

By Senator Braynon

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1 A bill to be entitled
2 An act relating to animal fighting or baiting;
3 amending s. 828.122, F.S.; specifying examples of
4 animal fighting or baiting paraphernalia prohibited by
5 law; requiring the court to consider certain specified
6 factors when determining whether an object is animal
7 fighting paraphernalia; providing for humane
8 disposition of an animal by a veterinarian licensed in
9 this state under certain circumstances; providing an
10 effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Section 828.122, Florida Statutes, is amended to
15 read:

16 828.122 Fighting or baiting animals; offenses; penalties.—

17 (1) This section ~~act~~ may be cited as "The Animal Fighting
18 Act."

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

20 (a) "Animal fighting" means fighting between roosters or
21 other birds or between dogs, bears, or other animals.

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

28 (c) "Person" has the same meaning as in s. 1.01 ~~means every~~
29 ~~natural person, firm, copartnership, association, or~~

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30 corporation.

31 (3) A ~~Any~~ person who knowingly commits any of the following
32 acts commits a felony of the third degree, punishable as
33 provided in s. 775.082, s. 775.083, or s. 775.084:

34 (a) Baiting, breeding, training, transporting, selling,
35 owning, possessing, or using a ~~any~~ wild or domestic animal for
36 the purpose of animal fighting or baiting.~~†~~

37 (b) Owning, possessing, or selling equipment or
38 paraphernalia for use in an ~~any~~ activity described in paragraph
39 (a), including, but not limited to:†

40 1. A pen, pit, ring, or other enclosure;

41 2. Gaffs, sparring gloves, muffs, blades, slashers, or
42 other implements designed to be attached to a bird in the
43 location of its natural spurs;

44 3. Betting slips, documentation, and records relating to
45 fight, training and fighting literature, and fight trophies or
46 awards; or

47 4. A slat mill, treadmill, cat mill, jenny, rape stand,
48 spring pole, flirt pole, break stick, supplements, drugs, or
49 scales when found in combination with or in proximity to any
50 other item listed in subparagraphs 1.-3.

51 (c) Owning, leasing, managing, operating, or having control
52 of ~~any~~ property kept or used for an ~~any~~ activity described in
53 paragraph (a) or paragraph (b).~~†~~

54 (d) Promoting, staging, advertising, or charging an ~~any~~
55 admission fee to a fight or baiting between two or more
56 animals.~~†~~

57 (e) Performing any service or act to facilitate animal
58 fighting or baiting, including, but not limited to, providing

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59 security, refereeing, or handling or transporting an animal
60 ~~animals~~ or being a stakeholder of ~~any~~ money wagered on animal
61 fighting or baiting.†

62 (f) Removing or facilitating the removal of an ~~any~~ animal
63 impounded under this section from an agency where the animal is
64 impounded or from a location designated by the court under
65 subsection (5) ~~(4)~~, subsection (6) ~~(5)~~, or paragraph (8) (a)
66 ~~subsection (7)~~, without the prior authorization of the court.†

67 (g) Betting or wagering ~~any~~ money or other valuable
68 consideration on the fighting or baiting of an animal. ~~animals;~~
69 ~~or~~

70 (h) Attending the fighting or baiting of animals.

71
72 Notwithstanding any provision of this subsection to the
73 contrary, possession of the animal alone does not constitute a
74 violation of this section.

75 (4) In determining whether an object is animal fighting
76 paraphernalia, a court shall consider, in addition to all other
77 logically relevant factors:

78 (a) Statements by the owner or the person in control of the
79 object concerning its use.

80 (b) The proximity of the object, in time and space, to a
81 violation of subsection (3).

82 (c) The proximity of the object to an animal fight.

83 (d) The existence of any blood on the object.

84 (e) Direct or circumstantial evidence of the intent of the
85 owner or person in control of the object to deliver the object
86 to a person who he or she knows, or should reasonably know,
87 intends to use the object to facilitate a violation of this

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88 section.

89 (f) Instructions, oral or written, provided with the object
90 concerning its use.

91 (g) Descriptive materials accompanying the object which
92 explain or depict its use.

93 (h) Any advertising concerning its use.

94 (i) The manner in which the object is displayed for sale.

95 (j) The existence and scope of legitimate uses for the
96 object in the community.

97 (k) Expert testimony concerning its use.

98
99 A conviction for a violation of paragraph (3) (a) is not required
100 in order for a court to find that the object is intended for
101 use, or designed for use, as animal fighting paraphernalia.

102 (5)-(4) If a court finds probable cause to believe that a
103 violation of this section or s. 828.12 has occurred, the court
104 shall order the seizure of any animal ~~animals~~ and equipment used
105 in committing the violation and shall provide for appropriate
106 and humane care or disposition of the animal ~~animals~~. This
107 subsection does is not limit a limitation on the authority power
108 to seize an animal ~~animals~~ as evidence at the time of arrest.

109 (6)-(5) If an animal shelter or other location is
110 unavailable, a court may order the animal to be impounded on the
111 property of its owner or possessor and shall order the such
112 person to provide all necessary care for the animal and to allow
113 regular inspections of the animal by a person designated by the
114 court.

115 (7)-(6) If a veterinarian finds that an animal kept or used
116 in violation of this section is suffering from an injury or a

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117 disease severe enough that it is not possible to humanely house
118 and care for the animal pending completion of a hearing held
119 under s. 828.073(2), final disposition of the criminal charges,
120 or court-ordered forfeiture, the veterinarian may euthanize the
121 animal as specified in s. 828.058. A veterinarian licensed to
122 practice in this state shall be held harmless from criminal or
123 civil liability for a decision ~~any decisions~~ made or services
124 rendered under this subsection.

125 (8) (a) (7) If an animal can be housed in a humane or
126 reasonable manner, ~~the provisions of s. 828.073~~ applies ~~shall~~
127 ~~apply~~.

128 (b) If a court finds that an animal seized pursuant to this
129 section cannot be housed in a humane or reasonable manner
130 unrelated to the animal's injury or disease, the court may order
131 that the animal be euthanized as specified in s. 828.058 by a
132 veterinarian licensed to practice in this state.

133 (c) For the purpose of a hearing held ~~provided~~ pursuant to
134 s. 828.073(2), an ~~any~~ animal baited, bred, trained, transported,
135 sold, owned, possessed, or used for the purpose of animal
136 fighting or baiting shall be considered mistreated.

137 (9) (8) In addition to other penalties prescribed by law,
138 the court may issue an order prohibiting a person who is
139 convicted of violating ~~a violation of~~ this section from owning,
140 possessing, keeping, harboring, or having custody or control
141 over any animal ~~animals~~ within the species that is ~~are~~ the
142 subject of the conviction, or an animal ~~any animals~~ kept for the
143 purpose of fighting or baiting, for a period of time determined
144 by the court.

145 (10) (9) This section does ~~shall~~ not apply to a person:

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146 (a) ~~Any person~~ Simulating a fight for the purpose of using
147 the simulated fight as part of a motion picture which will be
148 used on television or in a motion picture if, ~~provided~~ s. 828.12
149 is not violated.

150 (b) ~~Any person~~ Using animals to pursue or take wildlife or
151 to participate in any hunting regulated or subject to being
152 regulated by the rules and regulations of the Fish and Wildlife
153 Conservation Commission.

154 (c) ~~Any person~~ Using animals to work livestock for
155 agricultural purposes.

156 (d) ~~Any person~~ Violating s. 828.121.

157 (e) ~~Any person~~ Using dogs to hunt wild hogs or to retrieve
158 domestic hogs pursuant to customary hunting or agricultural
159 practices.

160 (11) ~~(10)~~ This section does ~~shall~~ not prohibit, impede, or
161 otherwise interfere with recognized animal husbandry and
162 training techniques or practices not otherwise specifically
163 prohibited by law.

164 Section 2. This act shall take effect October 1, 2012.