

1 AN ACT relating to harboring a vicious dog and making an appropriation therefor.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 258 IS CREATED TO  
4 READ AS FOLLOWS:

5 *(1) If a court finds that a defendant alleged to have violated subsection (5)(a) of*  
6 *Section 2 of this Act is incompetent to stand trial under KRS Chapter 504, the*  
7 *Commonwealth shall petition the court to conduct a hearing to determine if the*  
8 *dog is a vicious dog.*

9 *(2) If the court determines that the dog is vicious, the court may order that the dog be*  
10 *securely confined as provided by subsection (3) of Section 2 of this Act, or may*  
11 *order the removal or destruction of the dog in the discretion of the court.*

12 *(3) Upon a third finding by the court that the defendant owns or possesses a vicious*  
13 *dog and is incompetent to stand trial under KRS Chapter 504, the owner shall be*  
14 *prohibited from owning or possessing a dog for five (5) years from the date of the*  
15 *court's finding. Assistance animals as defined in KRS 383.085 may be included in*  
16 *the prohibition on ownership or possession.*

17 ➔Section 2. KRS 258.235 is amended to read as follows:

18 (1) Any person, without liability, may kill or seize any dog which is observed attacking  
19 any person.

20 (2) Any livestock owner or his *or her* agent, without liability, may kill any dog  
21 trespassing on that owner's property and observed in the act of pursuing or  
22 wounding his *or her* livestock.

23 (3) Any dog determined to be vicious by a court and allowed to be returned to an owner  
24 shall be confined in a locked enclosure at least seven (7) feet high or a locked  
25 kennel run with a secured top. The dog may leave the enclosure only to visit the  
26 veterinarian or to be turned in to an animal shelter. The dog shall be muzzled if  
27 leaving the enclosure for either of these purposes.

- 1 (4) Any owner whose dog is found to have caused damage to a person, livestock, or  
2 other property shall be responsible for that damage.
- 3 (5) (a) 1. Any person who has been attacked by a dog, or anyone acting on behalf  
4 of that person, may make a complaint before the district court, charging  
5 the owner or keeper of the dog with harboring a vicious dog.
- 6 2. A copy of the complaint shall be served upon the person~~[sø]~~ charged in  
7 the same manner and subject to the laws regulating the service of  
8 summons in civil actions directing him *or her* to appear for a hearing of  
9 the complaint at a time fixed in the complaint.
- 10 3. If the person fails to appear at the time fixed, or if upon a hearing of the  
11 parties and their witnesses, the court finds the person~~[sø]~~ charged is the  
12 owner or keeper of the dog in question, and that the dog has viciously  
13 and without cause, attacked a human being when off the premises of the  
14 owner or keeper, the person shall be subject to the penalties set forth in  
15 KRS 258.990(~~4~~)(~~3~~)(~~b~~), and the court shall further order the owner or  
16 keeper to keep the dog securely confined as provided by subsection (3)  
17 of this section, or the court may order the dog to be destroyed.
- 18 (b) The animal control officer shall act as an officer of the court for the  
19 enforcement of any orders of the court in *the officer's*~~[his]~~ jurisdiction  
20 pertaining to this subsection.
- 21 (6) For his *or her* services in the proceedings, a peace officer shall be entitled to the  
22 same fees to which *the peace officer*~~[he]~~ is entitled for performing similar services  
23 in civil cases. In all proceedings under this section, the court shall place the costs  
24 upon either party as it may determine.
- 25 (7) It shall be unlawful for the owner or keeper of any vicious dog, after receiving an  
26 order under subsection (5) of this section, to permit the dog to run at large, or to  
27 appear in public except as provided in subsection (3) of this section.

1 **(8)** Any vicious dog found running at large may be killed by any animal control officer  
2 or peace officer without liability for damages for the killing.

3 **(9) Any animal control officer or peace officer who impounds or kills a vicious dog**  
4 **under this chapter shall make a written record of the incident and keep the record**  
5 **for no less than five (5) years.**

6 ➔Section 3. KRS 258.990 is amended to read as follows:

7 (1) Any person who violates KRS 258.015, 258.035, 258.055, 258.065, or 258.085  
8 shall be fined not less than ten dollars (\$10) nor more than one hundred dollars  
9 (\$100). Each day of violation shall constitute a separate offense.

10 (2) The owner of any dog, cat, or ferret which bites a human being shall be liable to  
11 pay all damages for personal injuries resulting from the bite of the dog, cat, or  
12 ferret.

13 (3) ~~[(a)]~~Any person violating, or failing or refusing to comply with KRS 258.095 to  
14 258.365, except KRS 258.235(5)(a), shall, upon conviction, be fined not less than  
15 five dollars (\$5) nor more than one hundred dollars (\$100), or be imprisoned in the  
16 county jail for not less than five (5) nor more than sixty (60) days, or both.

17 **(4) (a)**~~[(b)]~~ Any person violating KRS 258.235(5)(a) shall be punished by a fine of  
18 not less than fifty dollars (\$50) nor more than two hundred dollars (\$200), or  
19 by imprisonment in the county jail for not less than ten (10) nor more than  
20 sixty (60) days, or both.

21 **(b) Any person with three (3) violations of subsection (5)(a) of Section 2 of this**  
22 **Act in any five (5) year period shall:**

23 **1. Be prohibited from owning or possessing a dog for five (5) years from**  
24 **the date of the court's finding. Assistance animals as defined in KRS**  
25 **383.085 may be included in the prohibition on ownership or**  
26 **possession under this paragraph;**

27 **2. Be fined two hundred fifty dollars (\$250) per dog possessed; and**

1                    **3. Surrender all dogs to the animal control officer or appropriate law**  
2                    **enforcement agency.**

3 ~~(5)~~~~(4)~~ All fines collected under subsections~~[subsection]~~ (3), **(4), and (6)** of this  
4 section shall, after costs and commissions have been deducted, be paid to the  
5 department to be credited to the animal control and care fund **under Section 4 of**  
6 **this Act.**

7 **(6) Any person prohibited from owning or possessing a dog pursuant to subsection**  
8 **(3) of Section 1 of this Act shall surrender any dog possessed to the animal**  
9 **control officer or appropriate law enforcement agency and shall be fined no less**  
10 **than two hundred fifty dollars (\$250) per dog owned or possessed.**

11 **(7) In determining the five (5) year period under subsection (4)(b) of this section, the**  
12 **period shall be measured from the date on which the offenses occurred for which**  
13 **the findings of a vicious dog were entered.**

14 ➔Section 4. KRS 258.119 is amended to read as follows:

15 (1) The "Animal Control and Care Fund" is hereby created as a special fund in the  
16 State Treasury. The fund may ~~also~~ receive **all fines paid to the department under**  
17 **subsection (5) of Section 3 of this Act,** gifts, grants from public and private  
18 sources, state appropriations, and federal funds. Any unallotted or unencumbered  
19 balances in this fund shall be invested as provided for in KRS 42.500(9). Income  
20 earned from the investments shall be credited to the fund. Any fund balance at the  
21 close of the fiscal year shall not lapse but shall be carried forward to the next fiscal  
22 year, and moneys in this fund shall be continuously appropriated only for the  
23 purposes specified in this section.

24 (2) Moneys from the fund shall be used by the Animal Control Advisory Board for  
25 board expenses, for the creation and support of statewide programs related to  
26 animal control and care, and for training animal control officers. "Statewide  
27 programs" includes, but is not limited to, the reimbursement of costs for

1 preexposure rabies vaccinations for all animal control and care workers. When  
2 determining the distribution of the moneys relating to training, the need of the  
3 applicant shall be one (1) of the criteria considered by the board. Based on  
4 recommendations of the Animal Control Advisory Board, any moneys not  
5 expended under this subsection may be distributed annually as grants to counties  
6 with an established animal control and care program meeting the requirements of  
7 subsection (3) of this section or approved plan to establish an animal control and  
8 care program under subsection (4) of this section.

9 (3) As used in this section, "animal control and care program" means a program in  
10 which the county:

11 (a) Employs, appoints, or contracts with an animal control officer, or contracts  
12 with an entity that employs, appoints, or contracts with an animal control  
13 officer, as required by KRS 258.195, who is a high school graduate and has  
14 completed the training requirements set forth by the Animal Control Advisory  
15 Board; and

16 (b) Maintains an animal shelter, enters into an intergovernmental agreement for  
17 the establishment of a regional animal shelter, or contracts with an entity  
18 authorized to maintain sheltering and animal control services, to provide  
19 services that:

- 20 1. Segregate male and female animals by species in runs and holding areas;
- 21 2. Provide separate runs or holding areas for ill or injured animals. An ill  
22 or injured animal shall be treated with proper veterinary care or  
23 euthanized;
- 24 3. Provide quarantine for dogs and cats presented to the shelter when  
25 quarantine by the owner is not feasible or desirable, the cost of  
26 quarantine to be borne by the animal owner at the shelter's regular  
27 housing costs and fees. Quarantined dogs and cats shall be held in

- 1 isolation for observation of symptoms of rabies for a period of ten (10)  
2 days from the date the dog or cat bit a person. If the dog or cat dies or is  
3 euthanized while in quarantine, it shall be submitted to the local health  
4 department for testing for the presence of the rabies virus. The cost of  
5 the testing shall be borne by the animal owner or the local health  
6 department may bear the cost at its discretion;
- 7 4. Provide holding areas with protection from the weather, including  
8 heated quarters during cold weather. Holding areas shall be free of  
9 debris or standing water; shall provide adequate lighting, ventilation,  
10 and sanitary conditions to promote a safe, healthy environment; and  
11 shall provide adequate space to allow for normal movement, including  
12 standing to full height, sitting, turning, and lying down in a natural  
13 position without coming in contact with the top or sides of the enclosure  
14 or another animal;
- 15 5. Provide runs and cages built of materials which can be readily cleaned  
16 and disinfected, including floors made of an impervious material;
- 17 6. Provide access to the public for no less than twenty-four (24) hours in  
18 one (1) week, with the hours that the facility is open to the public posted  
19 in a visible location;
- 20 7. Employ euthanasia methods specified as acceptable for that species by  
21 the most recent report of the American Veterinary Medical Association  
22 Panel on Euthanasia;
- 23 8. Provide potable, uncontaminated water to every animal at all times, and  
24 palatable, uncontaminated food daily; and
- 25 9. Maintain a record on each animal impounded. Records shall be  
26 maintained for a period of two (2) years and shall include:  
27 a. Date impounded;

- 1                   b.    Location found or picked up;
  - 2                   c.    Sex of animal and spay or neuter status, if known;
  - 3                   d.    Breed or description, and color; and
  - 4                   e.    Date reclaimed, adopted, or euthanized.
- 5 (4) Counties submitting plans proposing to establish an animal control and care  
6 program for approval by the Animal Control Advisory Board shall comply with the  
7 requirements of:
- 8           (a) Paragraph (a) of subsection (3) of this section within twelve (12) months of  
9           the date the documentation is submitted; and
  - 10          (b) Paragraph (b) of subsection (3) of this section within twenty-four (24) months  
11          of the date the documentation is submitted.
- 12 (5) To be eligible for any moneys distributed as grants to counties under subsection (2)  
13 of this section, counties shall submit an application to the commissioner, on a form  
14 prescribed by the Department of Agriculture, by July 15 of each year. Moneys shall  
15 be used for construction, equipment, educational supplies, and other uses or  
16 programs approved by the advisory board, but shall not be used to increase wages  
17 of animal control officers or other personnel. Counties receiving money from the  
18 Department of Agriculture shall comply with the terms of the plan or program. If  
19 the terms of the plan or program are not complied with, the county shall refund the  
20 money to the Department of Agriculture.