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Indicates New Matter

AS PASSED BY THE SENATE

May 1, 2012

**S. 1246**

Introduced by Senators Lourie and McConnell

S. Printed 5/1/12--S.

Read the first time February 22, 2012.

**A** **BILL**

TO AMEND SECTION 47‑1‑40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CRUELTY TO ANIMALS, SO AS TO REVISE CERTAIN CRIMINAL PENALTIES.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 47‑1‑40 of the 1976 Code is amended to read:

“Section 47‑1‑40. (A) ~~Whoever~~ A person who knowingly or intentionally overloads, overdrives, overworks, or ill‑treats ~~any~~ an animal, deprives ~~any~~ an animal of necessary sustenance or shelter, inflicts unnecessary pain or suffering upon ~~any~~ an animal, or by omission or commission knowingly or intentionally causes these ~~things~~ acts to be done, ~~for every offense~~ is guilty of a misdemeanor and, upon conviction, must be punished by imprisonment not exceeding ~~sixty~~ ninety days or by a fine of not less than one hundred dollars nor more than ~~five hundred~~ one thousand dollars, or both, for a first offense; ~~by imprisonment not exceeding ninety days or by a fine not exceeding eight hundred dollars, or both, for a second offense;~~ or by imprisonment not exceeding two years or by a fine not exceeding two thousand dollars, or both, for a ~~third~~ second or subsequent offense. Notwithstanding any other provision of law, ~~a first~~ an offense under this subsection ~~shall~~ must be tried in magistrate’s or municipal court.

(B) ~~Whoever~~ A person who tortures, torments, needlessly mutilates, cruelly kills, or inflicts excessive or repeated unnecessary pain or suffering upon ~~any~~ an animal or by omission or commission causes ~~the~~ these acts to be done, ~~for any of the offenses~~ is guilty of a felony and, upon conviction, must be punished by imprisonment of not less than one hundred eighty days and not to exceed five years and by a fine of five thousand dollars.

(C) This section does not apply to fowl, accepted animal husbandry practices of farm operations and the training of animals, the practice of veterinary medicine, agricultural practices, forestry and silvacultural practices, wildlife management practices, or activity authorized by Title 50, including an activity authorized by the South Carolina Department of Natural Resources or an exercise designed for training dogs for hunting, if repeated contact with a dog or dogs and another animal does not occur during this training exercise.”

SECTION 2. Section 47‑1‑130 of the 1976 Code is amended to read:

“Section 47‑1‑130. (A) Any person violating the laws in relation to cruelty to animals may be arrested by a law enforcement officer and held, without warrant, in the same manner as in the case of persons found breaking the peace.

(B) The South Carolina Society for the Prevention of Cruelty to Animals, or other organization organized for the same purpose, may not make an arrest for a violation of the laws in relation to cruelty to animals.”

SECTION 3. Section 47‑1‑140 of the 1976 Code is amended to read:

“Section 47‑1‑140. The ~~person~~ law enforcement officer making the arrest, with or without warrant, shall use reasonable diligence to give notice to the owner of the animals found in the charge or custody of the person arrested, if the person is not the owner, and shall care and provide properly for the animals. The ~~person~~ law enforcement officer making ~~such~~ the arrest shall have a lien on the animals for the expense of such care and provision. ~~But if such person making the arrest be an agent of the South Carolina Society for the Prevention of Cruelty to Animals, or other society incorporated for that purpose, the provisions of Section 47‑1‑120 shall apply in lieu of the provisions of this section.~~ Notwithstanding any other provision of law, an animal may be seized preceding an arrest and pursuant to Section 47‑1‑150.”

SECTION 4. Section 47‑1‑150(B) of the 1976 Code is amended to read:

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

(1) removed from its present custody~~,~~; or

(2) made the subject of an order to provide care, issued to its owner by the magistrate or municipal judge, any law enforcement officer, or any agent of the county ~~or of the South Carolina Society for the Prevention of Cruelty to Animals, or any society incorporated for that purpose~~ and given protection and an appropriate and humane disposition made.”

SECTION 5. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 6. This act takes effect upon approval by the Governor.

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