

By Senator Brandes

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1 A bill to be entitled
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; amending s. 828.122, F.S.; specifying certain
8 equipment and paraphernalia that are illegal to own,
9 possess, or sell for use in animal fighting or
10 baiting; providing criminal penalties; providing
11 factors that may be used in determining whether an
12 object is animal-fighting or animal-baiting
13 paraphernalia; amending s. 895.02, F.S.; including
14 illegal animal fighting or baiting as an offense
15 within the definition of the term "racketeering
16 activity" for purposes of the Florida RICO (Racketeer
17 Influenced and Corrupt Organization) Act; providing an
18 effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. Section 828.12, Florida Statutes, is amended to
23 read:

24 828.12 Cruelty to animals.—

25 (1) A person who unnecessarily overloads, overdrives,
26 torments, deprives of necessary sustenance or shelter, or
27 unnecessarily mutilates, or kills any animal, or causes the same
28 to be done, or carries in or upon any vehicle, or otherwise, any
29 animal in a cruel or inhumane manner, commits animal cruelty, ~~is~~

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30 ~~guilty of~~ a misdemeanor of the first degree, punishable as
31 provided in s. 775.082 or by a fine of not more than \$5,000, or
32 both.

33 (2) A person who intentionally commits an act to any animal
34 which results in the cruel death, or excessive or repeated
35 infliction of unnecessary pain or suffering, or causes the same
36 to be done, commits aggravated animal cruelty, ~~is guilty of~~ a
37 felony of the third degree, punishable as provided in s. 775.082
38 or by a fine of not more than \$10,000, or both.

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

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

54 (3) A person who commits multiple acts of animal cruelty or
55 aggravated animal cruelty against an animal may be charged with
56 a separate offense for each such act. A person who commits
57 animal cruelty or aggravated animal cruelty against more than
58 one animal may be charged with a separate offense for each

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59 animal such cruelty was committed upon.

60 (4)~~(3)~~ A veterinarian licensed to practice in the state
61 shall be held harmless from either criminal or civil liability
62 for any decisions made or services rendered under the provisions
63 of this section. Such a veterinarian is, therefore, under this
64 subsection, immune from a lawsuit for his or her part in an
65 investigation of cruelty to animals.

66 (5)~~(4)~~ A person who intentionally trips, fells, ropes, or
67 lassos the legs of a horse by any means for the purpose of
68 entertainment or sport shall be guilty of a third degree felony,
69 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
70 As used in this subsection, "trip" means any act that consists
71 of the use of any wire, pole, stick, rope, or other apparatus to
72 cause a horse to fall or lose its balance, and "horse" means any
73 animal of any registered breed of the genus *Equus*, or any
74 recognized hybrid thereof. The provisions of this subsection
75 shall not apply when tripping is used:

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

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

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

82 Section 2. Subsection (3) of section 828.122, Florida
83 Statutes, is amended, present subsections (4) through (10) of
84 that section are renumbered as subsections (5) through (11),
85 respectively, and a new subsection (4) is added to that section,
86 to read:

87 828.122 Fighting or baiting animals; offenses; penalties.-

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

91 (a) Baiting, breeding, training, transporting, selling,
92 owning, possessing, or using any wild or domestic animal for the
93 purpose of animal fighting or baiting;

94 (b) Owning, possessing, or selling equipment or
95 paraphernalia for use in any activity described in paragraph
96 (a), including, but not limited to:

97 1. A pen, pit, ring, or enclosure.

98 2. A gaff, sparring glove, muff, blade, slasher, or other
99 implement designed to be attached to a bird in the location of
100 its natural spurs.

101 3. A betting slip, a document or record relating to a
102 fight, training and fighting literature, or a fight trophy or
103 award.

104 4. A cat mill, slat mill, treadmill, jenny, rape stand,
105 spring pole, flirt pole, break stick, supplement, drug, or scale
106 when found in combination with or in proximity to any other item
107 listed in subparagraphs 1.-3.;

108 (c) Owning, leasing, managing, operating, or having control
109 of any property kept or used for any activity described in
110 paragraph (a) or paragraph (b);

111 (d) Promoting, staging, advertising, or charging any
112 admission fee to a fight or baiting between two or more animals;

113 (e) Performing any service or act to facilitate animal
114 fighting or baiting, including, but not limited to, providing
115 security, refereeing, or handling or transporting animals or
116 being a stakeholder of any money wagered on animal fighting or

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117 baiting;

118 (f) Removing or facilitating the removal of any animal
119 impounded under this section from an agency where the animal is
120 impounded or from a location designated by the court under
121 ~~subsection (4)~~, subsection (5), subsection (6), or subsection
122 (8)~~(7)~~, without the prior authorization of the court;

123 (g) Betting or wagering any money or other valuable
124 consideration on the fighting or baiting of animals; or

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

126

127 Notwithstanding any provision of this subsection to the
128 contrary, possession of the animal alone does not constitute a
129 violation of this section.

130 (4) In determining whether an object is animal-fighting or
131 -baiting paraphernalia, a court or other authority or a jury
132 shall consider, in addition to all other logically relevant
133 factors, the following:

134 (a) Statements by the owner or by anyone in control of the
135 object concerning its use.

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

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

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

140 (e) Direct or circumstantial evidence of the intent of the
141 owner, or of anyone in control of the object, to deliver the
142 object to a person who he or she knows, or should reasonably
143 know, intends to use the object to facilitate a violation of
144 this section.

145 (f) Instructions, oral or written, provided with the object

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146 concerning its use.

147 (g) Descriptive materials accompanying the object which
148 explain or depict its use.

149 (h) Any advertising concerning the object's use.

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

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

153 (k) Expert testimony concerning the object's use.

154
155 A conviction for a violation of paragraph (3) (a) is not required
156 in order for a court or other authority or a jury to find that
157 the object is intended for use, or designed for use, as animal-
158 fighting or -baiting paraphernalia.

159 Section 3. Paragraph (a) of subsection (1) of section
160 895.02, Florida Statutes, is amended to read:

161 895.02 Definitions.—As used in ss. 895.01-895.08, the term:

162 (1) "Racketeering activity" means to commit, to attempt to
163 commit, to conspire to commit, or to solicit, coerce, or
164 intimidate another person to commit:

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

168 1. Section 210.18, relating to evasion of payment of
169 cigarette taxes.

170 2. Section 316.1935, relating to fleeing or attempting to
171 elude a law enforcement officer and aggravated fleeing or
172 eluding.

173 3. Section 403.727(3) (b), relating to environmental
174 control.

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- 175 4. Section 409.920 or s. 409.9201, relating to Medicaid
176 fraud.
- 177 5. Section 414.39, relating to public assistance fraud.
- 178 6. Section 440.105 or s. 440.106, relating to workers'
179 compensation.
- 180 7. Section 443.071(4), relating to creation of a fictitious
181 employer scheme to commit reemployment assistance fraud.
- 182 8. Section 465.0161, relating to distribution of medicinal
183 drugs without a permit as an Internet pharmacy.
- 184 9. Section 499.0051, relating to crimes involving
185 contraband and adulterated drugs.
- 186 10. Part IV of chapter 501, relating to telemarketing.
- 187 11. Chapter 517, relating to sale of securities and
188 investor protection.
- 189 12. Section 550.235 or s. 550.3551, relating to dogracing
190 and horseracing.
- 191 13. Chapter 550, relating to jai alai frontons.
- 192 14. Section 551.109, relating to slot machine gaming.
- 193 15. Chapter 552, relating to the manufacture, distribution,
194 and use of explosives.
- 195 16. Chapter 560, relating to money transmitters, if the
196 violation is punishable as a felony.
- 197 17. Chapter 562, relating to beverage law enforcement.
- 198 18. Section 624.401, relating to transacting insurance
199 without a certificate of authority, s. 624.437(4)(c)1., relating
200 to operating an unauthorized multiple-employer welfare
201 arrangement, or s. 626.902(1)(b), relating to representing or
202 aiding an unauthorized insurer.
- 203 19. Section 655.50, relating to reports of currency

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204 transactions, when such violation is punishable as a felony.

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

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

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

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

215 24. Chapter 782, relating to homicide.

216 25. Chapter 784, relating to assault and battery.

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

219 27. Chapter 790, relating to weapons and firearms.

220 28. Chapter 794, relating to sexual battery, but only if
221 such crime was committed with the intent to benefit, promote, or
222 further the interests of a criminal gang, or for the purpose of
223 increasing a criminal gang member's own standing or position
224 within a criminal gang.

225 29. Section 796.03, s. 796.035, s. 796.04, s. 796.05, or s.
226 796.07, relating to prostitution and sex trafficking.

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

228 31. Chapter 810, relating to burglary and trespass.

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

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

232 34. Chapter 817, relating to fraudulent practices, false

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233 pretenses, fraud generally, and credit card crimes.
234 ~~35.~~ Chapter 825, relating to abuse, neglect, or
235 exploitation of an elderly person or disabled adult.
236 ~~36.~~ Section 827.071, relating to commercial sexual
237 exploitation of children.
238 ~~37.~~ Section 828.122, relating to fighting or baiting
239 animals.
240 ~~38.37.~~ Chapter 831, relating to forgery and counterfeiting.
241 ~~39.38.~~ Chapter 832, relating to issuance of worthless
242 checks and drafts.
243 ~~40.39.~~ Section 836.05, relating to extortion.
244 ~~41.40.~~ Chapter 837, relating to perjury.
245 ~~42.41.~~ Chapter 838, relating to bribery and misuse of
246 public office.
247 ~~43.42.~~ Chapter 843, relating to obstruction of justice.
248 ~~44.43.~~ Section 847.011, s. 847.012, s. 847.013, s. 847.06,
249 or s. 847.07, relating to obscene literature and profanity.
250 ~~45.44.~~ Section 849.09, s. 849.14, s. 849.15, s. 849.23, or
251 s. 849.25, relating to gambling.
252 ~~46.45.~~ Chapter 874, relating to criminal gangs.
253 ~~47.46.~~ Chapter 893, relating to drug abuse prevention and
254 control.
255 ~~48.47.~~ Chapter 896, relating to offenses related to
256 financial transactions.
257 ~~49.48.~~ Sections 914.22 and 914.23, relating to tampering
258 with or harassing a witness, victim, or informant, and
259 retaliation against a witness, victim, or informant.
260 ~~50.49.~~ Sections 918.12 and 918.13, relating to tampering
261 with jurors and evidence.

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Section 4. This act shall take effect July 1, 2013.