

SENATE CHAMBER

STATE OF OKLAHOMA

DISPOSITION BY SENATE

FLOOR AMENDMENT

No. _____

(Date)

Mr./Madame President:

I move to amend Senate Bill No. 402, by striking the title, enacting clause and entire body of the bill and substituting the attached floor substitute.

Submitted by:

Senator Justice

Justice-QD-FS-Req#1491
2/14/2013 3:11 PM

STATE OF OKLAHOMA

1st Session of the 54th Legislature (2013)

FLOOR SUBSTITUTE

FOR

SENATE BILL NO. 402

By: Justice of the Senate

and

DeWitt of the House

FLOOR SUBSTITUTE

[animals - making it unlawful for owners to allow
animals to run at large - providing for penalty -
emergency]

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

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

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

B. The owner of any such animal of the family canidae or the
family felidae that kills or injures any livestock shall be jointly

1 and severally liable to any person so damaged, to the full amount of
2 the injury done and damages caused, including reasonable attorney's
3 fees and litigation expenses.

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

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

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

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

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

20 1. When unprovoked, the animal has killed or injured livestock;
21 or

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

1 Seizure based upon probable cause may be without a warrant if
2 the animal is continuing to run at large at the time of the seizure
3 or if the threat to the health, safety and welfare of livestock or
4 persons is of a continuing nature under the circumstances; all other
5 seizures shall require a warrant or order from a court of competent
6 jurisdiction. Any animal seized pursuant to this paragraph shall be
7 held by the appropriate animal control or animal welfare facility
8 until the appropriate terms and conditions of release necessary to
9 protect the health, safety and welfare of livestock and persons with
10 whom the animal may come in contact are established by the
11 supervisor of the facility or a court of competent jurisdiction.

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

19 1. When unprovoked, the animal has killed or injured livestock;
20 or

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

23 Any animal seized pursuant to this paragraph shall be held by the
24 appropriate animal control or animal welfare facility until

1 conclusion of the civil action or until the court enters an order
2 proscribing the appropriate terms and conditions of release
3 necessary to protect the health, safety and welfare of livestock and
4 persons with whom the animal may come in contact.

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

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

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

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

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

SECTION 2. It being immediately necessary for the preservation
of the public peace, health and safety, an emergency is hereby
declared to exist, by reason whereof this act shall take effect and
be in full force from and after its passage and approval.

54-1-1491 QD 2/14/2013 3:11:00 PM