

CHAPTER 2013-245

Committee Substitute for House Bill No. 851

An act relating to animal cruelty; amending s. 828.12, F.S.; specifying that a person who commits multiple acts of animal cruelty against one animal or acts of animal cruelty against multiple animals may be charged with a separate offense for each such act of animal cruelty; specifying that a person who owns or has custody or control of any animal and fails to act commits aggravated animal cruelty if certain injuries or death result; creating s. 828.1615, F.S.; prohibiting specific acts relating to dyeing or artificially coloring certain animals; prohibiting persons from selling, offering for sale, or giving away as merchandising premiums specified fowl or rabbits to be used as pets, toys, or retail premiums; providing exceptions; providing criminal penalties; amending s. 828.27, F.S.; providing for additional uses by certain counties of proceeds of surcharges on animal control or cruelty violations; providing for expiration; amending s. 895.02, F.S.; including illegal animal fighting or baiting as an offense within the definition of the term “racketeering activity” for purposes of the Florida RICO (Racketeer Influenced and Corrupt Organization) Act; providing an effective date.

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

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, commits animal cruelty, ~~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, or a person who owns or has the custody or control of any animal and fails to act, which results in the cruel death, or excessive or repeated infliction of unnecessary pain or suffering, or causes the same to be done, commits aggravated animal cruelty, ~~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.~~

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

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

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

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

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

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

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

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

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

828.1615 Prohibiting artificial coloring and sale of certain animals.—

(1) It is unlawful for a person to:

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

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

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

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

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

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

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

828.27 Local animal control or cruelty ordinances; penalty.—

(4)

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

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

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

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

(1) “Racketeering activity” means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit:

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

1. Section 210.18, relating to evasion of payment of cigarette taxes.
2. Section 316.1935, relating to fleeing or attempting to elude a law enforcement officer and aggravated fleeing or eluding.
3. Section 403.727(3)(b), relating to environmental control.

4. Section 409.920 or s. 409.9201, relating to Medicaid fraud.
5. Section 414.39, relating to public assistance fraud.
6. Section 440.105 or s. 440.106, relating to workers' compensation.
7. Section 443.071(4), relating to creation of a fictitious employer scheme to commit reemployment assistance fraud.
8. Section 465.0161, relating to distribution of medicinal drugs without a permit as an Internet pharmacy.
9. Section 499.0051, relating to crimes involving contraband and adulterated drugs.
10. Part IV of chapter 501, relating to telemarketing.
11. Chapter 517, relating to sale of securities and investor protection.
12. Section 550.235 or s. 550.3551, relating to dogracing and horseracing.
13. Chapter 550, relating to jai alai frontons.
14. Section 551.109, relating to slot machine gaming.
15. Chapter 552, relating to the manufacture, distribution, and use of explosives.
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 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.
- ~~45.44.~~ Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s. 849.25, relating to gambling.

46.45. Chapter 874, relating to criminal gangs.

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

48.47. Chapter 896, relating to offenses related to financial transactions.

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

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

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

Approved by the Governor June 28, 2013.

Filed in Office Secretary of State June 28, 2013.