

1 AN ACT relating to animals.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. KRS 525.135 IS REPEALED AND REENACTED TO READ AS
4 FOLLOWS:

5 *(1) As used in Sections 1 and 2 of this Act:*

6 *(a) "Animal control officer" means the same as in KRS 258.095;*

7 *(b) "Extreme neglect" means failure, as an owner or person otherwise charged*
8 *with the care of a dog or cat, to provide adequate food, water, space, shelter,*
9 *or veterinary care to an extent that causes serious physical injury or death*
10 *to the dog or cat;*

11 *(c) "Petitioner" means the law enforcement agency or animal control agency*
12 *that seizes an animal and files a petition for forfeiture under Section 2 of*
13 *this Act; and*

14 *(d) "Torture" means an action taken for the primary purpose of inflicting*
15 *physical pain.*

16 *(2) (a) A person commits the crime of animal abuse in the second degree if, except*
17 *as otherwise authorized by law, the person intentionally, knowingly, or*
18 *recklessly causes physical injury to a dog or cat.*

19 *(b) Animal abuse in the second degree is a Class A misdemeanor.*

20 *(3) (a) A person commits the crime of animal abuse in the first degree if, except as*
21 *otherwise authorized by law, the person intentionally, knowingly, or*
22 *recklessly causes serious physical injury to a dog or cat.*

23 *(b) Animal abuse in the first degree is a Class D felony.*

24 *(4) (a) A person commits the crime of aggravated animal abuse in the first degree*
25 *if, except as otherwise authorized by law, the person:*

26 *1. Intentionally or knowingly kills a dog or cat;*

27 *2. In circumstances manifesting extreme indifference to the life of a dog*

1 or cat, he or she wantonly engages in conduct which creates a grave
2 risk of death to a dog or cat, and thereby causes the death of the dog
3 or cat;

4 3. Intentionally or knowingly tortures a dog or cat;

5 4. Intentionally or knowingly causes extreme neglect of a dog or cat; or

6 5. Commits animal abuse in the first degree and:

7 a. Has previously been convicted of any offense under KRS
8 525.130, 525.137, 525.200, 525.205, this section, or the
9 equivalent laws of another jurisdiction;

10 b. Commits animal abuse as part of an incident of domestic
11 violence and abuse under KRS Chapter 403 or dating violence
12 and abuse under KRS Chapter 456; or

13 c. Knowingly commits the animal abuse in the immediate presence
14 of a minor child. For purposes of this paragraph, a minor child
15 is in the immediate presence of animal abuse if the abuse is
16 directly seen or heard by the minor child.

17 (b) Aggravated animal abuse in the first degree is a Class C felony.

18 (5) Nothing in this section shall apply to the killing or injuring of a dog or cat as part
19 of:

20 (a) Normal and accepted veterinary practices performed by a licensed
21 veterinarian;

22 (b) Bona fide animal research activities of institutions of higher education, or a
23 business entity registered with the United States Department of Agriculture
24 under the Animal Welfare Act or subject to other federal laws governing
25 animal research;

26 (c) The training or engaging of a dog to accomplish a task or participate in an
27 activity or exhibition carried out in accordance with recognized practices

1 and in a manner which does not adversely affect the health or safety of the
2 dog; or

3 (d) The reasonable defense of self, another person, or a domestic animal
4 against an aggressive or diseased dog or cat.

5 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 525 IS CREATED TO
6 READ AS FOLLOWS:

7 (1) A peace officer or animal control officer who has probable cause to believe there
8 has been a violation of KRS 525.125, 525.130, 525.135, 525.137, or Section 1 of
9 this Act, may seize and take custody of the animal involved.

10 (2) If any animal is seized under this section, the owner or keeper of the animal shall
11 be liable for the reasonable costs of the seizure, care, keeping, and disposal of the
12 animal. Reasonable costs shall include but not be limited to transportation,
13 medical, boarding, shelter, and farrier costs.

14 (3) If any animal is in the custody of a law enforcement agency or animal control
15 agency pursuant to this section, the law enforcement agency or animal control
16 agency may, pending the outcome of a criminal action charging a violation
17 identified in subsection (1) of this section, and prior to the final disposition of
18 such criminal charge, file a petition in the criminal case requesting that the court
19 issue an order forfeiting the animal to the law enforcement agency or animal
20 control agency. The petitioner shall serve a true copy of the petition upon the
21 defendant. If the defendant is not able to be served notice after reasonable effort,
22 the petition shall be conspicuously posted by the petitioner at the premises where
23 the animal was seized.

24 (4) After filing of the petition, the court shall set a hearing date within fourteen (14)
25 calendar days unless both parties agree otherwise. The owner or keeper of the
26 seized animal shall be permitted to hire a licensed veterinarian of his or her
27 choosing to examine the animal at a time and place agreed to by the petitioner.

1 (5) (a) At the hearing, the petitioner shall have the burden of establishing probable
2 cause to believe that the animal was subjected to a violation identified in
3 subsection (1) of this section. A prior finding of probable cause by a judge
4 will create a permissible inference that probable cause exists for the
5 forfeiture proceeding.

6 (b) If the court finds probable cause exists, the court shall order the immediate
7 forfeiture of the animal to the petitioner, unless the defendant, within
8 seventy-two (72) hours after the hearing, posts a security deposit or bond
9 with the municipal or county treasurer in an amount determined by the
10 court to be sufficient to repay all reasonable costs incurred, and all
11 reasonable costs anticipated to be incurred, for the care of the animal for at
12 least thirty (30) days inclusive of the day of the initial seizure.

13 (c) If the court finds probable cause does not exist, the animal shall be returned
14 to the defendant, and the defendant shall not be responsible for any costs of
15 the seizure, care, or treatment, unless the defendant is later found guilty or
16 pleads guilty in the criminal case.

17 (6) (a) At the end of the thirty (30) days for which expenses are covered by the
18 security deposit or bond, if the defendant desires to prevent disposition of
19 the animal, the defendant shall post a new security deposit or bond with the
20 municipal or county treasurer which must be received by the expiration of
21 the date of the previous security deposit or bond. The court may correct,
22 alter, or otherwise adjust the new security deposit or bond upon a motion
23 made before the expiration date of the previous security deposit or bond;
24 except however, that no person may file more than one (1) motion seeking
25 an adjustment to the new security deposit or bond.

26 (b) If a security deposit or bond has been posted in accordance with this
27 section, the petitioner may draw from that deposit or bond reasonable costs

1 for keeping and caring for the animal from the date of the seizure to the
2 date of final disposition of the animal in the criminal action.

3 (c) At the end of the time for which expenses are covered by the security deposit
4 or bond, or if no security deposit or bond has been posted in accordance
5 with this section, the animal shall be deemed abandoned, and the petitioner
6 may determine the humane disposition of the animal. The defendant shall
7 be liable for all unpaid reasonable costs of the care, keeping, or disposal of
8 the animal.

9 (d) Upon resolution of the criminal action, or relinquishment of the animal by
10 the owner or keeper, remaining funds deposited with the municipal or
11 county treasurer which have not and will not be expended in the care,
12 keeping, or disposal of the animal shall be remitted to the defendant.

13 (7) (a) A law enforcement agency or animal control agency that seizes an animal
14 pursuant to subsection (1) of this section may transfer the animal into the
15 possession of a shelter or other animal care organization for purposes of
16 providing care and shelter to the animal. If such a transfer is made, the law
17 enforcement agency or animal control agency that seized the animal shall
18 retain custody of the animal while the animal is in the possession of a
19 shelter or animal care organization.

20 (b) Any law enforcement agency, animal control agency, or designated shelter
21 or animal care organization holding an animal pursuant to this section
22 shall be immune from liability related to its care and possession of the
23 animal. Immunity shall not extend to any person or organization acting in
24 bad faith or in violation of the law.

25 (8) (a) No seized animal shall be released, adopted, or disposed of if law
26 enforcement or a prosecutor's office is holding the animal as evidence in an
27 ongoing criminal proceeding, unless otherwise agreed upon by the

1 prosecutor's office and the defendant.

2 **(b) Irrespective of any other provision of this section, if, in the written**
3 **determination of a licensed veterinarian, the seized animal is experiencing**
4 **extreme pain or suffering, or is severely injured or diseased, and is not**
5 **likely to recover, the law enforcement agency or animal control agency with**
6 **custody of the animal may have the animal euthanized.**

7 **(9) (a) No proceeding under this section shall be used as a basis for a continuance**
8 **or to delay the criminal case, nor shall proceedings in the criminal case,**
9 **other than dismissal, be used as a basis to delay or continue the forfeiture**
10 **proceeding as provided for in this section.**

11 **(b) Proceedings under this section are of a civil nature and governed by the**
12 **Kentucky Rules of Civil Procedure except as to limitations upon the**
13 **discovery process. All discovery requests shall be granted only under the**
14 **authority of the court. The court shall authorize discovery with the intent to**
15 **provide the necessary information relating directly to the evidence for the**
16 **probable cause proceeding under subsection (5) of this section. In no event**
17 **shall the discovery mechanisms be used to unreasonably burden the**
18 **opposing party. Discovery mechanisms shall not include the deposition of**
19 **any party, witness, or representative, the use of interrogatories, or the**
20 **demand to inspect any records outside of the immediate reports and**
21 **financial accountings for the animal in question.**

22 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 525 IS CREATED TO
23 READ AS FOLLOWS:

24 **(1) A person who enters the passenger compartment of a car or truck for the purpose**
25 **of removing a dog or cat shall be immune from civil liability for any resulting**
26 **damage to the passenger car or truck if the person:**

27 **(a) 1. Makes a reasonable effort to locate the owner or other person**

- 1 responsible for the dog or cat;
- 2 2. Contacts local law enforcement, the local fire department, local
- 3 animal control officers, or a 911 emergency telephone service; and
- 4 3. Has at the time a reasonable and good-faith belief, based on the
- 5 circumstances, including but not limited to the person's sensory
- 6 perception, that the dog or cat is in immediate danger of death if not
- 7 removed from the passenger car or truck before emergency responders
- 8 can arrive;
- 9 (b) Uses no more force to enter the passenger car or truck and remove the dog
- 10 or cat than is reasonably necessary under the circumstances; and
- 11 (c) 1. Remains with the dog or cat in a safe location, out of the elements but
- 12 reasonably close to the passenger car or truck, until law enforcement,
- 13 firefighters, animal control officers, or other emergency responders
- 14 arrive; or
- 15 2. Reasonably determines that emergency conditions require leaving the
- 16 scene with the animal, and places written notice on the passenger car
- 17 or truck containing:
- 18 a. The person's contact information;
- 19 b. The reason entry into the passenger car or truck was made;
- 20 c. The location of the dog or cat; and
- 21 d. Notice that authorities have been contacted, and specifically
- 22 which law enforcement agency or emergency services were
- 23 contacted.
- 24 (2) This section does not limit a person's immunity from civil liability or defenses
- 25 established in another section of the Kentucky Revised Statutes or available at
- 26 common law.