An Act

ENROLLED SENATE
BILL NO. 402

By: Justice of the Senate

and

DeWitt and Scott of the House

An Act relating to animals; amending 4 O.S. 2011, Section 41, which relates to animals chasing or injuring livestock; updating statutory language; expanding liability of an owner of certain animals for damages and certain costs; authorizing animal control or other officers to seize a dangerous dog under certain conditions; providing conditions; providing for the holding of a seized animal; authorizing seizure of a dog by motion of the court or plaintiff in certain civil actions; requiring certain probable cause; providing for the holding of a seized dog for certain period; assigning the cost of the seizure and confinement of an animal; limiting 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.

SUBJECT: Animals chasing or injuring livestock

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

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

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

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

c. pursuant to Section 47 of this title.

2. Any animal seized pursuant to this subsection shall be held by the appropriate animal control authority until the appropriate terms and conditions of release necessary to protect the health, safety and welfare of livestock and persons with whom the dangerous dog may come in contact are established by the supervisor of the animal control authority or a court of competent jurisdiction and agreed to by the owner.

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

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

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

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

E. The cost for the seizure and confinement of an animal as authorized by subsection C or D of this section shall be borne by the owner of the animal. However, in any civil action filed pursuant to this section, if the owner of the animal is the prevailing party, such costs shall be taxed in the case against the nonprevailing party.

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

1. Operate or maintain an animal welfare facility; or

2. Accept or hold any seized animal from a municipal, county or state law enforcement officer, other than its own.

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

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

I. For purposes of this section:

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

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

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

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

a. when unprovoked, killed or injured livestock, or

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

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

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

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

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.

Passed the Senate the 7th day of May, 2013.

Presiding Officer of the Senate

Passed the House of Representatives the 23rd day of April, 2013.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 8th
day of May, 20 13, at 2:44 o'clock P M.
By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 14th
day of May, 20 13, at 2:46 o'clock P M.

Mary Fallin
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 14th
day of May, 20 13, at 4:02 o'clock P. M.
By: Chris Morris