

By Senator Sachs

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1 A bill to be entitled
2 An act relating to cruelty to animals; amending s.
3 828.12, F.S.; establishing that property used or
4 attempted to be used as an instrumentality in the
5 commission of felony cruelty to animals is subject to
6 forfeiture; amending s. 932.701, F.S.; revising the
7 definition of the term "contraband article"; providing
8 an effective date.

9
10 Be It Enacted by the Legislature of the State of Florida:

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12 Section 1. Subsections (2) and (5) of section 828.12,
13 Florida Statutes, are amended to read:

14 828.12 Cruelty to animals.—

15 (2) A person who intentionally commits an act to any
16 animal, or a person who owns or has the custody or control of
17 any animal and fails to act, which results in the cruel death,
18 or excessive or repeated infliction of unnecessary pain or
19 suffering, or causes the same to be done, commits aggravated
20 animal cruelty, a felony of the third degree, punishable as
21 provided in s. 775.082 or by a fine of not more than \$10,000, or
22 both. In addition, any real or personal property that was used,
23 is being used, or was attempted to be used as an instrumentality
24 in the commission of, or in aiding or abetting in the commission
25 of, a violation under this subsection is subject to forfeiture
26 pursuant to ss. 932.701-932.704.

27 (a) A person convicted of a violation of this subsection,
28 where the finder of fact determines that the violation includes
29 the knowing and intentional torture or torment of an animal

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30 which ~~that~~ injures, mutilates, or kills the animal, shall be
31 ordered to pay a minimum mandatory fine of \$2,500 and undergo
32 psychological counseling or complete an anger management
33 treatment program.

34 (b) A person convicted of a second or subsequent violation
35 of this subsection shall be required to pay a minimum mandatory
36 fine of \$5,000 and serve a minimum mandatory period of
37 incarceration of 6 months. In addition, the person shall be
38 released only upon expiration of sentence, is not eligible for
39 parole, control release, or any form of early release, and must
40 serve 100 percent of the court-imposed sentence. Any plea of
41 nolo contendere shall be considered a conviction for purposes of
42 this subsection.

43 (5) A person who intentionally trips, fells, ropes, or
44 lassos the legs of a horse by any means for the purpose of
45 entertainment or sport commits ~~shall be guilty of~~ a third degree
46 felony, punishable as provided in s. 775.082, s. 775.083, or s.
47 775.084. In addition, any real or personal property that was
48 used, is being used, or was attempted to be used as an
49 instrumentality in the commission of, or in aiding or abetting
50 in the commission of, a violation under this subsection is
51 subject to forfeiture pursuant to ss. 932.701-932.704. As used
52 in this subsection, the term "trip" means any act that consists
53 of the use of any wire, pole, stick, rope, or other apparatus to
54 cause a horse to fall or lose its balance, and the term "horse"
55 means any animal of any registered breed of the genus *Equus*, or
56 any recognized hybrid thereof. ~~The provisions of~~ This subsection
57 does ~~shall~~ not apply when tripping is used:

58 (a) To control a horse that is posing an immediate threat

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59 to other livestock or human beings;

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

62 (c) For the purpose of administering veterinary care to the
63 horse.

64 Section 2. Paragraph (a) of subsection (2) of section
65 932.701, Florida Statutes, is amended to read:

66 932.701 Short title; definitions.—

67 (2) As used in the Florida Contraband Forfeiture Act:

68 (a) "Contraband article" means:

69 1. Any controlled substance as defined in chapter 893 or
70 any substance, device, paraphernalia, or currency or other means
71 of exchange that was used, was attempted to be used, or was
72 intended to be used in violation of any provision of chapter
73 893, if the totality of the facts presented by the state is
74 clearly sufficient to meet the state's burden of establishing
75 probable cause to believe that a nexus exists between the
76 article seized and the narcotics activity, whether or not the
77 use of the contraband article can be traced to a specific
78 narcotics transaction.

79 2. Any gambling paraphernalia, lottery tickets, money,
80 currency, or other means of exchange which was used, was
81 attempted, or intended to be used in violation of the gambling
82 laws of the state.

83 3. Any equipment, liquid or solid, which was being used, is
84 being used, was attempted to be used, or intended to be used in
85 violation of the beverage or tobacco laws of the state.

86 4. Any motor fuel upon which the motor fuel tax has not
87 been paid as required by law.

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88 5. Any personal property, including, but not limited to,
89 any vessel, aircraft, item, object, tool, substance, device,
90 weapon, machine, vehicle of any kind, money, securities, books,
91 records, research, negotiable instruments, or currency, which
92 was used or was attempted to be used as an instrumentality in
93 the commission of, or in aiding or abetting in the commission
94 of, any felony, whether or not comprising an element of the
95 felony, or which is acquired by proceeds obtained as a result of
96 a violation of the Florida Contraband Forfeiture Act.

97 6. Any real property, including any right, title,
98 leasehold, or other interest in the whole of any lot or tract of
99 land, which was used, is being used, or was attempted to be used
100 as an instrumentality in the commission of, or in aiding or
101 abetting in the commission of, any felony, or which is acquired
102 by proceeds obtained as a result of a violation of the Florida
103 Contraband Forfeiture Act.

104 7. Any personal property, including, but not limited to,
105 equipment, money, securities, books, records, research,
106 negotiable instruments, currency, or any vessel, aircraft, item,
107 object, tool, substance, device, weapon, machine, or vehicle of
108 any kind in the possession of or belonging to any person who
109 takes aquaculture products in violation of s. 812.014(2)(c).

110 8. Any motor vehicle offered for sale in violation of s.
111 320.28.

112 9. Any motor vehicle used during the course of committing
113 an offense in violation of s. 322.34(9)(a).

114 10. Any photograph, film, or other recorded image,
115 including an image recorded on videotape, a compact disc,
116 digital tape, or fixed disk, that is recorded in violation of s.

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117 810.145 and is possessed for the purpose of amusement,
118 entertainment, sexual arousal, gratification, or profit, or for
119 the purpose of degrading or abusing another person.

120 11. Any real property, including any right, title,
121 leasehold, or other interest in the whole of any lot or tract of
122 land, which is acquired by proceeds obtained as a result of
123 Medicaid fraud under s. 409.920 or s. 409.9201; any personal
124 property, including, but not limited to, equipment, money,
125 securities, books, records, research, negotiable instruments, or
126 currency; or any vessel, aircraft, item, object, tool,
127 substance, device, weapon, machine, or vehicle of any kind in
128 the possession of or belonging to any person which is acquired
129 by proceeds obtained as a result of Medicaid fraud under s.
130 409.920 or s. 409.9201.

131 12. Any personal property, including, but not limited to,
132 any vehicle, item, object, tool, device, weapon, machine, money,
133 security, book, or record, that is used or attempted to be used
134 as an instrumentality in the commission of, or in aiding and
135 abetting in the commission of, a person's third or subsequent
136 violation of s. 509.144, whether or not comprising an element of
137 the offense.

138 13. Any real property, including any right, title,
139 leasehold, or other interest in the whole of any lot or tract of
140 land, or any personal property that was used, is being used, or
141 was attempted to be used as an instrumentality in the commission
142 of, or in aiding or abetting in the commission of, any felony
143 violation involving cruelty to animals under s. 828.12(2) or
144 (5).

145 Section 3. This act shall take effect July 1, 2016.