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CS/HB 851, Engrossed 1

2013 Legislature

1
2 An act relating to animal cruelty; amending s. 828.12,
3 F.S.; specifying that a person who commits multiple
4 acts of animal cruelty against one animal or acts of
5 animal cruelty against multiple animals may be charged
6 with a separate offense for each such act of animal
7 cruelty; specifying that a person who owns or has
8 custody or control of any animal and fails to act
9 commits aggravated animal cruelty if certain injuries
10 or death result; creating s. 828.1615, F.S.;
11 prohibiting specific acts relating to dyeing or
12 artificially coloring certain animals; prohibiting
13 persons from selling, offering for sale, or giving
14 away as merchandising premiums specified fowl or
15 rabbits to be used as pets, toys, or retail premiums;
16 providing exceptions; providing criminal penalties;
17 amending s. 828.27, F.S.; providing for additional
18 uses by certain counties of proceeds of surcharges on
19 animal control or cruelty violations; providing for
20 expiration; amending s. 895.02, F.S.; including
21 illegal animal fighting or baiting as an offense
22 within the definition of the term "racketeering
23 activity" for purposes of the Florida RICO (Racketeer
24 Influenced and Corrupt Organization) Act; providing an
25 effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:
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29 Section 1. Section 828.12, Florida Statutes, is amended to
30 read:

31 828.12 Cruelty to animals.—

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

40 (2) A person who intentionally commits an act to any
41 animal, or a person who owns or has the custody or control of
42 any animal and fails to act, which results in the cruel death,
43 or excessive or repeated infliction of unnecessary pain or
44 suffering, or causes the same to be done, commits aggravated
45 animal cruelty, ~~is guilty of~~ a felony of the third degree,
46 punishable as provided in s. 775.082 or by a fine of not more
47 than \$10,000, or both.

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

54 (b) A ~~Any~~ person convicted of a second or subsequent
55 violation of this subsection shall be required to pay a minimum
56 mandatory fine of \$5,000 and serve a minimum mandatory period of



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57 incarceration of 6 months. In addition, the person shall be
58 released only upon expiration of sentence, is ~~shall~~ not be
59 eligible for parole, control release, or any form of early
60 release, and must serve 100 percent of the court-imposed
61 sentence. Any plea of nolo contendere shall be considered a
62 conviction for purposes of this subsection.

63 (3) A person who commits multiple acts of animal cruelty
64 or aggravated animal cruelty against an animal may be charged
65 with a separate offense for each such act. A person who commits
66 animal cruelty or aggravated animal cruelty against more than
67 one animal may be charged with a separate offense for each
68 animal such cruelty was committed upon.

69 (4)~~(3)~~ A veterinarian licensed to practice in the state
70 shall be held harmless from either criminal or civil liability
71 for any decisions made or services rendered under the provisions
72 of this section. Such a veterinarian is, therefore, under this
73 subsection, immune from a lawsuit for his or her part in an
74 investigation of cruelty to animals.

75 (5)~~(4)~~ A person who intentionally trips, fells, ropes, or
76 lassos the legs of a horse by any means for the purpose of
77 entertainment or sport shall be guilty of a third degree felony,
78 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
79 As used in this subsection, "trip" means any act that consists
80 of the use of any wire, pole, stick, rope, or other apparatus to
81 cause a horse to fall or lose its balance, and "horse" means any
82 animal of any registered breed of the genus Equus, or any
83 recognized hybrid thereof. The provisions of this subsection
84 shall not apply when tripping is used:



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

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

89 (c) For the purpose of administering veterinary care to
90 the horse.

91 Section 2. Section 828.1615, Florida Statutes, is created
92 to read:

93 828.1615 Prohibiting artificial coloring and sale of
94 certain animals.—

95 (1) It is unlawful for a person to:

96 (a) Dye or artificially color an animal that is under 12
97 weeks of age, or a fowl or rabbit of any age;

98 (b) Bring a dyed or artificially colored animal that is
99 under 12 weeks of age, or a fowl or rabbit of any age, into this
100 state; or

101 (c) Sell, offer for sale, or give away as merchandising
102 premiums, baby chickens, ducklings, or other fowl under 4 weeks
103 of age or rabbits under 2 months of age to be used as pets,
104 toys, or retail premiums.

105 (2) The prohibitions in paragraphs (1)(a) and (1)(b) do
106 not apply to animals that are temporarily dyed by agricultural
107 entities for protective health purposes.

108 (3) This section does not apply to an animal that is under
109 12 weeks of age, or a fowl or rabbit of any age, that is used or
110 raised for agricultural purposes by a person with proper
111 facilities to care for it or for the purpose of poultry or
112 livestock exhibitions.



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113 (4) A person who violates this section commits a
114 misdemeanor of the second degree, punishable as provided in s.
115 775.082 or s. 775.083.

116 Section 3. Paragraph (b) of subsection (4) of section
117 828.27, Florida Statutes, is amended to read:

118 828.27 Local animal control or cruelty ordinances;
119 penalty.—

120 (4)

121 (b)1. The governing body of a county or municipality may
122 impose and collect a surcharge of up to \$5 upon each civil
123 penalty imposed for violation of an ordinance relating to animal
124 control or cruelty. The proceeds from such surcharges shall be
125 used to pay the costs of training for animal control officers.

126 2. In addition to the uses set forth in subparagraph 1., a
127 county, as defined in s. 125.011, may use the proceeds specified
128 in that subparagraph and any carryover or fund balance from such
129 proceeds for animal shelter operating expenses. This
130 subparagraph expires July 1, 2014.

131 Section 4. Paragraph (a) of subsection (1) of section
132 895.02, Florida Statutes, is amended to read:

133 895.02 Definitions.—As used in ss. 895.01-895.08, the
134 term:

135 (1) "Racketeering activity" means to commit, to attempt to
136 commit, to conspire to commit, or to solicit, coerce, or
137 intimidate another person to commit:

138 (a) Any crime that is chargeable by petition, indictment,
139 or information under the following provisions of the Florida
140 Statutes:



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141 1. Section 210.18, relating to evasion of payment of
142 cigarette taxes.

143 2. Section 316.1935, relating to fleeing or attempting to
144 elude a law enforcement officer and aggravated fleeing or
145 eluding.

146 3. Section 403.727(3)(b), relating to environmental
147 control.

148 4. Section 409.920 or s. 409.9201, relating to Medicaid
149 fraud.

150 5. Section 414.39, relating to public assistance fraud.

151 6. Section 440.105 or s. 440.106, relating to workers'
152 compensation.

153 7. Section 443.071(4), relating to creation of a
154 fictitious employer scheme to commit reemployment assistance
155 fraud.

156 8. Section 465.0161, relating to distribution of medicinal
157 drugs without a permit as an Internet pharmacy.

158 9. Section 499.0051, relating to crimes involving
159 contraband and adulterated drugs.

160 10. Part IV of chapter 501, relating to telemarketing.

161 11. Chapter 517, relating to sale of securities and
162 investor protection.

163 12. Section 550.235 or s. 550.3551, relating to dogracing
164 and horseracing.

165 13. Chapter 550, relating to jai alai frontons.

166 14. Section 551.109, relating to slot machine gaming.

167 15. Chapter 552, relating to the manufacture,
168 distribution, and use of explosives.



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16. Chapter 560, relating to money transmitters, if the violation is punishable as a felony.

17. Chapter 562, relating to beverage law enforcement.

18. Section 624.401, relating to transacting insurance without a certificate of authority, s. 624.437(4)(c)1., relating to operating an unauthorized multiple-employer welfare arrangement, or s. 626.902(1)(b), relating to representing or aiding an unauthorized insurer.

19. Section 655.50, relating to reports of currency transactions, when such violation is punishable as a felony.

20. Chapter 687, relating to interest and usurious practices.

21. Section 721.08, s. 721.09, or s. 721.13, relating to real estate timeshare plans.

22. Section 775.13(5)(b), relating to registration of persons found to have committed any offense for the purpose of benefiting, promoting, or furthering the interests of a criminal gang.

23. Section 777.03, relating to commission of crimes by accessories after the fact.

24. Chapter 782, relating to homicide.

25. Chapter 784, relating to assault and battery.

26. Chapter 787, relating to kidnapping or human trafficking.

27. Chapter 790, relating to weapons and firearms.

28. Chapter 794, relating to sexual battery, but only if such crime was committed with the intent to benefit, promote, or further the interests of a criminal gang, or for the purpose of



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increasing a criminal gang member's own standing or position within a criminal gang.

29. Section 796.03, s. 796.035, s. 796.04, s. 796.05, or s. 796.07, relating to prostitution and sex trafficking.

30. Chapter 806, relating to arson and criminal mischief.

31. Chapter 810, relating to burglary and trespass.

32. Chapter 812, relating to theft, robbery, and related crimes.

33. Chapter 815, relating to computer-related crimes.

34. Chapter 817, relating to fraudulent practices, false pretenses, fraud generally, and credit card crimes.

35. Chapter 825, relating to abuse, neglect, or exploitation of an elderly person or disabled adult.

36. Section 827.071, relating to commercial sexual exploitation of children.

37. Section 828.122, relating to fighting or baiting animals.

~~38.37.~~ Chapter 831, relating to forgery and counterfeiting.

~~39.38.~~ Chapter 832, relating to issuance of worthless checks and drafts.

~~40.39.~~ Section 836.05, relating to extortion.

~~41.40.~~ Chapter 837, relating to perjury.

~~42.41.~~ Chapter 838, relating to bribery and misuse of public office.

~~43.42.~~ Chapter 843, relating to obstruction of justice.

~~44.43.~~ Section 847.011, s. 847.012, s. 847.013, s. 847.06, or s. 847.07, relating to obscene literature and profanity.



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225 ~~45.44.~~ Section 849.09, s. 849.14, s. 849.15, s. 849.23, or
226 s. 849.25, relating to gambling.

227 ~~46.45.~~ Chapter 874, relating to criminal gangs.

228 ~~47.46.~~ Chapter 893, relating to drug abuse prevention and
229 control.

230 ~~48.47.~~ Chapter 896, relating to offenses related to
231 financial transactions.

232 ~~49.48.~~ Sections 914.22 and 914.23, relating to tampering
233 with or harassing a witness, victim, or informant, and
234 retaliation against a witness, victim, or informant.

235 ~~50.49.~~ Sections 918.12 and 918.13, relating to tampering
236 with jurors and evidence.

237 Section 5. This act shall take effect July 1, 2013.