

Florida Cruelty to Animals Statutes

FLORIDA STATUTES

TITLE XLVI. CRIMES

CHAPTER 828. ANIMALS: CRUELTY; SALES; ANIMAL ENTERPRISE PROTECTION

828.02. Definitions

In this chapter, and in every law of the state relating to or in any way affecting animals, the word "animal" shall be held to include every living dumb creature; the words "torture," "torment," and "cruelty" shall be held to include every act, omission, or neglect whereby unnecessary or unjustifiable pain or suffering is caused, except when done in the interest of medical science, permitted, or allowed to continue when there is reasonable remedy or relief; and the words "owner" and "person" shall be held to include corporations, and the knowledge and acts of agents and employees of corporations in regard to animals transported, owned, employed by or in the custody of a corporation, shall be held to be the knowledge and act of such corporation.

828.03. Agents of counties, societies, etc., may prosecute violators

(1) Any county or any society or association for the prevention of cruelty to children or animals, organized under the laws of this state, may appoint agents for the purpose of investigating violations of any of the provisions of this chapter or any other law of the state for the purpose of protecting children and animals or preventing any act of cruelty thereto.

(2) All appointments of such agents by such societies or corporations must have the approval of the mayor of the city in which the society or association exists, and if the society or association exists or works outside of any city, the appointment must be approved by the county court judge or the judge of the circuit court for the county, and the mayor or judge shall keep a record of such appointment. The approval of the appointment of any agent by a county for either the incorporated or unincorporated areas of such county shall be by the county commission.

828.05. Killing an injured or diseased domestic animal

(1) The purpose of this section is to provide a swift and merciful means whereby domestic animals which are suffering from an incurable or untreatable condition or are imminently near

death from injury or disease may be destroyed without unconscionable delay and in a humane and proficient manner.

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

(a) Any law enforcement officer;

(b) Any veterinarian; and

(c) Any officer or agent of any municipal or county animal control unit or of any society or association for the prevention of cruelty to animals, or the designee of such an officer or agent.

(3) Whenever any domestic animal is so injured or diseased as to appear useless and is suffering, and it reasonably appears to an officer that such animal is imminently near death or cannot be cured or rendered fit for service and the officer has made a reasonable and concerted, but unsuccessful, effort to locate the owner, the owner's agent, or a veterinarian, then such officer, acting in good faith and upon reasonable belief, may immediately destroy such animal by shooting the animal or injecting it with a barbiturate drug. If the officer locates the owner or the owner's agent, he shall notify him of the animal's location and condition. If the officer locates only a veterinarian, the officer shall destroy the animal only upon the advice of the veterinarian. However, this section does not prohibit an owner from destroying his or her own domestic animal in a humane and proficient manner when the conditions described in this section exist.

(4) No officer or veterinarian acting in good faith and with due care pursuant to this section will be liable either criminally or civilly for such act, nor will any civil or criminal liability attach to the employer of the officer or veterinarian.

(5) A court order is not necessary to carry out the provisions of this section.

828.055. Sodium pentobarbital; permits for use in euthanasia of domestic animals

(1) The Board of Pharmacy shall adopt rules providing for the issuance of permits authorizing the purchase, possession, and use of sodium pentobarbital and sodium pentobarbital with lidocaine by county or municipal animal control agencies or humane societies registered with the Secretary of State for the purpose of euthanizing injured, sick, or abandoned domestic animals which are in their lawful possession. The rules shall set forth guidelines for the proper storage and handling of sodium pentobarbital and sodium pentobarbital with lidocaine and such other provisions as may be necessary to ensure that the drugs are used solely for the purpose set forth in this section. The rules shall also provide for an application fee not to exceed \$50 and a biennial renewal fee not to exceed \$50.

(2) Any county or municipal animal control agency or any humane society registered with the Secretary of State may apply to the Department of Business and Professional Regulation for a permit to purchase, possess, and use sodium pentobarbital or sodium pentobarbital with lidocaine pursuant to subsection (1). Upon certification by the board that the applicant meets the qualifications set forth in the rules, the department shall issue the permit.

(3) The board may revoke or suspend the permit upon a determination that the permittee is using sodium pentobarbital or sodium pentobarbital with lidocaine for any purpose other than that set forth in this section or if the permittee fails to follow the rules of the board regarding proper storage and handling.

828.058. Euthanasia of dogs and cats

(1) Sodium pentobarbital, a sodium pentobarbital derivative, or other agent the Board of Veterinary Medicine may approve by rule shall be the only methods used for euthanasia of dogs and cats by public or private agencies, animal shelters, or other facilities which are operated for the collection and care of stray, neglected, abandoned, or unwanted animals. A lethal solution shall be used in the following order of preference:

- (a) Intravenous injection by hypodermic needle;
- (b) Intraperitoneal injection by hypodermic needle;
- (c) Intracardial injection by hypodermic needle; or
- (d) Solution or powder added to food.

(2) A dog or cat may be tranquilized with an approved and humane substance before euthanasia is performed.

(3) Succinylcholine chloride, curare, curariform mixtures, any substance which acts as a neuromuscular blocking agent, or a chamber which causes a change in body oxygen may not be used on a dog or cat for any purpose. However, whenever an emergency situation exists which requires the immediate euthanasia of an injured, diseased, or dangerous animal, a law enforcement officer, a veterinarian, or an agent of a local animal control unit or the designee of such an agent may humanely destroy the animal, as provided in s. 828.05.

(4)(a) Euthanasia shall be performed only by a licensed veterinarian or an employee or agent of a public or private agency, animal shelter, or other facility that is operated for the collection and care of stray, neglected, abandoned, or unwanted animals, provided the employee or agent has successfully completed a 16-hour euthanasia technician certification course. The curriculum for such course must be approved by the Board of Veterinary Medicine and must include, at a minimum, the pharmacology, proper administration, and storage of euthanasia solutions; federal and state laws regulating the storage and accountability of euthanasia solutions; euthanasia technician stress management; and proper disposal of euthanized animals. An employee or agent performing euthanasia before October 1, 1993, must obtain certification by October 1, 1994. An employee or agent who begins performing euthanasia on or after October 1, 1993, must obtain certification before performing any euthanasia. However, a certified veterinarian technician who is an employee or agent as defined in the subsection, may perform euthanasia without completing the certification course required by this subsection. Euthanasia must be performed in a humane and proficient manner.

(b) No dog or cat may be left unattended between the time euthanasia procedures are first begun and the time death occurs, nor may its body be disposed of until death is confirmed by a qualified person.

(5) The state attorney may bring an action to enjoin any violation of this act.

(6) Any person who violates the provisions of this act is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

828.073. Animals found in distress; when agent may take charge; hearing; disposition; sale

(1) The purpose of this section is to provide a means by which a neglected or mistreated animal can be:

(a) Removed from its present custody, or

(b) Made the subject of an order to provide care, issued to its owner by the county court, any law enforcement officer, or any agent of the county or of any society or association for the prevention of cruelty to animals appointed under s. 828.03, and given protection and an appropriate and humane disposition made.

(2) Any law enforcement officer or any agent of any county or of any society or association for the prevention of cruelty to animals appointed under the provisions of s. 828.03 may:

(a) Lawfully take custody of any animal found neglected or cruelly treated by removing the animal from its present location, or

(b) Order the owner of any animal found neglected or cruelly treated to provide certain care to the animal at the owner's expense without removal of the animal from its present location, and shall forthwith petition the county court judge of the county wherein the animal is found for a hearing, to be set within 30 days after the date of seizure of the animal or issuance of the order to provide care and held not more than 15 days after the setting of such date, to determine whether the owner, if known, is able to provide adequately for the animal and is fit to have custody of the animal. The hearing shall be concluded and the court order entered thereon within 60 days after the date the hearing is commenced. No fee shall be charged for the filing of the petition. Nothing herein is intended to require court action for the taking into custody and making proper disposition of stray or abandoned animals as lawfully performed by animal control agents.

(3) The officer or agent of any county or of any society or association for the prevention of cruelty to animals taking charge of any animal pursuant to the provisions of this section shall have written notice served, at least 5 days prior to the hearing set forth in subsection (2), upon the owner of the animal, if he or she is known and is residing in the county where the animal was taken, in conformance with the provisions of chapter 48 relating to service of process. The sheriff of the county shall not charge a fee for service of such notice. If the owner of the animal is known but is residing outside of the county wherein the animal was taken, notice of the hearing shall be by publication in conformance with the provisions of chapter 49.

(4)(a) The officer or agent of any county or of any society or association for the prevention of cruelty to animals taking charge of an animal as provided for in this section shall provide for the animal until either:

1. The owner is adjudged by the court to be able to provide adequately for, and have custody of, the animal, in which case the animal shall be returned to the owner upon payment by the owner for the care and provision for the animal while in the agent's or officer's custody; or

2. The animal is turned over to the officer or agent as provided in paragraph (c) and a humane disposition of the animal is made.

(b) If the court determines that the owner is able to provide adequately for, and have custody of, the animal, the order shall provide that the animal in the possession of the officer or agent be claimed and removed by the owner within 7 days after the date of the order.

(c) Upon the court's judgment that the owner of the animal is unable or unfit to adequately provide for the animal:

1. The court shall order the animal to be sold by the sheriff at public auction, and shall provide in its order that the current owner shall have no further custody of the animal and that any animal not bid upon shall be remanded to the custody of the Society for the Prevention of Cruelty to

Animals, the Humane Society, the county, or any agency or person the judge deems appropriate, to be disposed of as the agency or person sees fit; or

2. The court may order the animal destroyed or remanded directly to the custody of the Society for the Prevention of Cruelty to Animals, the Humane Society, the county, or any agency or person the judge deems appropriate, to be disposed of as the agency or person sees fit, upon the testimony of the agent who took custody of the animal, or upon the testimony of other qualified witnesses, that the animal requires destruction or other disposition for humanitarian reasons or is of no commercial value.

3. Upon proof of costs incurred by the agent or officer, the court may require that the owner pay for the care of the animal while in the custody of the agent or officer. A separate hearing may be held.

4. The court may order that other animals that are in the custody of the owner and that were not seized by the officer or agent be turned over to the officer or agent, if the court determines that the owner is unable or unfit to adequately provide for the animals. The court may enjoin the owner's further possession or custody of other animals.

(5) In determining the person's fitness to have custody of an animal under the provisions of this act, the court may consider, among other matters:

(a) Testimony from the agent or officer who seized the animal and other witnesses as to the condition of the animal when seized and as to the conditions under which the animal was kept.

(b) Testimony and evidence as to the veterinary care provided to the animal.

(c) Testimony and evidence as to the type and amount of care provided to the animal.

(d) Expert testimony as to the community standards for proper and reasonable care of the same type of animal.

(e) Testimony from any witnesses as to prior treatment or condition of this or other animals in the same custody.

(f) The owner's past record of judgments under the provisions of this chapter.

(g) Convictions under the statutes prohibiting cruelty to animals.

(h) Any other evidence the court considers to be material or relevant.

(6) If the evidence indicates a lack of proper and reasonable care of the animal, the burden is on the owner to demonstrate by clear and convincing evidence that he or she is able and fit to have custody of and provide adequately for the animal.

(7) In any case in which an animal is offered for auction under the provisions of this section, the proceeds shall be:

(a) Applied, first, to the cost of the sale.

(b) Applied, secondly, to the care and provision for the animal by the officer or agent of any county or of any society or association for the prevention of cruelty to animals taking charge.

(c) Applied, thirdly, to the payment of the owner for the sale of the animal.

(d) Paid over to the court if the owner is not known.

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.

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, 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 which results in **the cruel death**, or excessive or repeated infliction of unnecessary pain or suffering, or causes the same to be done, 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.

(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.

(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.

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:

(a) "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.

(b) "Person" means every natural person, firm, copartnership, association, or corporation.

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

(a) Baiting, or using any animal for the purpose of fighting or baiting any other animal.

(b) Knowingly owning, managing, or operating any facility kept or used for the purpose of fighting or baiting any animal.

(c) Promoting, staging, advertising, or charging any admission fee to a fight or baiting between two or more animals.

(4) Any person who willfully commits any of the following acts is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083:

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

(b) Attending the fighting or baiting of animals.

(5) Whenever an indictment is returned or an information is filed charging a violation of s. 828.12 or of this section and, in the case of an information, a magistrate finds probable cause that a violation has occurred, the court shall order the animals seized and shall provide for appropriate and humane care or disposition of the animals. This provision shall not be construed as a limitation on the power to seize animals as evidence at the time of arrest.

(6) The provisions of subsection (3) and paragraph (4) (b) 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 animals to hunt wild hogs or to retrieve domestic hogs.

(7) Nothing in this section shall be construed to prohibit, impede, or otherwise interfere with recognized animal husbandry and training techniques or practices not otherwise specifically prohibited by law.

828.125. Killing or aggravated abuse of registered breed 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 any registered breed of the genus *Equus* (horse) or genus *Bos* (cattle), or any recognized registered hybrid of the specified genera, shall be guilty of a felony of the second degree, punishable as provided by s. 775.082, s. 775.083, or s. 775.084.

(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.

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.

828.14. Water and food for stock on trains, vessels, etc.

(1) No person or corporation, or agent of either, engaged in transporting livestock on railway trains or on steam or sailing vessels, or otherwise, shall detain such stock for a longer

continuous period than 28 hours after the same are so placed without supplying the same with necessary food, water, and attention, or shall permit them to be crowded so as to overlie, crush, wound, or kill each other; and any person or agent as aforesaid violating the provisions of this section shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, and any corporation violating the provisions of this section shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.083.

(2) Nothing in this section shall apply to owners, officers, or crew of water craft detained on the navigable waters of this state by storms and prevented by bad weather from reaching port.

828.16. Contagious diseases

Whoever, being the owner, or having the charge of any animal, knowing the same to have any contagious or infectious disease, or to have been recently exposed thereto, sells, barter, or disposes of such animal without first disclosing to the person to whom the same is sold, bartered, or disposed of, that such animal is so diseased, or has been exposed, as aforesaid, or knowingly permits such animal to run at large, or knowing such animal to be diseased as aforesaid, knowingly allows the same to come into contact with any such animal of another person without his or her knowledge or permission, shall be guilty of 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. 828.04, 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 requirement

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

(2) 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 this act shall be construed to prohibit, abridge, or in any way hinder the religious freedom of any person or group. Notwithstanding any other provision of this act, 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 this act. For the purposes of this action the term "ritual slaughter" means slaughter in accordance with s. 828.23(7)(b).

828.23. Definitions

As used in ss. 828.22 to 828.26, the following words shall have the meaning indicated:

- (1) "Department" means the Department of Agriculture and Consumer Services.
- (2) "Person" means any individual, partnership, corporation, or association doing business in this state, in whole or in part.
- (3) "Slaughterer" means any person regularly engaged in the commercial slaughtering of livestock.
- (4) "Livestock" means cattle, calves, sheep, swine, horses, mules, goats, ostriches, and any other animal which can or may be used in and for the preparation of meat or meat products.
- (5) "Packer" means any person engaged in the business of slaughtering, or of manufacturing or preparing meat or meat products for sale, either by such person or others; or of manufacturing or preparing livestock products for sale by such person or others.
- (6) "Stockyard" means any place, establishment, or facility commonly known as a stockyard, conducted or operated for compensation or profit as a public market, consisting of pens, or other enclosures, and their appurtenances, for the handling, keeping, and holding of livestock for the purpose of sale or shipment.
- (7) "Humane method" means either:
 - (a) A method whereby the animal is rendered insensible to pain by mechanical, electrical, chemical, or other means that are rapid and effective, before being shackled, hoisted, thrown, cast, or cut; or
 - (b) A method in accordance with ritual requirements of any religious faith whereby the animal suffers loss of consciousness by anemia of the brain caused by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument.

828.24. Prohibited acts; exemption

- (1) No slaughterer, packer, or stockyard operator shall shackle, hoist, or otherwise bring livestock into position for slaughter, by any method which shall cause injury or pain.
- (2) No slaughterer, packer, or stockyard operator shall bleed or slaughter any livestock except by a humane method.
- (3) This act shall not apply to any person, firm or corporation slaughtering or processing for sale within the state not more than 20 head of cattle nor more than 35 head of hogs per week.

828.25. Administration; rules and regulations; inspection; fees

- (1) The department shall administer the provisions of this act. It shall promulgate and may from time to time revise rules and regulations which shall conform substantially to the rules and regulations promulgated by the Secretary of Agriculture of the United States pursuant to the Federal Humane Slaughter Act of 1958, Pub.L. No. 85-765, 72 Stat. 862, and any amendments thereto; provided, however, that the use of a manually operated hammer, sledge or poleax is declared to be an inhumane method of slaughter within the meaning of this act.
- (2) The department may appoint any member of its staff as an official inspector for the purposes of this act. Such inspector shall have the power to enter the premises of any slaughterer for the purposes of verifying compliance or noncompliance with the provisions of this act.
- (3) As soon as practicable after October 1, 1961, an inspection shall be made of the premises of each slaughterer. Additional inspections shall be made not less frequently than quarterly. No fee

shall be charged for such inspection.

828.26. Penalty

(1) No slaughterer found by the department in accordance with the above not to be in compliance with the provisions of this act shall sell any meat or meat products to any public agency in the state, or to any institution supported by state, county, or municipal funds. Failure to comply with this provision shall be a misdemeanor of the second degree, punishable as provided in s. 775.083.

(2) Upon failure to be in compliance with the provisions of this act after a period of 1 year from the date of the first inspection required under s. 828.25, the department shall direct the slaughterer to cease slaughtering livestock. Failure to comply with this directive shall be a misdemeanor of the second degree, punishable as provided in s. 775.083, and constituting a separate offense for each day of continued slaughtering operations beyond the first week following mailing of such directive to the slaughterer by the department.

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 shall, and municipally employed animal control officers may, successfully complete a 40-hour minimum standards training course. Such course shall 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 prior to 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 county-employed animal control officer shall 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.

828.41. Definitions

As used in ss. 828.40-828.43, the term:

(1) "Animal enterprise" means:

(a) A commercial or academic enterprise that uses animals for food or fiber production, agriculture, research, or testing;

(b) A zoo, aquarium, circus, rodeo, or lawful competitive animal event; or

(c) Any fair or similar event intended to advance agricultural arts and sciences.

(2) "Physical disruption" does not include any lawful disruption that results from lawful public, governmental, or animal enterprise employee reaction to the disclosure of information about an animal enterprise.

(3) "Serious bodily injury" means bodily injury that creates a substantial risk of death or causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(4) "Economic damage" means the replacement costs of lost or damaged property or records, the costs of repeating an interrupted or invalidated experiment, and the loss of profits.

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.

828.43. Injunction

In a case of ongoing animal enterprise disruption, the aggrieved animal enterprise may obtain injunctive relief.

TITLE XLVII. CRIMINAL PROCEDURE AND CORRECTIONS

CHAPTER 933.

SEARCH AND INSPECTION WARRANTS

933.18. When warrant may be issued for search of private dwelling

No search warrant shall issue under this chapter or under any other law of this state to search any private dwelling occupied as such unless:

(1) It is being used for the unlawful sale, possession, or manufacture of intoxicating liquor;

(2) Stolen or embezzled property is contained therein;

(3) It is being used to carry on gambling;

(4) It is being used to perpetrate frauds and swindles;

(5) The law relating to narcotics or drug abuse is being violated therein;

(6) A weapon, instrumentality, or means by which a felony has been committed, or evidence relevant to proving said felony has been committed, is contained therein;

(7) One or more of the following misdemeanor child abuse offenses is being committed there:

(a) Interference with custody, in violation of s. 787.03.

(b) Commission of an unnatural and lascivious act with a child, in violation of s. 800.02.

(c) Exposure of sexual organs to a child, in violation of s. 800.03.

(8) It is in part used for some business purpose such as a store, shop, saloon, restaurant, hotel, or boardinghouse, or lodginghouse;

(9) It is being used for the unlawful sale, possession, or purchase of wildlife, saltwater products,

or freshwater fish being unlawfully kept therein; or

(10) The laws in relation to cruelty to animals have been or are being violated therein, except that no search pursuant to such a warrant shall be made in any private dwelling after sunset and before sunrise unless specially authorized by the judge issuing the warrant, upon a showing of probable cause. Property relating to the violation of such laws may be taken on a warrant so issued from any private dwelling in which it is concealed or from the possession of any person therein by whom it shall have been used in the commission of such offense or from any person therein in whose possession it may be.

If, during a search pursuant to a warrant issued under this section, a child is discovered and appears to be in imminent danger, the law enforcement officer conducting such search may remove the child from the private dwelling and take the child into protective custody pursuant to Chapter 39. The term "private dwelling" shall be construed to include the room or rooms used and occupied, not transiently but solely as a residence, in an apartment house, hotel, boardinghouse, or lodginghouse. No warrant shall be issued for the search of any private dwelling under any of the conditions hereinabove mentioned except on sworn proof by affidavit of some creditable witness that he or she has reason to believe that one of said conditions exists, which affidavit shall set forth the facts on which such reason for belief is based.

Amended in 1197, 1999, 2000.

Reviewed by AAHS in September 2001.

[Return to Top of This Page](#)

[Return to Cruelty to Animals Page](#)