

KENTUCKY ANIMAL CRUELTY LAWS

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Introduction

In Kentucky, the majority of the basic animal cruelty and animal fighting laws are contained within Title 525 of the Kentucky Revised Statutes. Other titles contain numerous provisions relating to the seizure of roaming dogs lacking identification tags, as well the role of dog wardens and/peace officers in the capture and destruction of such dogs. There are also some additional statutes pertaining to the general inability of veterinarians to obtain immunity in reporting suspected animal abuse, treatment of race horses, and use of reptiles in religious services. Additionally, relevant case law, including Kentucky Attorney General opinions, has been included where it affects the interpretation of listed statutes.

Overview of Statutory Provisions

- 1. Cruelty to Animals & Fighting:** KY. REV. STAT. ANN. §§ 525.125 & 525.130
- 2. Torture of a Dog or Cat & Fighting:** KY. REV. STAT. ANN. § 525.135
- 3. Prohibition of Horse Racing on Highways:** KY. REV. STAT. ANN. § 189.510
- 4. Seizure of Dogs Lacking Identification or Rabies Tags and Dangerous Animals:** KY. REV. STAT. ANN. § 258.215
- 5. Care and Control of Dogs:** KY. REV. STAT. ANN. § 258.265
- 6. Use of Reptiles in Religious Services:** KY. REV. STAT. ANN. § 437.060
- 7. Veterinarian Reporting/Immunity:** KY. REV. STAT. ANN. § 321.185
- 8. Law Enforcement Policies:** KY. REV. STAT. ANN. § 436.605
- 9. Confiscation of Animals on Premises of Animal Fight:** KY. REV. STAT. ANN. § 436.610

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1. CRUELTY TO ANIMALS & FIGHTING

KY. REV. ANN. STAT. § 525.125 (2012). Cruelty to animals in the first degree.

(1) The following persons are guilty of cruelty to animals in the first degree whenever a four-legged animal is caused to fight for pleasure or profit:

- (a) The owner of the animal;
- (b) The owner of the property on which the fight is conducted if the owner knows of the fight;
- (c) Anyone who participates in the organization of the fight.

(2) Activities of animals engaged in hunting, field trials, dog training, and other activities authorized either by a hunting license or by the Department of Fish and Wildlife shall not constitute a violation of this section.

(3) Cruelty to animals in the first degree is a Class D felony.

Applicable Case Law:

Opinion of the Kentucky Attorney General, Op. Ky. Att’y Gen. 91-43.

Holding: Hunting animals with dogs does not constitute cruelty to animals.

KY. REV. STAT. ANN. § 525.130 (2012). Cruelty to animals in the second degree—Exemptions.

(1) A person is guilty of cruelty to animals in the second degree when except as authorized by law he intentionally or wantonly:

(a) Subjects any animal² to or causes cruel or injurious mistreatment through abandonment, participates other than as provided in KRS 525.125 in causing it to fight for pleasure or profit (including, but not limited to being a spectator or vendor at an event where a four (4) legged animal is caused to fight for pleasure or profit), mutilation, beating, torturing any animal other than a dog or cat, tormenting, failing to provide adequate food, drink, space, or health care, or by any other means;

(b) Subjects any animal in his custody to cruel neglect; or

(c) Kills any animal other than a domestic animal killed by poisoning. This paragraph shall not apply to intentional poisoning of a dog or cat. Intentional poisoning of a dog or cat shall constitute a violation of this section.

(2) Nothing in this section shall apply to the killing of animals:

(a) Pursuant to a license to hunt, fish, or trap;

(b) Incident to the processing as food or for other commercial purposes;

² "'Animal' includes every warm-blooded living creature except a human being." KY. REV. STAT. ANN. §446.010.

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- (c) For humane purposes;
 - (d) For veterinary, agricultural, spaying or neutering, or cosmetic purposes;
 - (e) For purposes relating to sporting activities, including but not limited to horse racing at organized races and training for organized races, organized horse shows, or other animal shows;
 - (f) For bona fide animal research activities of institutions of higher education; or a business entity registered with the United States Department of Agriculture under the Animal Welfare Act or subject to other federal laws governing animal research;
 - (g) In defense of self or another person against an aggressive or diseased animal;
 - (h) In defense of a domestic animal against an aggressive or diseased animal;
 - (i) For animal or pest control; or
 - (j) For any other purpose authorized by law.
- (3) Activities of animals engaged in hunting, field trials, dog training other than training a dog to fight for pleasure or profit, and other activities authorized either by a hunting license or by the Department of Fish and Wildlife shall not constitute a violation of this section.
- (4) Cruelty to animals in the second degree is a Class A misdemeanor.

Applicable Case Law:

***Munn v. Kentucky*, 889 S.W.2d 49 (Ky. App. 1994).**

Facts: Defendant sought to show that the governor’s attempted veto of a bill that excluded birds from the definition of “animal” was untimely.

Holding: Birds are included in statutory definition of “animal” so defendant could be prosecuted for second-degree cruelty to animals for engaging in cockfighting activities.

Opinion of the Kentucky Attorney General, Op. Ky. Att’y Gen. 83-82.

Holding: Absent any statutory provisions relating to the seizure of mistreated animals by police or humane society officers, the validity of such procedures is in question.

Opinion of the Kentucky Attorney General, Op. Ky. Att’y Gen. 42222 (1958).

Holding: A contest which involves overloading or overdriving horses in order to test their strength would be an unnecessary and cruel use of the animals and in violation of the statute.

2. TORTURE OF A DOG OR CAT & FIGHTING

KY. REV. ANN. STAT. § 525.135 (2012). Torture of dog or cat.

(1) As used in this section, unless the context otherwise requires, "torture" means the intentional infliction of or subjection to extreme physical pain or injury, motivated by an intent to increase or prolong the pain of the animal.

(2) A person is guilty of torture of a dog or cat when he or she without legal justification intentionally tortures a domestic dog or cat.

(3) Torture of a dog or cat is a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense if the dog or cat suffers physical injury as a result of the torture, and a Class D felony if the dog or cat suffers serious physical injury or death as a result of the torture.

(4) Nothing in this section shall apply to the killing or injuring of a dog or cat:

(a) In accordance with a license to hunt, fish, or trap;

(b) For humane purposes;

(c) For veterinary, agricultural, spaying or neutering, or cosmetic purposes;

(d) For purposes relating to sporting activities including but not limited to training for organized dog or cat shows, or other animal shows in which a dog or a cat, or both, participate;

(e) For bona fide animal research activities, using dogs or cats, of institutions of higher education; or a business entity registered with the United States Department of Agriculture under the Animal Welfare Act³ or subject to other federal laws governing animal research;

(f) In defense of self or another person against an aggressive or diseased dog or cat;

(g) In defense of a domestic animal against an aggressive or diseased dog or cat;

(h) For animal or pest control; or

(i) For any other purpose authorized by law.

(5) Activities of animals engaged in hunting, field trials, dog training other than training a dog to fight for pleasure or profit, and other activities authorized either by a hunting license or by the Department of Fish and Wildlife Resources shall not constitute a violation of this section.

(6) The acts specified in this section shall not constitute cruelty to animals under KRS 525.125 or 525.130.

³ The Animal Welfare Act may be found at 7 U.S.C. § 2131 et seq.

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No Applicable Case Law.

3. PROHIBITION OF HORSE RACING ON HIGHWAYS

KY. REV. ANN. STAT. § 189.510 (2012). Horse race on highway prohibited.

No person shall ride a horse, nor shall the owner of a horse consent to the racing of his horse, in a horse race on a highway.

No Applicable Case Law.

4. SEIZURE OF DOGS LACKING IDENTIFICATION OR RABIES TAGS AND DANGEROUS ANIMALS

KY. REV. STAT. ANN. § 258.215 (2012). Seizure, impounding, and destruction of dog lacking rabies tag or other identification—Holding period before destruction—Notice to owner—Reclamation of dog, cat, or ferret—Fees—Quarantine—Exemption of hunting dog.

(1) Peace officers or animal control officers shall seize and impound any dog which does not bear a valid rabies tag or other legible identification which is found running at large. Any dog which an officer or animal control officer seizes shall be impounded in the designated animal shelter of the county and confined in a humane manner. If, after a reasonable effort, the seizure of an unrestrained dog cannot be made, or the dog presents a hazard to public safety or property or has an injury or physical condition which causes the dog to suffer, the animal control officer or peace officer may immediately destroy the dog by the most reasonable and humane means then available.

(2) (a) Impounded dogs shall be kept for not less than five (5) days, unless reclaimed by their owners. Dogs not reclaimed and those not placed in suitable new homes may be humanely euthanized after the five (5) day holding period, unless the dog has an injury or physical condition which causes it to suffer. In those cases the animal shelter may immediately euthanize the dog, and if a human being has been bitten by the dog, the dog shall be tested for rabies.

(b) If an owner is identified, the impounding agency shall immediately notify the owner of the impoundment by the most expedient means available.

(c) Any animal shelter, public or private, which takes in stray animals and does not have regular hours for public access, shall post semimonthly either in a local newspaper or the newspaper with the highest circulation in the county, the shelter location, hours of operation, the period that impounded animals shall be held, and a contact number.

(3) Upon reclaiming an impounded dog, cat, or ferret, the owner shall show proof of a valid rabies vaccination. If proof of the vaccination cannot be provided, the owner shall purchase a vaccination voucher from the animal shelter. The voucher shall be valid for ten (10) days from the date of issuance and shall be used in the prescribed time period. The animal shelter shall

Updated as of January 12, 2012.

reimburse the veterinarian for the amount of the voucher upon presentation to the shelter by the administering veterinarian.

(4) The owner of an impounded animal is responsible for all fees associated with the impoundment of the animal. If the owner can be identified, the fees are due even if the owner does not reclaim the animal.

(5) Dogs, cats, or ferrets which have bitten a person shall be maintained in quarantine by the owner for ten (10) days from the date of the bite. Owners who fail to properly quarantine their animals shall be subject to a citation for violation of this subsection and the dog, cat, or ferret shall be removed to the animal shelter for the remainder of the quarantine period. The owner shall be responsible for all associated fees of the quarantine and impoundment.

(6) A hound or other hunting dog which has been released from confinement for hunting purposes shall be deemed to be under reasonable control of its owner or handler while engaged in or returning from hunting, and, if a hunting dog becomes temporarily lost from a pack or wanders from actual control or sight of its owner or handler, the owner or handler shall not be deemed to be in violation of the provisions of this section as a result of the dog's having become temporarily lost or having wandered from immediate control or sight of the owner or handler.

Applicable Case Law:

Ammon v. Welty, 113 S.W.3d. 185 (Ky.App. 2002).

Facts: Trimble County dog warden shot a dog that was brought to him by owner's neighbors. Dog was wearing a collar but had no identification tags of any sort. Before the statutory 7 day waiting period expired, the dog warden shot the dog.

Holding: County dog warden's policy of destroying impounded dogs by gunshot to the head was not declared to be inhumane because the legislature must deal with this as a question of public policy.

Opinion of the Kentucky Attorney General, Op. Ky. Att'y Gen. 83-209.

Holding: Deputy sheriffs, deputy constables, or county policemen can declare dog wardens to be peace officers—otherwise they are not. Unless a dog warden is declared to be a peace officer, he cannot carry a concealed deadly weapon. Loose, unlicensed dogs unattended on public property and running at large are subject to being picked up by a peace officer or dog warden. However, it is unclear whether a dog that is running loose and unattended on private property belonging to someone other than the dog's owner is of the same status.

Opinion of the Kentucky Attorney General, Op. Ky. Att'y Gen. 82-595.

Holding: Existing ordinances have not established procedures concerning the adoption and sale of dogs that have been picked up for running at large and brought to a shelter for impound, but not claimed by their owners.

Updated as of January 12, 2012.

Opinion of the Kentucky Attorney General, Op. Ky. Att’y Gen. 76-149.

Holding: Unlicensed dogs under six months of age running at large with no other identification may be picked up by the dog warden or peace officer although the term “dog” is defined in KRS chapter 258 to mean any member of the canine family six months of age or over. Six months of age is merely the age at which dogs must be licensed.

Opinion of the Kentucky Attorney General, Op. Ky. Att’y Gen. 82-447.

Holding: Absent an agreement to the contrary, a city cannot require a county pound to accept dogs picked up for violation of municipal ordinances.

5. CARE AND CONTROL OF DOGS

KY. REV. ANN. STAT. § 258.265 (2012). Care and control of dog—Destruction of dog running at large at night—Exemption for hunting dogs.

(1) An owner shall exercise proper care and control of his dog to prevent the dog from violating any local government nuisance ordinance.

(2) Any peace officer or animal control officer may seize or destroy any dog found running at large between the hours of sunset and sunrise and unaccompanied and not under the control of its owner or handler. A peace officer or animal control officer shall be under a duty to make a fair and reasonable effort to determine whether any dog found at large between sunset and sunrise is a hound or other hunting dog which has become lost temporarily from a pack or wandered from immediate control of its owner, or handler, and if he is reasonably sure that the dog is a hunting dog, then he shall not destroy the dog, unless it is found in the act of pursuing or wounding livestock, or wounding or killing poultry, or attacking human beings.

(3) A hound or hunting dog may be unrestrained when engaged in lawful hunting activities while on private or public property designated or authorized for that purpose.

No Applicable Case Law.

6. USE OF REPTILES IN RELIGIOUS SERVICES

KY. REV. ANN. STAT. § 437.060 (2012). Use of reptiles in religious services.

Any person who displays, handles or uses any kind of reptile in connection with any religious service or gathering shall be fined not less than fifty dollars (\$50) nor more than one hundred dollars (\$100).

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Applicable Case Law:

Lawson v. Commonwealth, 291 Ky. 437 (Ky. 1942).

Facts: Convicted of handling and displaying snakes during a religious meeting.

Holding: This statute is constitutional even if it restricts religious liberty because the law promotes public safety and the general welfare.

7. VETERINARIAN REPORTING/IMMUNITY

KY. REV. ANN. STAT. § 321.185 (2012). Veterinarian-client-patient relationship.

(1) In order for a veterinarian to practice veterinary medicine, a relationship among the veterinarian, the client, and the patient shall be established and maintained. "Veterinarian-client-patient relationship" means that:

(a) The veterinarian has assumed the responsibility for making judgments regarding the health of the animal and the need for veterinary treatment, and the client, whether owner or other caretaker, has agreed to follow the instructions of the veterinarian;

(b) There is sufficient knowledge of the animal by the veterinarian to initiate at least a general or preliminary diagnosis of the medical condition of the animal. This means that the veterinarian has recently seen and is personally acquainted with the keeping and care of the animal by virtue of an examination of the animal or by medically appropriate and timely visits to the premises where the animal is kept; and

(c) The practicing veterinarian is readily available or shall provide medical service for follow-up in case of adverse reactions or failure of the regimen of therapy. A new regimen of therapy shall be contingent only upon cooperation of the client and availability of the subject animal.

(2) The veterinarian shall maintain records which document patient visits, diagnosis, treatment, and other relevant information.

(3) (a) A veterinarian shall not violate the confidential relationship between the veterinarian and the veterinarian's client.

(b) A veterinarian shall not release information concerning a client or care of a client's animal, except on the veterinarian's receipt of:

1. A written authorization or other form of waiver executed by the client; or
2. An appropriate court order or subpoena.

(c) A veterinarian who releases information as required under paragraph (b) of this subsection shall not be liable to any person, including the client, for an action resulting from the disclosure.

Updated as of January 12, 2012.

(d) The privilege provided by this subsection is waived by the client or the owner of an animal treated by the veterinarian to the extent the client or owner places at issue in a civil or criminal proceeding:

1. The nature and extent of the animal's injuries; or
2. The care and treatment of the animal provided by the veterinarian.

(e) This subsection shall not apply to:

1. An inspection or investigation conducted by the board or an agent of the board; or
2. The veterinary reporting requirements and regulatory authority of the Kentucky Horse Racing Commission⁴ to inspect, investigate, and supervise horses and other participants in horse racing as provided by KRS Chapter 230 and the administrative regulations promulgated under KRS Chapter 230, or any other law applicable to the regulation of horse racing in the Commonwealth.

(4) Veterinarians providing copies of records under this section may charge no more than the actual cost of copying, including reasonable staff time.

No Applicable Case Law.

8. LAW ENFORCEMENT POLICIES

KY. REV. ANN. STAT. § 436.605 (2012). Animal control officers and humane agents have powers of peace officers, except power of arrest -- Search warrants -- Execution of search warrants -- Arrest by peace officer.

(1) Animal control officers and officers and agents of humane societies who are employed by, appointed by, or have contracted with a city, county, urban-county, charter county, or consolidated local government to provide animal sheltering or animal control services shall have the powers of peace officers, except for the power of arrest, for the purpose of enforcing the provisions of the Kentucky Revised Statutes relating to cruelty, mistreatment, or torture of animals, provided they possess the qualifications required under KRS 61.300.

(2) When any peace officer, animal control officer, or any officer or agent of any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth who is employed by, appointed by, or has contracted with a city, county, urban-county, charter county, or consolidated local government to provide animal sheltering or animal control services makes an oath before any judge of a District Court that he has reasons to believe

⁴ The abolition of the Kentucky Horse Racing Authority and creation of the Kentucky Horse Racing Commission under Executive Order 2008-668 was not confirmed by the General Assembly during the 2009 Regular Session, and the name "Kentucky Horse Racing Authority" appears throughout the rest of the Kentucky Revised Statutes.

Updated as of January 12, 2012.

or does believe that an act of cruelty, mistreatment, or torture of animals is being committed in a building, barn, or other enclosure, the judge shall issue a search warrant directed to the peace officer, animal control officer, or officer or agent of the society or association for the prevention of cruelty to animals to search the premises. If a peace officer finds that an act of cruelty, mistreatment, or torture of animals is being perpetrated, the offender or offenders shall be immediately arrested by the peace officer and brought before the court for trial. If an animal control officer or an officer or agent of a society or association for the prevention of cruelty to animals finds that an act of cruelty, mistreatment, or torture of animals is being perpetrated, the officer or agent shall summon a peace officer to arrest the offender or offenders and bring them before the court for trial.

No Applicable Case Law.

9. CONFISCATION OF ANIMALS ON PREMISES OF ANIMAL FIGHT

KY. REV. ANN. STAT. § 436.610 (2012). Confiscation of animals on premises where violations of KRS 525.125 and 525.130 occur.

All animals of the same species, which are on the property when an animal is caused to fight for pleasure or profit, in violation of the provisions of KRS 525.125 and 525.130, shall be confiscated and turned over to the county animal control officer employed, appointed, or contracted with as provided by KRS 258.195, if there are reasonable grounds to believe that the animals were on the property for the purpose of fighting.

No Applicable Case Law.