

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 SENATE BILL 402

By: Justice

6 AS INTRODUCED

7 An Act relating to animals; amending 4 O.S. 2011,
8 Section 41, which relates to animals chasing or
injuring livestock, right to kill animals chasing or
9 injuring livestock, liability of owner, prescribing
procedure of the court; clarifying definitions;
10 clarifying statutory language, adding attorney's fees
to recoverable damages, making it unlawful for owners
to allow animals to run at large under certain
11 conditions, providing for penalty, authorizing animal
control or peace officer to seize animal, authorizing
12 seizure of animal by motion of the court or
plaintiff, assigning cost of animal seizure to owner;
13 and declaring an emergency.

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

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

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

1 B. The owner of any such animal of the family canidae or the
2 family felidae that kills or injures any livestock shall be jointly
3 and severally liable to any person so damaged, to the full amount of
4 the injury done and damages caused, including reasonable attorney's
5 fees and litigation expenses.

6 C. It is unlawful for the owner of any animal of the family
7 canidae to permit such animal to run at large if that animal has
8 previously:

9 1. When unprovoked, killed or inflicted injuries to any
10 livestock; or

11 2. When unprovoked, created an imminent threat of injury or
12 death to any livestock or person.

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

17 D. Any municipal, county or state animal control, animal
18 welfare or peace officer may seize, with or without a warrant,
19 whether on private or public property, any animal of the family
20 canidae for which probable cause exists to believe the animal has
21 within the past forty-eight (48) hours killed or injured livestock
22 or such animal may be dangerous to the health, safety and welfare of
23 livestock or persons. Any animal seized pursuant to this paragraph
24 shall be held by the appropriate animal control or animal welfare

1 facility until the appropriate terms and conditions of release
2 necessary to protect the health, safety and welfare of livestock and
3 persons with whom the animal may come in contact are established by
4 the supervisor of the facility or a court of competent jurisdiction.

5 E. 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, may issue an order requiring a municipal,
8 county or state animal control, animal welfare or peace officer to
9 seize, whether on private or public property, any animal of the
10 family canidae for which probable cause exists to believe the animal
11 has killed or injured livestock or such animal may be dangerous to
12 the health, safety and welfare of livestock or persons. Any animal
13 seized pursuant to this paragraph shall be held by the appropriate
14 animal control or animal welfare facility until conclusion of the
15 civil action or until the court enters an order proscribing the
16 appropriate terms and conditions of release necessary to protect the
17 health, safety and welfare of livestock and persons with whom the
18 animal may come in contact.

19 F. The cost for any animal's seizure and confinement authorized
20 by paragraphs D or E of this section shall be borne by the owner of
21 such animal. However, in any civil action filed pursuant to this
22 section, if the owner of the animal is the prevailing party, such
23 costs shall be taxed in the case against the non-prevailing party.

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

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

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

12 2. "Exotic livestock" means commercially raised exotic
13 livestock including animals of the families bovidae, cervidae and
14 antilocapridae or birds of the ratite group.

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

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