

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 54th Legislature (2013)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 402

By: Justice of the Senate

and

DeWitt of the House

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10 COMMITTEE SUBSTITUTE

11 An Act relating to animals; amending 4 O.S. 2011,
12 Section 41, which relates to animals chasing or
13 injuring livestock; updating statutory language;
14 expanding liability of an owner of certain animals
15 for damages and certain costs; authorizing animal
16 control or other officers to seize a dangerous dog
17 under certain conditions; providing conditions;
18 providing for the holding of a seized animal;
19 authorizing seizure of a dog by motion of the court
20 or plaintiff in certain civil actions; requiring
21 certain probable cause; providing for the holding of
22 a seized dog for certain period; assigning the cost
23 of the seizure and confinement of an animal; limiting
24 certain interpretation of provisions; modifying
 authority of court to declare certain animals a
 common nuisance; specifying application of certain
 provisions to certain dangerous dogs; adding certain
 definitions; and declaring an 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:

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

7 B. The owner of any ~~such~~ animal of the family canidae or the
8 family felidae that kills or injures any livestock shall be jointly
9 and severally liable to any person so damaged, to the full amount of
10 the injury done and damages caused, including reasonable attorney
11 fees and litigation expenses.

12 C. 1. Any animal control officer or any municipal, county or
13 state law enforcement officer may seize a potentially dangerous dog
14 without a warrant:

15 a. if the dog is continuing to run at large at the time of
16 the seizure,

17 b. if the officer has probable cause to believe the dog is
18 a dangerous dog and the threat to the health, safety
19 and welfare of livestock or persons is of a continuing
20 nature under the circumstances, or

21 c. pursuant to Section 47 of this title.

22 2. Any animal seized pursuant to this subsection shall be held
23 by the appropriate animal control authority until the appropriate
24 terms and conditions of release necessary to protect the health,

1 safety and welfare of livestock and persons with whom the dangerous
2 dog may come in contact are established by the supervisor of the
3 animal control authority or a court of competent jurisdiction and
4 agreed to by the owner.

5 D. 1. Upon commencement of any civil action to assess damages
6 pursuant to this section, the court upon its own motion, or upon a
7 motion by the plaintiff, and with notice to the defendant, and after
8 a hearing thereon, may issue an order requiring seizure of a dog if
9 the court has found probable cause to believe:

10 a. the dog is a potentially dangerous dog and the threat
11 to the health, safety and welfare of livestock or
12 persons is of a continuing nature under the
13 circumstances, or

14 b. the dog will be adjudicated a common nuisance pursuant
15 to subsection G of this section.

16 2. Any dog seized pursuant to this subsection shall be held by
17 the appropriate animal control authority until conclusion of the
18 civil action or until the court enters an order prescribing the
19 appropriate terms and conditions of release necessary to protect the
20 health, safety and welfare of livestock and persons with whom the
21 animal may come in contact.

22 E. The cost for the seizure and confinement of an animal as
23 authorized by subsection C or D of this section shall be borne by
24 the owner of the animal. However, in any civil action filed

1 pursuant to this section, if the owner of the animal is the
2 prevailing party, such costs shall be taxed in the case against the
3 nonprevailing party.

4 F. Nothing in this section shall be interpreted so as to
5 require any municipality or county to:

- 6 1. Operate or maintain an animal welfare facility; or
7 2. Accept or hold any seized animal from a municipal, county or
8 state law enforcement officer, other than its own.

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

17 ~~B.~~ H. The provisions of Sections 45, 46 and 47 of this title
18 shall also apply to a dangerous dog as defined in subsection I of
19 this section.

20 I. For purposes of this section:

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

1 2. "Exotic livestock" means commercially raised exotic
2 livestock including animals of the families bovidae, cervidae and
3 antilocapridae or birds of the ratite group;

4 3. "Potentially dangerous dog" means any dog that, while the
5 dog was allowed to run at large off the property of the owner, when
6 unprovoked, on more than one occasion, was found to be chasing or
7 aggressively creating a substantial threat to the health, safety and
8 welfare of livestock or persons;

9 4. "Dangerous dog" means any dog that, while the dog was
10 allowed to run at large off the property of the owner:

11 a. when unprovoked, killed or injured livestock, or

12 b. has been previously found to be a potentially dangerous
13 dog, the owner having received notice of such by the
14 animal control authority in writing, and continues to be
15 found chasing or aggressively creating a substantial
16 threat to the health, safety and welfare of livestock or
17 persons;

18 5. "Animal control authority" means the same as defined in
19 Section 44 of this title;

20 6. "Animal control officer" means the same as defined in
21 Section 44 of this title; and

22 7. "Owner" means the same as defined in Section 44 of this
23 title.

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

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6 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 04/10/2013 - DO
7 PASS, As Amended.
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