

1 AN ACT relating to harboring a vicious dog and making an appropriation therefor.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 258 IS CREATED TO  
4 READ AS FOLLOWS:

5 *(1) If the court finds that a defendant charged with a violation of subsection (4)(a) of*  
6 *Section 2 of this Act is incompetent to stand trial, the Commonwealth shall*  
7 *petition the court to conduct a hearing for a determination that the dog is a*  
8 *vicious dog.*

9 *(2) The court may order the removal or destruction of the dog.*

10 *(3) Upon a third finding that the defendant owns or possesses a vicious dog and is*  
11 *incompetent to stand trial, the owner shall be prohibited from owning or*  
12 *possessing a dog for five (5) years from the date of that finding. Assistance*  
13 *animals as defined in KRS 383.085 shall not be excluded from the prohibition on*  
14 *ownership or possession.*

15 ➔Section 2. KRS 258.990 is amended to read as follows:

16 (1) Any person who violates KRS 258.015, 258.035, 258.055, 258.065, or 258.085  
17 shall be fined not less than ten dollars (\$10) nor more than one hundred dollars  
18 (\$100). Each day of violation shall constitute a separate offense.

19 (2) The owner of any dog, cat, or ferret which bites a human being shall be liable to  
20 pay all damages for personal injuries resulting from the bite of the dog, cat, or  
21 ferret.

22 (3) ~~[(a)]~~ Any person violating or failing or refusing to comply with KRS 258.095 to  
23 258.365, except KRS 258.235(5)(a), shall, upon conviction, be fined not less than  
24 five dollars (\$5) nor more than one hundred dollars (\$100), or be imprisoned in the  
25 county jail for not less than five (5) nor more than sixty (60) days, or both.

26 *(4) (a)*~~[(b)]~~ Any person violating KRS 258.235(5)(a) shall be punished by a fine of  
27 not less than fifty dollars (\$50) nor more than two hundred dollars (\$200), or

1 by imprisonment in the county jail for not less than ten (10) nor more than  
2 sixty (60) days, or both.

3 **(b) Any person with three (3) violations of subsection (5)(a) of Section 3 of this**  
4 **Act in any five (5) year period shall:**

- 5 **1. Be prohibited from owning or possessing a dog for five (5) years.**  
6 **Assistance animals as defined in KRS 383.085 shall not be excluded**  
7 **from the restriction on ownership or possession under this paragraph;**  
8 **2. Be fined two hundred fifty dollars (\$250) per dog possessed; and**  
9 **3. Surrender all dogs to the animal control officer or appropriate law**  
10 **enforcement agency.**

11 ~~(5)~~~~(4)~~ All fines collected under ~~subsections~~~~[subsection]~~ **(3), (4), and (6)** of this  
12 section shall, after costs and commissions have been deducted, be paid to the  
13 department to be credited to the animal control and care fund **established in Section**  
14 **4 of this Act.**

15 **(6) Any person prohibited from owning or possessing a dog pursuant to subsection**  
16 **(3) of Section 1 of this Act shall surrender any dog possessed to the animal**  
17 **control officer or appropriate law enforcement agency and shall be fined no less**  
18 **than two hundred fifty dollars (\$250) per dog owned or possessed.**

19 ➔Section 3. KRS 258.235 is amended to read as follows:

- 20 (1) Any person, without liability, may kill or seize any dog which is observed attacking  
21 any person.
- 22 (2) Any livestock owner or his **or her** agent, without liability, may kill any dog  
23 trespassing on that owner's property and observed in the act of pursuing or  
24 wounding his **or her** livestock.
- 25 (3) Any dog determined to be vicious by a court and allowed to be returned to an owner  
26 shall be confined in a locked enclosure at least seven (7) feet high or a locked  
27 kennel run with a secured top. The dog may leave the enclosure only to visit the

1 veterinarian or to be turned in to an animal shelter. The dog shall be muzzled if  
2 leaving the enclosure for either of these purposes.

3 (4) Any owner whose dog is found to have caused damage to a person, livestock, or  
4 other property shall be responsible for that damage.

5 (5) (a) Any person who has been attacked by a dog, or anyone acting on behalf of  
6 that person, may make a complaint before the district court, charging the  
7 owner or keeper of the dog with harboring a vicious dog. A copy of the  
8 complaint shall be served upon the person so charged in the same manner and  
9 subject to the laws regulating the service of summons in civil actions directing  
10 him or her to appear for a hearing of the complaint at a time fixed in the  
11 complaint. If the person fails to appear at the time fixed, or if upon a hearing  
12 of the parties and their witnesses, the court finds the person so charged is the  
13 owner or keeper of the dog in question, and that the dog has viciously and  
14 without cause, attacked a human being when off the premises of the owner or  
15 keeper, the person shall be subject to the penalties set forth in KRS  
16 258.990~~(4)(3)(b)~~, and the court shall further order the owner or keeper to  
17 keep the dog securely confined as provided by subsection (3) of this section,  
18 or the court may order the dog to be destroyed.

19 (b) The animal control officer shall act as an officer of the court for the  
20 enforcement of any orders of the court in his or her jurisdiction pertaining to  
21 this subsection.

22 (6) For his or her services in the proceedings, a peace officer shall be entitled to the  
23 same fees to which he or she is entitled for performing similar services in civil  
24 cases. In all proceedings under this section, the court shall place the costs upon  
25 either party as it may determine.

26 (7) It shall be unlawful for the owner or keeper of any vicious dog, after receiving an  
27 order under subsection (5) of this section, to permit the dog to run at large, or to

1 appear in public except as provided in subsection (3) of this section.

2 **(8)** Any vicious dog found running at large may be killed by any animal control officer  
3 or peace officer without liability for damages for the killing.

4 **(9) Any animal control officer or peace officer who impounds or kills a vicious dog**  
5 **under this chapter shall make a written record of the incident and keep the record**  
6 **for no less than five (5) years.**

7 ➔Section 4. KRS 258.119 is amended to read as follows:

8 (1) The "Animal Control and Care Fund" is hereby created as a special fund in the  
9 State Treasury. The fund may ~~also~~ receive **all fines paid to the department under**  
10 **subsection (5) of Section 2 of this Act,** gifts, grants from public and private  
11 sources, state appropriations, and federal funds. Any unallotted or unencumbered  
12 balances in this fund shall be invested as provided for in KRS 42.500(9). Income  
13 earned from the investments shall be credited to the fund. Any fund balance at the  
14 close of the fiscal year shall not lapse but shall be carried forward to the next fiscal  
15 year, and moneys in this fund shall be continuously appropriated only for the  
16 purposes specified in this section.

17 (2) Moneys from the fund shall be used by the Animal Control Advisory Board for  
18 board expenses, for the creation and support of statewide programs related to  
19 animal control and care, and for training animal control officers. "Statewide  
20 programs" includes, but is not limited to, the reimbursement of costs for  
21 preexposure rabies vaccinations for all animal control and care workers. When  
22 determining the distribution of the moneys relating to training, the need of the  
23 applicant shall be one (1) of the criteria considered by the board. Based on  
24 recommendations of the Animal Control Advisory Board, any moneys not  
25 expended under this subsection may be distributed annually as grants to counties  
26 with an established animal control and care program meeting the requirements of  
27 subsection (3) of this section or approved plan to establish an animal control and

1 care program under subsection (4) of this section.

2 (3) As used in this section, "animal control and care program" means a program in  
3 which the county:

4 (a) Employs, appoints, or contracts with an animal control officer, or contracts  
5 with an entity that employs, appoints, or contracts with an animal control  
6 officer, as required by KRS 258.195, who is a high school graduate and has  
7 completed the training requirements set forth by the Animal Control Advisory  
8 Board; and

9 (b) Maintains an animal shelter, enters into an intergovernmental agreement for  
10 the establishment of a regional animal shelter, or contracts with an entity  
11 authorized to maintain sheltering and animal control services, to provide  
12 services that:

13 1. Segregate male and female animals by species in runs and holding areas;  
14 2. Provide separate runs or holding areas for ill or injured animals. An ill  
15 or injured animal shall be treated with proper veterinary care or  
16 euthanized;

17 3. Provide quarantine for dogs and cats presented to the shelter when  
18 quarantine by the owner is not feasible or desirable, the cost of  
19 quarantine to be borne by the animal owner at the shelter's regular  
20 housing costs and fees. Quarantined dogs and cats shall be held in  
21 isolation for observation of symptoms of rabies for a period of ten (10)  
22 days from the date the dog or cat bit a person. If the dog or cat dies or is  
23 euthanized while in quarantine, it shall be submitted to the local health  
24 department for testing for the presence of the rabies virus. The cost of  
25 the testing shall be borne by the animal owner or the local health  
26 department may bear the cost at its discretion;

27 4. Provide holding areas with protection from the weather, including

- 1           heated quarters during cold weather. Holding areas shall be free of  
2           debris or standing water; shall provide adequate lighting, ventilation,  
3           and sanitary conditions to promote a safe, healthy environment; and  
4           shall provide adequate space to allow for normal movement, including  
5           standing to full height, sitting, turning, and lying down in a natural  
6           position without coming in contact with the top or sides of the enclosure  
7           or another animal;
- 8           5. Provide runs and cages built of materials which can be readily cleaned  
9           and disinfected, including floors made of an impervious material;
- 10          6. Provide access to the public for no less than twenty-four (24) hours in  
11          one (1) week, with the hours that the facility is open to the public posted  
12          in a visible location;
- 13          7. Employ euthanasia methods specified as acceptable for that species by  
14          the most recent report of the American Veterinary Medical Association  
15          Panel on Euthanasia;
- 16          8. Provide potable, uncontaminated water to every animal at all times, and  
17          palatable, uncontaminated food daily; and
- 18          9. Maintain a record on each animal impounded. Records shall be  
19          maintained for a period of two (2) years and shall include:
- 20              a. Date impounded;
- 21              b. Location found or picked up;
- 22              c. Sex of animal and spay or neuter status, if known;
- 23              d. Breed or description, and color; and
- 24              e. Date reclaimed, adopted, or euthanized.
- 25   (4) Counties submitting plans proposing to establish an animal control and care  
26   program for approval by the Animal Control Advisory Board shall comply with the  
27   requirements of:

- 1       (a) Paragraph (a) of subsection (3) of this section within twelve (12) months of
- 2             the date the documentation is submitted; and
- 3       (b) Paragraph (b) of subsection (3) of this section within twenty-four (24) months
- 4             of the date the documentation is submitted.
- 5 (5) To be eligible for any moneys distributed as grants to counties under subsection (2)
- 6       of this section, counties shall submit an application to the commissioner, on a form
- 7       prescribed by the Department of Agriculture, by July 15 of each year. Moneys shall
- 8       be used for construction, equipment, educational supplies, and other uses or
- 9       programs approved by the advisory board, but shall not be used to increase wages
- 10       of animal control officers or other personnel. Counties receiving money from the
- 11       Department of Agriculture shall comply with the terms of the plan or program. If
- 12       the terms of the plan or program are not complied with, the county shall refund the
- 13       money to the Department of Agriculture.