

1 ENGROSSED SENATE  
2 BILL NO. 402

By: Justice of the Senate

3 and

4 DeWitt of the House

5  
6 [ animals - making it unlawful for owners to allow  
7 animals to run at large - providing for penalty -  
8 emergency ]  
9

10 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

11 SECTION 1. AMENDATORY 4 O.S. 2011, Section 41, is  
12 amended to read as follows:

13 Section 41. A. It shall be lawful for a person to kill any  
14 animal of the family canidae or the family felidae found chasing  
15 livestock off the premises of the owner of such animal if the person  
16 is the owner or occupant of the property on which the animal is  
17 chasing the livestock or if the person is authorized to kill such an  
18 animal by the owner or occupant of such property.

19 B. The owner of any such animal of the family canidae or the  
20 family felidae that kills or injures any livestock shall be jointly  
21 and severally liable to any person so damaged, to the full amount of  
22 the injury done and damages caused, including reasonable attorney's  
23 fees and litigation expenses.  
24

1 C. It is unlawful for the owner of any animal of the family  
2 canidae to permit such animal to run at large off of owner's  
3 property if that animal has previously:

4 1. When unprovoked and running at large off of owner's  
5 property, killed or inflicted injuries to any livestock; or

6 2. When unprovoked and running at large off of owner's  
7 property, created an imminent threat of injury or death to any  
8 livestock or person.

9 Upon conviction, the violator shall be guilty of a misdemeanor  
10 punishable by imprisonment in the county jail for not more than one  
11 (1) year, or by imposition of a fine not to exceed Five Thousand  
12 Dollars (\$5,000.00), or by both such fine and imprisonment.

13 D. Any municipal, county or state animal control, animal  
14 welfare or peace officer may seize any animal of the family canidae  
15 for which probable cause exists that, while the animal was allowed  
16 to run at large off of its owner's property:

17 1. When unprovoked, the animal has killed or injured livestock;  
18 or

19 2. When unprovoked, the animal has on more than one occasion  
20 created a substantial threat to the health, safety and welfare of  
21 livestock or persons.

22 Seizure based upon probable cause may be without a warrant if  
23 the animal is continuing to run at large at the time of the seizure  
24 or if the threat to the health, safety and welfare of livestock or

1 persons is of a continuing nature under the circumstances; all other  
2 seizures shall require a warrant or order from a court of competent  
3 jurisdiction. Any animal seized pursuant to this paragraph shall be  
4 held by the appropriate animal control or animal welfare facility  
5 until the appropriate terms and conditions of release necessary to  
6 protect the health, safety and welfare of livestock and persons with  
7 whom the animal may come in contact are established by the  
8 supervisor of the facility or a court of competent jurisdiction.

9 E. Upon commencement of any civil action to assess damages  
10 pursuant to this section, the court upon its own motion, or upon a  
11 motion by the plaintiff, and with notice to the defendant, may issue  
12 an order requiring a municipal, county or state animal control,  
13 animal welfare or peace officer to seize any animal of the family  
14 canidae for which probable cause exists that, while the animal was  
15 allowed to run at large off of its owner's property:

16 1. When unprovoked, the animal has killed or injured livestock;  
17 or

18 2. When unprovoked, the animal has created a substantial threat  
19 to the health, safety and welfare of livestock or persons.

20 Any animal seized pursuant to this paragraph shall be held by the  
21 appropriate animal control or animal welfare facility until  
22 conclusion of the civil action or until the court enters an order  
23 proscribing the appropriate terms and conditions of release  
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1 necessary to protect the health, safety and welfare of livestock and  
2 persons with whom the animal may come in contact.

3 F. The cost for any animal's seizure and confinement authorized  
4 by subsection D or E of this section shall be borne by the owner of  
5 such animal. However, in any civil action filed pursuant to this  
6 section, if the owner of the animal is the prevailing party, such  
7 costs shall be taxed in the case against the nonprevailing party.

8 G. The court, before whom a recovery is had for any such injury  
9 or damages as set forth in this section, shall declare the animal  
10 found to have occasioned the injury to be a common nuisance, and  
11 order the defendant to kill or cause to be killed, such animal  
12 within twenty-four (24) hours after the rendition of the judgment.  
13 Appeals shall be allowed in all such cases. Such appeals shall be  
14 prosecuted in such manner as prescribed by general statutes  
15 governing appeals.

16 ~~B.~~ H. For purposes of this section:

17 1. "Livestock" means any cattle, bison, hog, sheep, goat,  
18 equine, domesticated rabbits, chicken or other poultry and shall  
19 include exotic livestock; and

20 2. "Exotic livestock" means commercially raised exotic  
21 livestock including animals of the families bovidae, cervidae and  
22 antilocapridae or birds of the ratite group.

23 SECTION 2. It being immediately necessary for the preservation  
24 of the public peace, health and safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and  
2 be in full force from and after its passage and approval.

3 Passed the Senate the 27th day of February, 2013.

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5 \_\_\_\_\_  
6 Presiding Officer of the Senate

7 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
8 2013.

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11 Presiding Officer of the House  
12 of Representatives  
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