
21 private dwelling.--No search warrant shall issue under this
22 chapter or under any other law of this state to search any
23 private dwelling occupied as such unless:

- 24 (1) It is being used for the unlawful sale,
25 possession, or manufacture of intoxicating liquor;
26 (2) Stolen or embezzled property is contained therein;
27 (3) It is being used to carry on gambling;
28 (4) It is being used to perpetrate frauds and
29 swindles;
30 (5) The law relating to narcotics or drug abuse is
31 being violated therein;

1 (6) A weapon, instrumentality, or means by which a
2 felony has been committed, or evidence relevant to proving
3 said felony has been committed, is contained therein;

4 (7) One or more of the following misdemeanor child
5 abuse offenses is being committed there:

6 (a) Interference with custody, in violation of s.
7 787.03.

8 (b) Commission of an unnatural and lascivious act with
9 a child, in violation of s. 800.02.

10 (c) Exposure of sexual organs to a child, in violation
11 of s. 800.03.

12 (8) It is in part used for some business purpose such
13 as a store, shop, saloon, restaurant, hotel, ~~or~~ boardinghouse,
14 or lodginghouse;

15 (9) It is being used for the unlawful sale,
16 possession, or purchase of wildlife, saltwater products, or
17 freshwater fish being unlawfully kept therein; or

18 (10) The laws in relation to cruelty to animals, as
19 provided in chapter 828, have been or are being violated
20 ~~therein, except that no search pursuant to such a warrant~~
21 ~~shall be made in any private dwelling after sunset and before~~
22 ~~sunrise unless specially authorized by the judge issuing the~~
23 ~~warrant, upon a showing of probable cause. Property relating~~
24 ~~to the violation of such laws may be taken on a warrant so~~
25 ~~issued from any private dwelling in which it is concealed or~~
26 ~~from the possession of any person therein by whom it shall~~
27 ~~have been used in the commission of such offense or from any~~
28 ~~person therein in whose possession it may be.~~

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30 If, during a search pursuant to a warrant issued under this
31 section, a child is discovered and appears to be in imminent

1 danger, the law enforcement officer conducting such search may
2 remove the child from the private dwelling and take the child
3 into protective custody pursuant to chapter 39. The term
4 "private dwelling" shall be construed to include the room or
5 rooms used and occupied, not transiently but solely as a
6 residence, in an apartment house, hotel, boardinghouse, or
7 lodginghouse. No warrant shall be issued for the search of
8 any private dwelling under any of the conditions hereinabove
9 mentioned except on sworn proof by affidavit of some
10 creditable witness that he or she has reason to believe that
11 one of said conditions exists, which affidavit shall set forth
12 the facts on which such reason for belief is based.

13 Section 4. This act shall take effect upon becoming a
14 law.

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16 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
17 COMMITTEE SUBSTITUTE FOR
18 Senate Bill 2350

19 Committee Substitute for Senate Bill 2350 is different from
20 Senate Bill 2350 in that it clarifies that possession of an
21 animal alone is not a violation of the Animal Fighting Act.
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