

SENATE BILL 1133

By Marrero

AN ACT to amend Tennessee Code Annotated, Title 39
and Title 44, relative to animals.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 44-8-408, is amended by deleting the section in its entirety and by substituting instead the following:

Section 44-8-408.

(a) This section shall be known and may be cited as the "Destiny Knox Act".

(b) As used in this section:

(1) "Animal" means a domesticated living creature or a wild creature;

(2)

(A) Except as provided in subdivision (2)(B), "dangerous animal" means:

(i) Any domesticated animal that, without provocation, bites, attacks, or endangers the safety of a human or other animal on public or private property;

(ii) Any domesticated animal which because of its physical nature and vicious propensity is capable of causing serious bodily injury, as defined by § 39-11-106, or death to humans or other animals and would constitute a danger to human life or property;
or

(iii) Any domesticated animal that behaves in such a manner that the owner knows or should reasonably know that the animal is possessed of tendencies to attack humans or other animals;

(B) "Dangerous animal" does not include:

(i) Any police animal that bites, attacks, or endangers the safety of a human when the animal is being used by a law enforcement officer to carry out official duties;

(ii) Any animal that attacks a human in an enclosure in which the animal is being kept, if such enclosure is designed to prevent with reasonable certainty the animal from leaving the enclosure on its own; or

(iii) Any animal that bites, attacks, or endangers the safety of a human while a human is committing or attempting to commit a trespass or other criminal offense on the property of the owner of the animal;

(3) "Domesticated animal" means any non-livestock animal of a tamable disposition that normally lives in or about the household of its owner; contributes to the support of the owner or the owner's family; or is by custom devoted to the service of humans at the time and in the place in which it is kept;

(4) "Enclosure" means an area for keeping a dangerous, vicious, or wild animal securely confined indoors or in a securely enclosed and locked pen, fence, or structure while outdoors on the owner's property that is suitable to prevent the entry of young children and the escape of the animal. A pen or structure is designed to prevent with reasonable certainty a dangerous, vicious, or wild animal's escape if it has secure sides and a secure top, and, if the dangerous, vicious, or wild animal is enclosed within a fence, all sides of the fence are of sufficient height and the bottom of the fence is constructed or

secured in such a manner as to prevent the dangerous, vicious, or wild animal's escape either over or under the fence;

(5)

(A) "Harborer or keeper" means any natural person or any legal entity, including, but not limited to, a corporation, partnership, firm, or trust who temporarily harbors, keeps, possesses, or exercises custody or control of a dangerous, vicious, or wild animal within this state.

(B) "Harborer or keeper" does not include any person or entity immune from civil liability under § 39-14-215;

(6) "Owner" means any natural person or any legal entity, including, but not limited to, a corporation, partnership, firm, or trust who is vested with legal ownership or title to a dangerous, vicious, or wild animal or regularly keeps, harbors, possesses, or exercises custody or control of such dangerous, vicious, or wild animal within this state;

(7) "Police animal" means an animal that has been trained, and may be used, to assist a law enforcement officer in the performance of official duties;

(8)

(A) Except as provided in subdivision (8)(B), "vicious animal" means:

(i) Any domesticated animal that, without provocation, attacks a person or other animal on public or private property and causes serious bodily injury, as defined by § 39-11-106, or death to humans or other animals; or

(ii) Any domesticated animal that aggressively bites, attacks, or endangers the safety of humans or other animals,

without provocation, after the owner has notice or knows that the dog has previously bitten, attacked, or endangered the safety of a human or other animal;

(B) "Vicious animal" does not include any of the following:

(i) Any police animal that causes serious bodily injury, as defined by § 39-11-106, or death to a human when the animal is being used by a law enforcement officer to carry out official duties;

(ii) Any animal that attacks a human or other animal in a enclosure in which the animal is being kept, if such enclosure is designed to prevent with reasonable certainty the animal from leaving the enclosure on its own; or

(iii) Any animal that causes serious bodily injury, as defined by § 39-11-106, or death to any human while a human is committing or attempting to commit a trespass or other criminal offense on the property of the owner of the animal;

(9) "Wild animal" means any animal of an untamable disposition that was taken from a state of nature, possessed by a human and placed in captivity, and that constitutes a danger to human life and property; and

(10) "Without provocation" means that an animal is not teased, tormented, hit, kicked, or abused by a person with any object or part of a person's body.

(c) It is an offense for an owner, keeper, or harbinger of a dangerous, vicious, or wild animal to fail to restrain the dangerous, vicious, or wild animal while outdoors on a leash or similar device in such person's immediate control or in an enclosure reasonably

certain to prevent the dangerous, vicious, or wild animal from leaving the enclosure on its own.

(d)

(1) An owner, keeper, or harbinger of a dangerous, vicious, or wild animal shall post visible notice on the owner's, keeper's, or harbinger's property which notifies others that the owner, keeper, or harbinger has a dangerous, vicious, or wild animal on the property.

(2) A violation of this subsection (d) is a Class C misdemeanor, punishable only by a fine of fifty dollars (\$50.00). Each day that a violation of subsection (d) occurs constitutes a separate offense.

(e) A violation of subsection (c) is a:

(1) Class C misdemeanor punishable only by a fine of one hundred dollars (\$100);

(2) Class B misdemeanor punishable only by a fine of five hundred dollars (\$500) if the dangerous, vicious, or wild animal causes damage to the property of another;

(3) Class A misdemeanor punishable by a fine of two thousand five hundred dollars (\$2,500) and imprisonment for a time as provided in § 40-35-111 if the dangerous, vicious, or wild animal causes bodily injury, as defined by § 39-11-106, to another;

(4) Class E felony punishable by a fine of five thousand dollars (\$5,000) and imprisonment for a time as provided in § 40-35-111 if the dangerous, vicious, or wild animal causes serious bodily injury, as defined by § 39-11-106, to another; and

(5) Class D felony punishable by a fine of ten thousand dollars (\$10,000) and imprisonment for a time as provided in § 40-35-111 if the dangerous, vicious, or wild animal causes the death of another.

(f) Notwithstanding subsection (e), a violation of subsection (c) shall be punished as provided in subsection (g) if:

(1) The violation involves a dangerous, vicious, or wild animal that was trained to fight, attack or kill or had been used to fight; or

(2) The owner, keeper, or harbinger of the dangerous, vicious, or wild animal violating this section knew of the dangerous nature of the dangerous, vicious, or wild animal and, prior to the violation of this section, the dangerous, vicious, or wild animal had bitten one (1) or more people that resulted in serious bodily injury or death.

(g) A violation of subsection (c), where one (1) or more of the factors set out in subsection (f) are present, shall be punished as follows:

(1) A Class B misdemeanor, punishable only by a fine of five hundred dollars (\$500) if the dangerous, vicious, or wild animal does not cause property damage, injury or death;

(2) A Class A misdemeanor punishable by a fine of two thousand five hundred dollars (\$2,500) and imprisonment for a time as provided in § 40-35-111 if the dangerous, vicious, or wild animal causes damage to the property of another;

(3) A Class E felony punishable by a fine of five thousand dollars (\$5,000) and imprisonment for a time as provided in § 40-35-111 if the dangerous, vicious, or wild animal causes bodily injury to another;

(4) A Class D felony punishable by a fine of ten thousand dollars (\$10,000) and imprisonment for a time as provided in § 40-35-111 if the dangerous, vicious, or wild animal causes serious bodily injury to another; and

(5) A Class C felony punishable by a fine of twenty-five thousand dollars (\$25,000) and imprisonment for a time as provided in § 40-35-111 if the dangerous, vicious, or wild animal causes the death of another.

(h)

(1) If the dangerous, vicious, or wild animal is a dog, then the owner of the dog is exempted from the application of subsection (c) if:

(A) The dog was on a hunt or chase;

(B) The dog was on the way to or from a hunt or chase; or

(C) The dog was guarding or driving stock or on the way to guard or drive stock.

(2) An owner of a dangerous, vicious, or wild animal, including but not limited to a dog, is exempted from the application of subsection (c) if:

(A) The dangerous, vicious, or wild animal was being moved from one place to another by the owner, keeper, or harbinger of the dangerous, vicious, or wild animal;

(B) The dangerous, vicious, or wild animal is a police or military animal, the injury occurred during the course of the animal's official duties and the person injured was a party to, a participant in or suspected of being a party to or participant in the act or conduct that prompted the police or military to utilize the services of the animal;

(C) The violation of subsection (c) occurred while the injured person was on the private property of the dangerous, vicious, or wild

animal's owner, keeper, or harborer with the intent to engage in unlawful activity while on the property;

(D) The violation of subsection (c) occurred while the dangerous, vicious, or wild animal was protecting the dangerous, vicious, or wild animal's owner, keeper, harborer or other innocent party from attack by the injured person or an animal owned by the injured person;

(E) The violation of subsection (c) occurred while the dangerous, vicious, or wild animal was securely confined in a kennel, crate or other enclosure; or

(F) The violation of subsection (c) occurred as a result of the injured person disturbing, harassing, assaulting or otherwise provoking the dangerous, vicious, or wild animal.

(i) The exception to the application of this section provided in subdivisions (h)(1)-(3) shall not apply unless the owner, keeper, or harborer in violation of subsection (c) pays or tenders payment for all damages caused by the dangerous, vicious, or wild animal to the injured party within thirty (30) days of the damage being caused.

(j) It is not a defense to prosecution for a violation of subsection (c) that is punishable in accordance with subdivision (e)(1), (e)(2) or (e)(3) that the dangerous, vicious, or wild animal owner exercised reasonable care in attempting to confine or control the dangerous, vicious, or wild animal.

(k) It is an affirmative defense to prosecution for a violation of subsection (c) that is punishable in accordance with subdivision (e)(4) or (e)(5) that the dangerous, vicious, or wild animal owner exercised reasonable care in attempting to confine or control the dangerous, vicious, or wild animal.

(l) Nothing in this section shall prohibit prosecution under any other applicable offense.

SECTION 2. This act shall take effect July 1, 2011, the public welfare requiring it.