

Title 97. Crimes. Chapter 41. Cruelty to Animals.

Title 97. Crimes. Chapter 29. Crimes Against Public Morals and Decency. In General.

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Summary:

This section constitutes Mississippi's anti-cruelty and animal fighting provisions, which were recently amended in 2011. The pertinent anti-cruelty law, § 97-41-1, states that any person who ***intentionally or with criminal negligence*** overrides, overdrives, overloads, tortures, torments, unjustifiably injures, deprives of necessary sustenance, food, or drink, cruelly beats, or needlessly mutilates ***any living creature***, is guilty of a misdemeanor. The cat and dog cruelty provision, § 97-41-16, was significantly amended in 2011. This section, known as the "Mississippi Dog and Cat Pet Protection Law of 2011," makes it a misdemeanor to ***intentionally or with criminal negligence*** wound, deprive of adequate food, water, or shelter, or carry or confine in a cruel manner, any domesticated cat or dog. Aggravated cruelty occurs when a person with malice intentionally tortures, mutilates, maims, burns, starves or disfigures any domesticated dog or cat.

Statute Text

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§ 97-41-1. Cruelty to living creatures

Except as otherwise provided in Section 97-41-16 for a dog or cat, if any person shall intentionally or with criminal negligence override, overdrive, overload, torture, torment, unjustifiably injure, deprive of necessary sustenance, food, or drink; or cruelly beat or needlessly mutilate; or cause or procure to be overridden, overdriven, overloaded, tortured, unjustifiably injured, tormented, or deprived of necessary sustenance, food or drink; or to be cruelly beaten or needlessly mutilated or killed, any living creature, every such offender shall, for every offense, be guilty of a misdemeanor.

CREDIT(S)

Amended by Laws 2011, Ch. 536, § 2, eff. from and after passage (approved April 26, 2011).

VALIDITY

<This section was held unconstitutional in *Davis v. State* (Miss. 2001) 806 So.2d 1098. See Notes of Decisions, post.>

HISTORICAL AND STATUTORY NOTES

The 2011 amendment substituted “Except as otherwise provided in Section 97-41-16 for a dog or cat, if any person shall intentionally or with criminal negligence override” for “If any person shall override”

Section 1 of Laws 2011, Ch. 536 provides, in part:

“(1)(a) The provisions of this section shall be known and may be cited as the ‘Mississippi Dog and Cat Pet Protection Law of 2011.’”

§ 97-41-2. Seizure of mistreated animal

(1) All courts in the State of Mississippi may order the seizure of an animal by a law enforcement agency, for its care and protection upon a finding of probable cause to believe said animal is being cruelly treated, neglected or abandoned. Such probable cause may be established upon sworn testimony of any person who has witnessed the condition of said animal. The court may appoint an animal control agency, agent of an animal shelter organization, veterinarian or other person as temporary custodian for the said animal, pending final disposition of the animal pursuant to this section. Such temporary custodian shall directly contract and be responsible for any care rendered to such animal, and may make arrangements for such care as may be necessary. Upon seizure of an animal, the law enforcement agency responsible for removal of the animal shall serve notice upon the owner of the animal, if possible, and shall also post prominently a notice to the owner or custodian to inform such person that the animal has been seized. Such process and notice shall contain a description of the animal seized, the date seized, the name of the law enforcement agency seizing the animal,

the name of the temporary custodian, if known at the time, and shall include a copy of the order of the court authorizing the seizure.

(2) Within five (5) days of seizure of an animal, the owner of the animal may request a hearing in the court ordering the animal to be seized to determine whether the owner is able to provide adequately for the animal and is fit to have custody of the animal. The court shall hold such hearing within fourteen (14) days of receiving such request. The hearing shall be concluded and the court order entered thereon within twenty-one (21) days after the hearing is commenced. Upon requesting a hearing, the owner shall have three (3) business days to post a bond or security with the court clerk in an amount determined by the court to be sufficient to repay all reasonable costs sufficient to provide for the animal's care. Failure to post such bond within three (3) days shall result in forfeiture of the animal to the court. If the temporary custodian has custody of the animal upon the expiration of the bond or security, the animal shall be forfeited to the court unless the court orders otherwise.

(3) In determining the owner's fitness to have custody of an animal, the court may consider, among other matters:

(a) Testimony from law enforcement officers, animal control officers, animal protection officials, and other witnesses as to the condition the animal was kept in by its owner or custodian.

(b) Testimony and evidence as to the type and amount of care provided to the animal by its owner or custodian.

(c) Expert testimony as to the proper and reasonable care of the same type of animal.

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

(e) Violations of laws relating to animal cruelty that the owner or custodian has been convicted of prior to the hearing.

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

(4) Upon proof of costs incurred as a result of the animal's seizure, including, but not limited to, animal medical and boarding, the court may order that the animal's owner reimburse the temporary custodian for such costs. A lien for authorized expenses is

hereby created upon all animals seized under this section, and shall have priority to any other lien on such animal.

(5) If the court finds the owner of the animal is unable or unfit to adequately provide for the animal, or that the animal is severely injured, diseased, or suffering, and, therefore, not likely to recover, the court may order that the animal be permanently forfeited and released to an animal control agency, animal protection organization or to the appropriate entity to be euthanized or the court may order that such animal be sold at public sale in the manner now provided for judicial sales; any proceeds from such sale shall go first toward the payment of expenses and costs relating to the care and treatment of such animal, and any excess amount shall be paid to the owner of the animal.

(6) Upon notice and hearing as provided in this section, or as a part of any preceding conducted under the terms of this section, the court may order that other animals in the custody of the owner that were not seized be surrendered and further enjoin the owner from having custody of other animals in the future.

(7) If the court determines the owner is able to provide adequately for, and have custody of, the animal, the court shall order the animal be claimed and removed by the owner within seven (7) days after the date of the order.

(8) Nothing in this section shall be construed to prevent or otherwise interfere with a law enforcement officer's authority to seize an animal as evidence or require court action for the taking into custody and making proper disposition of animals as authorized in Sections 21-19-9 and 41-53-11.

(9) For the purposes of this section the term "animal" or "animals" means any feline, exotic animal, canine, horse, mule, jack or jennet.

CREDIT(S)

Laws 1997, Ch. 575, § 1, eff. July 1, 1997. Amended by Laws 2001, Ch. 497, § 1, eff. from and after passage (approved March 24, 2001); Laws 2003, Ch. 357, § 1, eff. from and after passage (approved March 12, 2003).

§ 97-41-3. Killing of injured or useless animal

(1) Any sheriff, constable, policeman, or agent of a society for the prevention of cruelty to animals may kill, or cause to be killed, any animal other than a dog or cat found neglected or abandoned, if in the opinion of three (3) respectable citizens it is injured or diseased past recovery, or by age has become useless.

(2)(a) After all reasonable attempts have been made to locate the legal owner of a dog or cat that is found maimed, wounded, injured or diseased, the dog or cat may be euthanized, or caused to be euthanized, by:

(i) A law enforcement officer;

(ii) A veterinarian licensed in Mississippi;

(iii) An employee of an agency or department of a political subdivision that is charged with the control or welfare of dogs or cats within the subdivision; or

(iv) An employee or agent of an organization that has the purpose of protecting the welfare of or preventing cruelty to dogs or cats and that possesses nonprofit status under the United States Internal Revenue Code.

(b) The provisions of this subsection (2) shall not be construed to prevent the immediate euthanasia by the persons enumerated in this subsection or by any other person, if it is necessary to prevent unrelievable suffering of the dog or cat.

(3) Any person acting in good faith and without malice pursuant to this section shall be immune from civil and criminal liability for that action.

CREDIT(S)

Amended by Laws 2011, Ch. 536, § 3, eff. from and after passage (approved April 26, 2011).

HISTORICAL AND STATUTORY NOTES

At its August 5, 2008 meeting, pursuant to its authority under Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation ratified the correction of a typographical error in this section. The words "it be injured" were changed to "it is injured".

The 2011 rewrote the section, which had read:

“Any sheriff, constable, policeman, or agent of a society for the prevention of cruelty to animals may kill, or cause to be killed, any animal found neglected or abandoned, if in the opinion of three respectable citizens it is injured or diseased past recovery, or by age has become useless.”

Section 1 of Laws 2011, Ch. 536 provides, in part:

“(1)(a) The provisions of this section shall be known and may be cited as the ‘Mississippi Dog and Cat Pet Protection Law of 2011.’”

§ 97-41-5. Carrying in a cruel manner

If any person shall carry, or cause to be carried by hand or in or upon any vehicle or other conveyance, any creature other than a dog or cat in a cruel or inhuman manner, he shall be guilty of a misdemeanor.

CREDIT(S)

Amended by Laws 2011, Ch. 536, § 4, eff. from and after passage (approved April 26, 2011).

HISTORICAL AND STATUTORY NOTES

The 2011 amendment inserted “other than a dog or cat”.

Section 1 of Laws 2011, Ch. 536 provides, in part:

“(1)(a) The provisions of this section shall be known and may be cited as the ‘Mississippi Dog and Cat Pet Protection Law of 2011.’”

§ 97-41-7. Confinement depriving creature of food or water

If any person shall confine, or cause to be confined, in any stable, lot, or other place, any living creature other than a dog or cat, without supplying the same during such confinement with a sufficient quantity of good and wholesome food and water, he shall be guilty of a misdemeanor.

CREDIT(S)

Amended by Laws 2011, Ch. 536, § 5, eff. from and after passage (approved April 26, 2011).

HISTORICAL AND STATUTORY NOTES

The 2011 amendment inserted “other than a dog or cat”.

Section 1 of Laws 2011, Ch. 536 provides, in part:

“(1)(a) The provisions of this section shall be known and may be cited as the ‘Mississippi Dog and Cat Pet Protection Law of 2011.’”

§ 97-41-9. Failure to feed or sustain animal

If any person be the owner or have the custody of any living creature other than a dog or cat and unjustifiably neglect or refuse to furnish it necessary sustenance, food, or drink, he shall be guilty of a misdemeanor.

CREDIT(S)

Amended by Laws 2011, Ch. 536, § 6, eff. from and after passage (approved April 26, 2011).

HISTORICAL AND STATUTORY NOTES

The 2011 amendment inserted “other than a dog or cat”.

Section 1 of Laws 2011, Ch. 536 provides, in part:

“(1)(a) The provisions of this section shall be known and may be cited as the ‘Mississippi Dog and Cat Pet Protection Law of 2011.’”

§ 97-41-11. Fighting animals

Any person who shall keep or use, or in any way be connected with or interested in the management of, or shall receive money for the admission of any person to, any place

kept or used for the purpose of fighting any bear, cock or other creature, except a dog, or of tormenting or torturing the same, and every person who shall encourage, aid, or assist therein, or who shall permit or suffer any place to be so kept or used, shall be guilty of a misdemeanor. It shall be the duty of any policeman or other officer of the law, county or municipal, to enter into any such place kept for such purpose, and to arrest each and every person concerned or participating therein.

CREDIT(S)

Laws 1987, Ch. 489, § 3, eff. July 1, 1987.

§ 97-41-13. Penalties

Any person who shall violate any of sections 97-41-3 to 97-41-11, or section 97-27-7 on the subject of cruelty to animals shall, on conviction, be fined not less than ten dollars nor more than one hundred dollars, or shall be imprisoned in the county jail not less than ten days nor more than one hundred days or both.

HISTORICAL AND STATUTORY NOTES

Derivation:

Code 1930, § 847; Code 1942, § 2073.

§ 97-41-15. Maliciously injuring livestock

(1) Any person who shall maliciously, either out of a spirit of revenge or wanton cruelty, or who shall mischievously kill, maim or wound, or injure any livestock, or cause any person to do the same, shall be guilty of a felony and upon conviction, shall be committed to the custody of the State Department of Corrections for not less than twelve (12) months nor more than five years, and fined an amount not less than One Thousand Five Hundred Dollars (\$1,500.00), nor more than Ten Thousand Dollars (\$10,000.00).

(2) In addition to any such fine or imprisonment which may be imposed, the court shall order that restitution be made to the owner of any animal listed in subsection (1) of this section. The measure for restitution in money shall be the current replacement value of

such loss and/or the actual veterinarian fees, special supplies, loss of income and other costs incurred as a result of actions in violation of subsection (1) of this section.

(3) For purposes of this section, the term "livestock" shall mean horses, cattle, swine, sheep and other domestic animals produced for profit.

CREDIT(S)

Laws 1981, Ch. 448, § 1; Laws 1993, Ch. 438, § 2, eff. July 1, 1993.

§ 97-41-16. Maliciously injuring dogs or cats

(1)(a) The provisions of this section shall be known and may be cited as the "Mississippi Dog and Cat Pet Protection Law of 2011."

(b) The intent of the Legislature in enacting this law is to provide only for the protection of domesticated dogs and cats, as these are the animals most often serving as the loyal and beloved pets of the citizens of this state. Animals other than domesticated dogs and cats are specifically excluded from the enhanced protection described in this act for dogs and cats. The provisions of this section do not apply, and shall not be construed as applying, to any animal other than a domesticated dog or cat.

(2)(a) If a person shall intentionally or with criminal negligence wound, deprive of adequate shelter, food or water, or carry or confine in a cruel manner, any domesticated dog or cat, or cause any person to do the same, then he or she shall be guilty of the offense of simple cruelty to a dog or cat. A person who is convicted of the offense of simple cruelty to a dog or cat shall be guilty of a misdemeanor and fined not more than One Thousand Dollars (\$1,000.00), or imprisoned not more than six (6) months, or both.

(b) If a person with malice shall intentionally torture, mutilate, maim, burn, starve or disfigure any domesticated dog or cat, or cause any person to do the same, then he or she shall be guilty of the offense of aggravated cruelty to a dog or cat.

(i) A person who is convicted of a first offense of aggravated cruelty to a dog or cat shall be guilty of a misdemeanor and fined not more than Two Thousand Five Hundred Dollars (\$2,500.00), or imprisoned for not more than six (6) months, or both.

(ii) A person who is convicted of a second or subsequent offense of aggravated cruelty to a dog or cat, the offenses being committed within a period of five (5) years, shall be

guilty of a felony and fined not more than Five Thousand Dollars (\$5,000.00) and imprisoned for not less than one (1) year nor more than five (5) years.

(c) A conviction entered upon a plea of nolo contendere to a charge of aggravated cruelty to a dog or cat shall be counted as a conviction for the purpose of determining whether a later conviction is a first or subsequent offense.

(d) For purposes of this section, one or more alleged acts of the offenses of simple cruelty to a dog or cat or aggravated cruelty to a dog or cat, committed against one or more domesticated dogs or cats, or any combination thereof, shall constitute a single offense if the alleged acts occurred at the same time.

(3) In addition to such fine or imprisonment which may be imposed:

(a) The court shall order that restitution be made to the owner of such dog or cat. The measure for restitution in money shall be the current replacement value of such loss and the actual veterinary fees, medicine, special supplies, loss of income and other costs incurred as a result of actions in violation of subsection (2) of this section; and

(b) The court may order that:

(i) The reasonable costs of sheltering, transporting and rehabilitating the dog or cat, and any other costs directly related to the care of the dog or cat, be reimbursed to:

1. Any law enforcement agency; or

2. Any agency or department of a political subdivision that is charged with the control, protection or welfare of dogs or cats within the subdivision. The agency or department may reimburse a nongovernmental organization for such costs, if the organization possesses nonprofit status under the United States Internal Revenue Code and has the purpose of protecting the welfare of, or preventing cruelty to, dogs or cats.

(ii) The person convicted:

1. Receive a psychiatric or psychological evaluation and counseling or treatment for a length of time as prescribed by the court. The cost of any evaluation, counseling and treatment shall be paid by the offender upon order of the court, up to a maximum amount that is no more than the jurisdictional limit of the sentencing court.

2. Perform community service for a period not exceeding the applicable maximum term of imprisonment that may be imposed for conviction of the offense.

3. Be enjoined from employment in any position that involves the care of a dog or cat, or in any place where dogs or cats are kept or confined, for a period which the court deems appropriate.

(4)(a) Nothing in this section shall be construed as prohibiting a person from:

(i) Defending himself or herself or another person from physical or economic injury being threatened or caused by a dog or cat.

(ii) Injuring or killing an unconfined dog or cat on the property of the person, if the unconfined dog or cat is believed to constitute a threat of physical injury or damage to any domesticated animal under the care or control of such person.

(iii) Acting under the provisions of Section 95-5-19 to protect poultry or livestock from a trespassing dog that is in the act of chasing or killing the poultry or livestock, or acting to protect poultry or livestock from a trespassing cat that is in the act of chasing or killing the poultry or livestock.

(iv) Engaging in practices that are licensed or lawful under the Mississippi Veterinary Practice Act, Section 73-39-51 et seq., or engaging in activities by any licensed veterinarian while following accepted standards of practice of the profession within the State of Mississippi, including the euthanizing of a dog or cat.

(v) Rendering emergency care, treatment, or assistance to a dog or cat that is abandoned, ill, injured, or in distress, if the person rendering the care, treatment, or assistance is acting in good faith.

(vi) Performing activities associated with accepted agricultural and animal husbandry practices with regard to livestock, poultry or other animals, including those activities which involve:

1. Using dogs in such practices.

2. Raising, managing and using animals to provide food, fiber or transportation.

3. Butchering animals and processing food.

(vii) Training for, or participating in, a rodeo, equine activity, dog show, event sponsored by a kennel club or other bona fide organization that promotes the breeding or showing of dogs or cats, or any other competitive event which involves the lawful use of dogs or cats.

(viii) Engaging in accepted practices of dog or cat identification.

(ix) Engaging in lawful activities that are regulated by the Mississippi Department of Wildlife, Fisheries and Parks or the Mississippi Department of Marine Resources, including without limitation, hunting, trapping, fishing, and wildlife and seafood management.

(x) Performing scientific, research, medical and zoological activities undertaken by research and education facilities or institutions that are:

1. Regulated under the provisions of the Animal Welfare Act, 7 USCS 2131 et seq., as in effect on July 1, 2011;

2. Regulated under the provisions of the Health Research Extension Act of 1985, Public Law No. 99-158; or

3. Subject to any other applicable state or federal law or regulation governing animal research as in effect on July 1, 2011.

(xi) Disposing of or destroying certain dogs under authority of Sections 19-5-50, 21-19-9 and 41-53-11, which allow counties, municipalities and certain law enforcement officers to destroy dogs running at large without proper identification indicating that such dogs have been vaccinated for rabies.

(xii) Engaging in professional pest control activities, including those activities governed by the Mississippi Pesticide Law of 1975, Section 69-23-1 et seq.; professional services related to entomology, plant pathology, horticulture, tree surgery, weed control or soil classification, as regulated under Section 69-19-1 et seq.; and any other pest control activities conducted in accordance with state law.

(xiii) Performing the humane euthanization of a dog or cat pursuant to Section 97-41-3.

(b) If the owner or person in control of a dog or cat is precluded, by natural or other causes beyond his reasonable control, from acting to prevent an act or omission that might otherwise constitute an allegation of the offense of simple cruelty to a dog or cat or the offense of aggravated cruelty to a dog or cat, then that person shall not be guilty

of the offense. Natural or other causes beyond the reasonable control of the person include, without limitation, acts of God, declarations of disaster, emergencies, acts of war, earthquakes, hurricanes, tornadoes, fires, floods or other natural disasters.

(5) The provisions of this section shall not be construed to:

(a) Apply to any animal other than a dog or cat.

(b) Create any civil or criminal liability on the part of the driver of a motor vehicle if the driver unintentionally injures or kills a dog or cat as a result of the dog or cat being accidentally hit by the vehicle.

(6)(a) Except as otherwise provided in Section 97-35-47 for the false reporting of a crime, a person, who in good faith and acting without malice, reports a suspected incident of simple cruelty to a dog or cat, or aggravated cruelty to a dog or cat, to a local animal control, protection or welfare organization, a local law enforcement agency, or the Mississippi Department of Public Safety, shall be immune from civil and criminal liability for reporting the incident.

(b) A veterinarian licensed in Mississippi or a person acting at the direction of a veterinarian licensed in Mississippi, who in good faith and acting without malice, participates in the investigation of an alleged offense of simple or aggravated cruelty to a dog or cat, or makes a decision or renders services regarding the care of a dog or cat that is involved in the investigation, shall be immune from civil and criminal liability for those acts.

(7) Other than an agency or department of a political subdivision that is charged with the control, protection or welfare of dogs or cats within the subdivision, any organization that has the purpose of protecting the welfare of, or preventing cruelty to, dogs or cats, shall register the organization with the sheriff of the county in which the organization operates a physical facility for the protection, welfare or shelter of dogs or cats, on or before the first day of October each year. The provisions of this subsection (7) shall apply to any organization that has the purpose of protecting the welfare of dogs or cats, or preventing cruelty to dogs or cats, regardless of whether the organization also protects animals other than dogs or cats.

(8) Nothing in this section shall limit the authority of a municipality or board of supervisors to adopt ordinances, rules, regulations or resolutions which may be, in

whole or in part, more restrictive than the provisions of this section, and in those cases, the more restrictive ordinances, rules, regulations or resolutions will govern.

CREDIT(S)

Laws 1993, Ch. 438, § 3, eff. July 1, 1993. Amended by Laws 2006, Ch. 491, § 1, eff. July 1, 2006; Laws 2011, Ch. 536, § 1, eff. from and after passage (approved April 26, 2011).

HISTORICAL AND STATUTORY NOTES

The 2006 amendment in subsec. (1), and in the first sentence of subsec. (2), added “or cat” following “dog”; and in the second sentence of subsec. (2) substituted “and” for “and/or” following “value of such loss”.

The 2011 rewrote the section, which had read:

“(1) Any person who shall maliciously, either out of a spirit of revenge or wanton cruelty, or who shall mischievously kill, maim or wound, or injure any dog or cat, or cause any person to do the same, shall be fined not more than One Thousand Dollars (\$1,000.00) or be imprisoned not exceeding six (6) months.

“(2) In addition to such fine or imprisonment which may be imposed, the court shall order that restitution be made to the owner of such dog or cat. The measure for restitution in money shall be the current replacement value of such loss and the actual veterinarian fees, special supplies, loss of income and other cost incurred as a result of actions in violation of subsection (1) of this section.”

Section 1 of Laws 2011, Ch. 536 provides, in part:

“(1)(a) The provisions of this section shall be known and may be cited as the ‘Mississippi Dog and Cat Pet Protection Law of 2011.’”

§ 97-41-17. Poisoning animals

Every person who shall willfully and unlawfully administer any poison to any horse, mare, colt, mule, jack, jennet, cattle, deer, dog, cat, hog, sheep, chicken, duck, goose, turkey, pea-fowl, guinea-fowl, or partridge, or shall maliciously expose any poison substance with intent that the same should be taken or swallowed by any horse, mare, colt, mule, jack, jennet, cattle, dog, cat, hog, sheep, chicken, duck, goose, turkey,

pea-fowl, guinea-fowl, or partridge, shall, upon conviction, be punished by imprisonment in the Penitentiary not exceeding three (3) years, or in the county jail not exceeding one (1) year, and by a fine not exceeding Five Hundred Dollars (\$500.00).

CREDIT(S)

Amended by Laws 2011, Ch. 536, § 7, eff. from and after passage (approved April 26, 2011).

HISTORICAL AND STATUTORY NOTES

The 2011 amendment inserted “cat,” in two instances.

Section 1 of Laws 2011, Ch. 536 provides, in part:

“(1)(a) The provisions of this section shall be known and may be cited as the ‘Mississippi Dog and Cat Pet Protection Law of 2011.’”

§ 97-41-18. Hog and canine fighting events; prohibition

(1) For the purposes of this section, “hog” means a pig, swine or boar.

(2) It is unlawful for any person to organize or conduct any commercial event commonly referred to as a “catch” wherein there is a display of combat or fighting among one or more domestic or feral canines and feral or domestic hogs and in which it is intended or reasonably foreseeable that the canines or hogs would be injured, maimed, mutilated or killed.

(3) It is unlawful for any person to organize, conduct or financially or materially support any event prohibited by this section.

(4) The provisions of this section shall not apply to any competitive event in which canines trained for hunting or herding activities are released in an open or enclosed area to locate and corner hogs, commonly referred to as a “bay event,” and in which competitive points are deducted if a hog is caught and held.

(5) The provisions of this section shall not apply to the lawful hunting of hogs with canines or the use of canines for the management, farming or herding of hogs which are livestock or the private training of canines for the purposes enumerated in this

subsection provided that such training is conducted for the field using accepted dog handling and training practices and is not in violation of the provisions of subsection (1) of this section.

(6) Any person convicted under the provisions of this section shall be fined not more than One Thousand Dollars (\$1,000.00), imprisoned for not more than six (6) months, or both.

Credits

Added by Laws 2006, Ch. 491, § 2, eff. July 1, 2006. Amended by Laws 2008, Ch. 387, § 1, eff. July 1, 2008. Amended by Laws 2012, Ch. 421, § 1, eff. from and after passage (approved April 18, 2012).

§ 97-41-19. Dog fights

(1) If any person (a) shall sponsor, promote, stage or conduct a fight or fighting match between dogs, or (b) shall wager or bet, promote or encourage the wagering or betting of any money or other valuable thing upon any such fight or upon the result thereof, or (c) shall own a dog with the intent to wilfully enter it or to participate in any such fight, or (d) shall train or transport a dog for the purposes of participation in any such fight, he shall be guilty of a felony and, upon conviction, shall be punished by a fine of not less than One Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00), or by imprisonment in the State Penitentiary for a term of not less than one (1) nor more than three (3) years, or by both such fine and imprisonment, in the discretion of the court.

(2) If any person shall be present, as a spectator, at any location where preparations are being made for an exhibition of a fight between dogs with the intent to be present at such preparations, or if any person shall be present at an exhibition of a fight between dogs with the intent to be present at such exhibition, he shall be guilty of a felony and, upon conviction, shall be punished by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or by imprisonment in the State Penitentiary for a term of not more than one (1) year, or by both such fine and imprisonment, in the discretion of the court.

(3) Any law enforcement officer making an arrest under subsection (1) of this section may lawfully take possession of all dogs and all paraphernalia, implements, equipment or other property used in violation of subsection (1) of this section. Such officer shall file with the circuit court of the county within which the alleged violation occurred an affidavit stating therein (a) the name of the person charged, (b) a description of the property

taken, (c) the time and place of the taking, (d) the name of the person who claims to own such property, if known, and (e) that the affiant has reason to believe, stating the ground of such belief, that the property taken was used in such violation. He shall thereupon deliver the property to such court which shall, by order in writing, place such dogs, paraphernalia, implements, equipment, or other property in the custody of a licensed veterinarian, the local humane society or other animal welfare agency, or other suitable custodian, to be kept by such custodian until the conviction or final discharge of the accused, and shall send a copy of such order without delay to the district attorney of the county. The custodian named and designated in such order shall immediately assume the custody of such property and shall retain same, subject to order of the court.

Upon the certification of a licensed veterinarian or officer of the humane society or animal welfare agency that, in his professional judgment, a dog which has been seized is not likely to survive the final disposition of the charges or that, by reason of the physical condition of the dog, it should be humanely euthanized before such time, the court may order the dog humanely euthanized. The court shall make its finding of whether to issue such an order within seven (7) days from the certification by the veterinarian or officer of the humane society or animal welfare agency. The owner of a dog which is euthanized without an order of the court with such certification of a licensed veterinarian or officer of the humane society or other animal welfare agency shall have a right of action for damages against the department or agency by which the arresting or seizing officer is employed. Upon conviction of the person charged with a violation of subsection (1) of this section, all dogs seized shall be adjudged by the court to be forfeited and the court shall order a humane disposition of the same. In no event shall the court order the dog to be euthanized without the certification of a licensed veterinarian or officer of the humane society or other animal welfare agency that, in his judgment, the dog is not likely to survive or that, by reason of its physical condition, the dog should be humanely euthanized. In the event of the acquittal or final discharge without conviction of the accused, the court shall direct the delivery of the property so held in custody to the owner thereof. All reasonable expenses incurred by the custodian of seized dogs and property shall be charged as costs of court, to be taxed against the owner or county in the discretion of the court.

(4) Nothing in subsection (1) of this section shall prohibit any of the following:

(a) The use of dogs in the management of livestock, by the owner of such livestock or other persons in lawful custody thereof;

- (b) The use of dogs in lawful hunting; and
- (c) The training of dogs for any purpose not prohibited by law.

CREDIT(S)

Laws 1987, Ch. 489, § 1, eff. July 1, 1987.

§ 97-41-21. Harassment of guide dogs

(1) An individual shall not do either of the following:

(a) Willfully and maliciously assault, beat, harass, injure, or attempt to assault, beat, harass or injure, a dog that he or she knows or has reason to believe is a guide or leader dog for a blind individual, a hearing dog for a deaf or audibly impaired individual, a service dog for a physically limited individual, or a support dog for a mobility impaired person as described in Sections 43-6-151 through 43-6-155.

(b) Willfully and maliciously impede or interfere with, or attempt to impede or interfere with, duties performed by a dog that he or she knows or has reason to believe is a guide or leader dog for a blind individual, a hearing dog for a deaf or audibly impaired individual, a service dog for a physically limited individual, or a support dog for a mobility impaired person as described in Sections 43-6-151 through 43-6-155.

(2) An individual who violates subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than ninety (90) days or a fine of not more than Five Hundred Dollars (\$500.00), or both.

(3) In a prosecution for a violation of subsection (1), evidence that the defendant initiated or continued conduct directed toward a dog described in subsection (1) after being requested to avoid or discontinue that conduct or similar conduct by a blind, deaf, audibly impaired, physically limited or mobility impaired individual being served or assisted by the dog shall give rise to a rebuttable presumption that the conduct was initiated or continued maliciously.

(4) A conviction and imposition of a sentence under this section does not prevent a conviction and imposition of a sentence under Section 97-41-16 pertaining to the

offenses of simple or aggravated cruelty to a dog or cat, or any other applicable provision of law.

(5) As used in this section:

(a) "Audibly impaired" means the inability to hear air conduction thresholds at an average of forty (40) decibels or greater in the individual's better ear.

(b) "Blind" means having a visual acuity of 20/200 or less in the individual's better eye with correction, or having a limitation of the individual's field of vision such that the widest diameter of the visual field subtends an angular distance not greater than twenty (20) degrees.

(c) "Deaf" means the individual's hearing is totally impaired or the individual's hearing, with or without amplification, is so seriously impaired that the primary means of receiving spoken language is through other sensory input, including, but not limited to, lip reading, sign language, finger spelling or reading.

(d) "Harass" means to engage in any conduct directed toward a guide, leader, hearing or service dog that is likely to impede or interfere with the dog's performance of its duties or that places the blind, deaf, audibly impaired or physically limited individual being served or assisted by the dog in danger of injury.

(e) "Injure" means to cause any physical injury to a dog described in subsection (1).

(f) "Maliciously" means any of the following:

(i) With intent to assault, beat, harass or injure a dog described in subsection (1).

(ii) With intent to impede or interfere with duties performed by a dog described in subsection (1).

(iii) With intent to disturb, endanger or cause emotional distress to a blind, deaf, audibly impaired or physically limited individual being served or assisted by a dog described in subsection (1).

(iv) With knowledge that the individual's conduct will, or is likely to, harass or injure a dog described in subsection (1).

(v) With knowledge that the individual's conduct will, or is likely to, impede or interfere with duties performed by a dog described in subsection (1).

(vi) With knowledge that the individual's conduct will, or is likely to, disturb, endanger or cause emotional distress to a blind, deaf, audibly impaired or physically limited individual being served or assisted by a dog described in subsection (1).

(g) "Physically limited" means having limited ambulatory abilities and includes, but is not limited to, having a temporary or permanent impairment or condition that does one or more of the following:

(i) Causes the individual to use a wheelchair or walk with difficulty or insecurity.

(ii) Affects sight or hearing to the extent that an individual is insecure or exposed to danger.

(iii) Causes faulty coordination.

(iv) Reduces mobility, flexibility, coordination or perceptiveness.

CREDIT(S)

Laws 1997, Ch. 426, § 1, eff. from and after passage (approved March 25, 1997). Amended by Laws 2011, Ch. 536, § 8, eff. from and after passage (approved April 26, 2011).

HISTORICAL AND STATUTORY NOTES

The 2011 amendment, in pars. (1)(a) and (b), substituted "a service dog for a physically limited individual, or a support dog for a mobility impaired person as described in Sections 43-6-151 through 43-6-155" for "or a service dog for a physically limited individual"; in subsec. (3), substituted "audibly impaired, physically limited or mobility impaired individual" for "audibly impaired or physically limited individual"; in subsec. (4), inserted "Section 97-41-16 pertaining to the offenses of simple or aggravated cruelty to a dog or cat, or".

Section 1 of Laws 2011, Ch. 536 provides, in part:

"(1)(a) The provisions of this section shall be known and may be cited as the 'Mississippi Dog and Cat Pet Protection Law of 2011.'"

§ 97-41-23. Killing or injuring public service animal; penalty

(1) It is unlawful for any person to willfully and maliciously taunt, torment, tease, beat, strike, or to administer, expose or inject any desensitizing drugs, chemicals or substance to any public service animal. Any person who violates this section is guilty of a misdemeanor, and upon conviction thereof shall be fined not more than Two Hundred Dollars (\$200.00) and be imprisoned not more than five (5) days, or both.

(2) Any person who, without just cause, purposely kills or injures any public service animal is guilty of a felony and upon conviction shall be fined not more than Five Thousand Dollars (\$5,000.00) and be imprisoned not more than five (5) years, or both.

(3) For purposes of this section, the term “public service animal” means any animal trained and used to assist a law enforcement agency, public safety entity or search and rescue agency.

(4) A conviction and imposition of a sentence under this section does not prevent a conviction and imposition of a sentence under Section 97-41-16 pertaining to the offenses of simple or aggravated cruelty to a dog or cat, or under any other applicable provision of law.

(5) Any person guilty of violating subsection (2) of this section shall also be required to make restitution to the law enforcement agency or owner aggrieved thereby.

(6) The provisions of this section shall not apply to the lawful practice of veterinary medicine.

CREDIT(S)

Added by Laws 2003, Ch. 498, § 1, eff. July 1, 2003. Amended by Laws 2011, Ch. 536, § 9, eff. from and after passage (approved April 26, 2011).

HISTORICAL AND STATUTORY NOTES

The 2011 amendment designated the former subsecs. (4) and (5) as (5) and (6), respectively, and inserted subsec. (4).

Title 97. Crimes. Chapter 29. Crimes Against Public Morals and Decency. In General.

§ 97-29-59. Sodomy

Every person who shall be convicted of the detestable and abominable crime against nature committed with mankind or with a beast, shall be punished by imprisonment in the penitentiary for a term of not more than ten years.

HISTORICAL AND STATUTORY NOTES

Derivation:

Code 1930, § 1170; Code 1942, § 2413.