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FLORIDA ANIMAL CRUELTY LAWS

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§ 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, 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, 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 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 not 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) 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) 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.

Commentary:

Each separate act constitutes a separate offense. *See Florida Standard Jury Instructions 29.13 Aggravated Cruelty to Animals*, found at http://www.floridasupremecourt.org/jury_instructions/instructions-ch29.shtml.

When there is even marginal evidence of self-defense, a jury should be charged with a self-defense instruction to avoid appealable error. *King v. State*, 12 So.3d 1271 (Fla. DCA 2009) (trial court erred when denied defendant’s request for self-defense instruction where doctor observed puncture marks on defendant’s leg two weeks after defendant stabbed dog to death).

Statute is not unconstitutionally vague. *See Wilkerson v. State*, 401 So.2d 1110 (Fla. 1981) (statute conveys "sufficiently definite warnings of the proscribed conduct when measured by common understanding and practice...." Citing *Linville v. State*, 359 So.2d 450, 452 (Fla. 1978)). Statute applies to raccoons. *Id.*

Intent used in §828.12 (2) requires that the defendant intended to commit an act which results in death, not that the defendant intended to cause the death of the animal. *See Reynolds v. State*, 842 So.2d 46 (Fla. 2002).

§ 828.122. Fighting or baiting animals; offenses; penalties.

(1) This act may be cited as “The Animal Fighting Act.”

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

(a) “Animal fighting” means fighting between roosters or other birds or between dogs, bears, or other animals.

(b) “Baiting” means to attack with violence, to provoke, or to harass an animal with one or more animals for the purpose of training an animal for, or to cause an animal to engage in, fights with or among other animals. In addition, “baiting” means the use of live animals in the training of racing greyhounds.

(c) “Person” means every natural person, firm, copartnership, association, or corporation.

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

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

(b) Owning, possessing, or selling equipment for use in any activity described in paragraph (a);

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

- (d) Promoting, staging, advertising, or charging any admission fee to a fight or baiting between two or more animals;
- (e) Performing any service or act to facilitate animal fighting or baiting, including, but not limited to, providing security, refereeing, or handling or transporting animals or being a stakeholder of any money wagered on animal fighting or baiting;
- (f) Removing or facilitating the removal of any animal impounded under this section from an agency where the animal is impounded or from a location designated by the court under subsection (4), subsection (5), or subsection (7), without the prior authorization of the court;
- (g) Betting or wagering any money or other valuable consideration on the fighting or baiting of animals; or
- (h) Attending the fighting or baiting of animals.

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

(4) If a court finds probable cause to believe that a violation of this section or s. 828.12 has occurred, the court shall order the seizure of any animals and equipment used in committing the violation and shall provide for appropriate and humane care or disposition of the animals. This subsection is not a limitation on the power to seize animals as evidence at the time of arrest.

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

(6) If a veterinarian finds that an animal kept or used in violation of this section is suffering from an injury or a disease severe enough that it is not possible to humanely house and care for the animal pending completion of a hearing held under s. 828.073(2), final disposition of the criminal charges, or court-ordered forfeiture, the veterinarian may euthanize the animal as specified in s. 828.058. A veterinarian licensed to practice in this state shall be held harmless from criminal or civil liability for any decisions made or services rendered under this subsection.

(7) If an animal can be housed in a humane manner, the provisions of s. 828.073 shall apply. For the purpose of a hearing provided pursuant to s. 828.073(2), any animal baited, bred, trained, transported, sold, owned, possessed, or used for the purpose of animal fighting or baiting shall be considered mistreated.

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

(9) This section shall not apply to:

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

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

(c) Any person using animals to work livestock for agricultural purposes.

(d) Any person violating s. 828.121.

(e) Any person using dogs to hunt wild hogs or to retrieve domestic hogs pursuant to customary hunting or agricultural practices.

(10) This section shall not prohibit, impede, or otherwise interfere with recognized animal husbandry and training techniques or practices not otherwise specifically prohibited by law.

Commentary

Evidence beyond mere possession of fighting animals need be proven to support a conviction under §828.122. *Rodriguez v. State*, 29 So.3d 357 (Fla. App. 2010).

§ 828.123. Killing dog or cat with intent of selling or giving away pelt; possession, sale, or importation of pelt with intent of selling or giving away; penalty.

(1) A person who kills any dog or cat with the sole intent of selling or giving away the pelt of such animal commits a felony of the third degree, punishable as provided in s. 775.082 or by a fine of not more than \$10,000, or by both imprisonment and a fine.

(2) A person who possesses, imports into this state, sells, buys, gives away, or accepts any pelt of a dog or cat with the sole intent of selling or giving away the pelt of the dog or cat commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or by a fine of \$5,000, or by both imprisonment and a fine.

(3) A person who possesses, imports into the state, sells, buys, gives away, or accepts any dog or cat with the sole intent of killing such dog or cat, or having such dog or cat killed, for the purpose of selling or giving away the pelt of such animal commits a felony of the third degree, punishable as provided in s. 775.082 or by a fine of not more than \$10,000, or by both imprisonment and a fine.

(4) It is unlawful for any person to knowingly engage in the business of a dealer or buyer in the pelts or furs of any dog or cat in the state or to purchase such pelts or furs within the state. No common carrier shall knowingly ship or transport or receive for transportation any dog or cat pelts or furs within the state. Any person who violates this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

§ 828.125. Killing or aggravated abuse of horses or cattle; offenses; penalties.

Any other provisions of this chapter to the contrary notwithstanding:

(1) Any person who willfully and unlawfully, by any means whatsoever, kills, maims, mutilates, or causes great bodily harm or permanent breeding disability to any animal of the genus *Equus* (horse) or any animal of any registered breed or recognized registered hybrid of the genus *Bos* (cattle) commits a felony of the second degree, punishable as provided by s. 775.082, s. 775.083, or s. 775.084, except that any person who commits a violation of this subsection shall be sentenced to a minimum mandatory fine of \$3,500 and a minimum mandatory period of incarceration of 1 year.

(2) Any person who individually attempts or solicits, or jointly agrees, conspires, combines, or confederates with another person to commit, any act prohibited by subsection (1) and does an act in furtherance of said attempt, solicitation, or conspiracy shall be guilty of a felony of the second degree and is punishable as if the person or persons had actually committed such prohibited act as enumerated in subsection (1), notwithstanding any provisions found in s. 777.04. Nothing in this subsection shall be construed to prohibit separate convictions and sentences for a violation of this subsection and any violation of subsection (1).

(3) Any person who verbally or in writing threatens to commit any act prohibited by subsection (1) and has the apparent ability to carry out such threat and places the owner or custodian of said animal in fear that such an act as described in subsection (1) is about to take place shall be guilty of a felony of the third degree, punishable as provided by s. 775.082, s. 775.083 or s. 775.084.

(4) In addition to any other fines or penalties authorized by law, a person found guilty of violating any provision of subsection (1), subsection (2), or subsection (3) may be ordered by the court to make restitution to the aggrieved party in an amount not to exceed twice the gross fair market value of the said Equus or Bos killed or abused in an aggravated manner, or up to twice the gross loss caused, whichever is greater, plus attorney's fees and any and all related costs. Upon notice the court shall hold a hearing to determine the amount of fines, restitution, or costs to be imposed under this section, if not agreed upon by the parties.

(5) This section shall not be construed to abridge, impede, prohibit, or otherwise interfere in any way with the application, implementation, or conduct of recognized livestock husbandry practices or techniques by or at the direction of the owner of the livestock so husbanded; nor shall any person be held culpable for any act prohibited by this chapter which results from weather conditions or other acts of God, providing that the person is in compliance with recognized livestock husbandry practices.

Commentary

Attempt of §828.125 cannot be same have equal severity of commission of §828.125. *Johnson v. State*, 715 So.2d 1017 (Fla. App. 1998).

§ 828.126. Sexual activities involving animals.

(1) As used in this section, the term:

(a) "Sexual conduct" means any touching or fondling by a person, either directly or through clothing, of the sex organs or anus of an animal or any transfer or transmission of semen by the person upon any part of the animal for the purpose of sexual gratification or arousal of the person.

(b) "Sexual contact" means any contact, however slight, between the mouth, sex organ, or anus of a person and the sex organ or anus of an animal, or any penetration, however slight, of any part of the body of the person into the sex organ or anus of an animal, or any penetration of the sex organ or anus of the person into the mouth of the animal, for the purpose of sexual gratification or sexual arousal of the person.

(2) A person may not:

(a) Knowingly engage in any sexual conduct or sexual contact with an animal;

(b) Knowingly cause, aid, or abet another person to engage in any sexual conduct or sexual contact with an animal;

(c) Knowingly permit any sexual conduct or sexual contact with an animal to be conducted on any premises under his or her charge or control; or

(d) Knowingly organize, promote, conduct, advertise, aid, abet, participate in as an observer, or perform any service in the furtherance of an act involving any sexual conduct or sexual contact with an animal for a commercial or recreational purpose.

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

(4) This section does not apply to accepted animal husbandry practices, conformation judging practices, or accepted veterinary medical practices.

§ 828.13. Confinement of animals without sufficient food, water, or exercise; abandonment of animals.

(1) As used in this section:

(a) “Abandon” means to forsake an animal entirely or to neglect or refuse to provide or perform the legal obligations for care and support of an animal by its owner.

(b) “Owner” includes any owner, custodian, or other person in charge of an animal.

(2) Whoever:

(a) Impounds or confines any animal in any place and fails to supply the animal during such confinement with a sufficient quantity of good and wholesome food and water,

(b) Keeps any animals in any enclosure without wholesome exercise and change of air, or

(c) Abandons to die any animal that is maimed, sick, infirm, or diseased,

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 by both imprisonment and a fine.

(3) Any person who is the owner or possessor, or has charge or custody, of any animal who abandons such animal to suffer injury or malnutrition or abandons any animal in a street, road, or public place without providing for the care, sustenance, protection, and shelter of such animal 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 by both imprisonment and a fine.

§ 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 (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.

§ 828.17. Officer to arrest without warrant.

Any sheriff or any other peace officer of the state, or any police officer of any city or town of the state, shall arrest without warrant any person found violating any of the provisions of ss. 828.08, 828.12, and 828.13-828.16, and the officer making the arrest shall hold the offender until a warrant can be procured, and he or she shall use proper diligence to procure such warrant.

828.22. Humane Slaughter Act; humane slaughter and livestock euthanasia; requirements.

(1) Sections 828.22-828.26 may be cited as the “Humane Slaughter Act.”

(2)

(a) The Legislature of this state finds that the use of humane methods in the killing of livestock prevents needless suffering, results in safer and better working conditions for persons engaged in the slaughtering industry or other livestock operations, brings about improvement of products and economy in slaughtering or other livestock operations, and produces other benefits for producers, processors, and consumers which tend to expedite the orderly flow of livestock and their products.

(b) It is therefore declared to be the policy of this state to require that the slaughter of all livestock and the handling of livestock in connection with slaughter shall be carried out only by humane methods and to provide that methods of slaughter shall conform generally to those employed in other states where humane slaughter is required by law and to those authorized by the federal Humane Slaughter Act of 1958, and regulations thereunder.

(3) Nothing in ss. 828.22-828.26 shall be construed to prohibit, abridge, or in any way hinder the religious freedom of any person or group. Notwithstanding any other provision of ss. 828.22-828.26, in order to protect freedom of religion, ritual slaughter and the handling or other preparation of livestock for ritual slaughter are exempted from the terms of ss. 828.22-828.26. For the purposes of this action the term “ritual slaughter” means slaughter in accordance with s. 828.23(3).

§ 828.24. Prohibited acts; exemption.

(1) No person shall kill an animal in any way except by an approved humane method.

(2) No person shall shackle or hoist with intent to kill any animal prior to rendering the animal insensitive to pain.

(3) Nothing in this section precludes the enforcement of s. 828.12 relating to cruelty to animals.

§ 828.252. Nonambulatory animals.

This section acknowledges that natural emergencies may arise and that, even under recognized best management practices, injury may occur. In all cases, nonambulatory animals must be dealt with in a humane manner.

(1) As used in this section, the term “nonambulatory animal” means any livestock that is unable to stand and walk unassisted.

(2) A person may not buy, sell, give, receive, transfer, market, hold without providing proper care within 24 hours, or drag any nonambulatory animal unless the nonambulatory animal has been humanely euthanized, except in such cases where providing proper care requires that the animal be moved.

§ 828.27. Local animal control or cruelty ordinances; penalty.

(1) As used in this section, the term:

(a) “Animal” means any living dumb creature.

(b) “Animal control officer” means any person employed or appointed by a county or municipality who is authorized to investigate, on public or private property, civil infractions relating to animal control or cruelty and to issue citations as provided in this section. An animal control officer is not authorized to bear arms or make arrests; however, such officer may carry a device to chemically subdue and tranquilize an animal, provided that such officer has successfully completed a minimum of 16 hours of training in marksmanship, equipment handling, safety and animal care, and can demonstrate proficiency in chemical immobilization of animals in accordance with guidelines prescribed in the Chemical Immobilization Operational Guide of the American Humane Association.

(c) “Control” means the regulation of the possession, ownership, care, and custody of animals.

(d) “Cruelty” means any act of neglect, torture, or torment that causes unjustifiable pain or suffering of an animal.

(e) “Officer” means any law enforcement officer defined in s. 943.10 or any animal control officer.

(f) “Citation” means a written notice, issued to a person by an officer, that the officer has probable cause to believe that the person has committed a civil infraction in violation of a duly enacted ordinance and that the county court will hear the charge. The citation must contain:

1. The date and time of issuance.
2. The name and address of the person.
3. The date and time the civil infraction was committed.
4. The facts constituting probable cause.
5. The ordinance violated.
6. The name and authority of the officer.
7. The procedure for the person to follow in order to pay the civil penalty, to contest the citation, or to appear in court as required under subsection (6).
8. The applicable civil penalty if the person elects to contest the citation.
9. The applicable civil penalty if the person elects not to contest the citation.
10. A conspicuous statement that if the person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citation, the person shall be deemed to have waived his or her right

to contest the citation and that, in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.

11. A conspicuous statement that if the person is required to appear in court as mandated by subsection (6), he or she does not have the option of paying a fine in lieu of appearing in court.

(g) "Ordinance" means any ordinance relating to the control of or cruelty to animals enacted by the governing body of a county or municipality the violation of which is a civil infraction.

(2) The governing body of a county or municipality is authorized to enact ordinances relating to animal control or cruelty, which ordinances must provide:

(a) That a violation of such an ordinance is a civil infraction.

(b) A maximum civil penalty not to exceed \$500.

(c) A civil penalty of less than the maximum civil penalty if the person who has committed the civil infraction does not contest the citation.

(d) For the issuance of a citation by an officer who has probable cause to believe that a person has committed an act in violation of an ordinance.

(e) For the contesting of a citation in the county court.

(f) That, if a person fails to pay the civil penalty, fails to appear in court to contest the citation, or fails to appear in court as required by subsection (6), the court may issue an order to show cause upon the request of the governing body of the county or municipality. This order shall require such persons to appear before the court to explain why action on the citation has not been taken. If any person who is issued such order fails to appear in response to the court's directive, that person may be held in contempt of court.

(g) Such procedures and provisions as are necessary to implement any ordinances enacted under the authority of this section.

(3) The commission of a charged infraction at a hearing authorized pursuant to this chapter must be proven by a preponderance of the evidence.

(4)

(a)

1. County-employed animal control officers must, and municipally employed animal control officers may, successfully complete a 40-hour minimum standards training course. Such course must include, but is not limited to, training for: animal cruelty investigations, search and seizure, animal handling, courtroom demeanor, and civil citations. The course curriculum must be approved by the Florida Animal Control Association. An animal control officer who successfully completes such course shall be issued a certificate indicating that he or she has received a passing grade.

2. Any animal control officer who is authorized before January 1, 1990, by a county or municipality to issue citations is not required to complete the minimum standards training course.

3. In order to maintain valid certification, every 2 years each certified animal control officer must complete 4 hours of postcertification continuing education training. Such training may include, but is not limited to, training for: animal cruelty investigations, search and seizure, animal handling, courtroom demeanor, and civil citations.

(b) 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.

(5) Any person who willfully refuses to sign and accept a citation issued by an officer is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(6) The governing body of a county or municipality may require mandatory court appearances for certain aggravated violations of a local ordinance resulting in the unprovoked biting, attacking, or wounding of a domestic animal; violations resulting in the destruction or loss of personal property; second or subsequent violations of local animal cruelty laws; or violations resulting in the issuance of a third or subsequent citation to a person. The citation must clearly inform the person of the mandatory court appearance. The governing body of the county or municipality shall maintain records to prove the number of citations issued to the person. Persons required to appear in court do not have the option of paying the fine instead of appearing in court.

(7) Nothing contained in this section shall prevent any county or municipality from enacting any ordinance relating to animal control or cruelty which is identical to the provisions of this chapter or any other state law, except as to penalty. However, no county or municipal ordinance relating to animal control or cruelty shall conflict with the provisions of this chapter or any other state law. Notwithstanding the provisions of this subsection, the governing body of any county or municipality is authorized to enact ordinances prohibiting or regulating noise from any domesticated animal, violation of which shall be punishable upon conviction by a fine not to exceed \$500 or by imprisonment in the county jail for a period not to exceed 60 days, or by both such fine and imprisonment, for each violation of such ordinance. This subsection shall not apply to animals on land zoned for agricultural purposes.

(8) This section is an additional, supplemental, and alternative means of enforcing county or municipal codes or ordinances. This section does not prohibit a county or municipality from enforcing its codes or ordinances by any other means, including, but not limited to, the procedures provided in chapter 162.

§ 828.42. Animal enterprise disruption; criminal penalties.

(1) A person who intentionally causes physical disruption to the property, personnel, or operations of an animal enterprise by intentionally stealing, damaging, or causing the loss of, any property, including animals or records, used by the animal enterprise, and thereby causes economic damage, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) A person who in the course of a violation of subsection (1) causes serious bodily injury to another commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) A person who violates subsection (1), if such violation results in economic damage exceeding \$10,000, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) The offender must pay restitution under s. 775.089. Restitution includes, but is not limited to:

(a) The reasonable cost of repeating any experimentation that was interrupted or invalidated as a result of the offense.

(b) The loss of food production or farm income reasonably attributable to the offense.

§ 828.08. Penalty for exposing poison.

Whoever leaves or deposits any poison or any substance containing poison, in any common street, alley, lane, or thoroughfare of any kind, or in any yard or enclosure other than the yard or enclosure occupied or owned by such person, shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.