

(127th General Assembly)
(Substitute House Bill Number 71)

AN ACT

To amend sections 955.28 and 959.16, to enact new section 959.132 and section 959.161, and to repeal section 959.132 of the Revised Code to provide for the seizure, impoundment, and disposition of dogs involved in dogfighting; to revise requirements and procedures governing the seizure, impoundment, and disposition of companion animals that are the subject of abuse or neglect; and to allow a law enforcement officer to kill a dog that attacks a police dog.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 955.28 and 959.16 be amended and new section 959.132 and section 959.161 of the Revised Code be enacted to read as follows:

Sec. 955.28. (A) Subject to divisions (A)(2) and (3) of section 955.261 of the Revised Code, a dog that is chasing or approaching in a menacing fashion or apparent attitude of attack, that attempts to bite or otherwise endanger, or that kills or injures a person or a dog that chases, threatens, harasses, injures, or kills livestock, poultry, other domestic animal, or other animal, that is the property of another person, except a cat or another dog, can be killed at the time of that chasing, threatening, harassment, approaching, attempt, killing, or injury. If, in attempting to kill such a dog, a person wounds it, ~~he~~ the person is not liable to prosecution under the penal laws ~~which that~~ punish cruelty to animals. Nothing in this section precludes a law enforcement officer from killing a dog that attacks a police dog as defined in section 2921.321 of the Revised Code.

(B) The owner, keeper, or harbinger of a dog is liable in damages for any injury, death, or loss to person or property that is caused by the dog, unless the injury, death, or loss was caused to the person or property of an individual who, at the time, was committing or attempting to commit ~~a~~ criminal trespass or ~~other another~~ criminal offense other than a minor misdemeanor on the property of the owner, keeper, or harbinger, or was

committing or attempting to commit a criminal offense other than a minor misdemeanor against any person, or was teasing, tormenting, or abusing the dog on the owner's, keeper's, or harborer's property. Additionally, the owner, keeper, or harborer of a dog is liable in damages for any injury, death, or loss to person or property that is caused by the dog if the injury, death, or loss was caused to the person or property of an individual who, at the time of the injury, death, or loss, was on the property of the owner, keeper, or harborer solely for the purpose of engaging in door-to-door sales or other solicitations regardless of whether the individual was in compliance with any requirement to obtain a permit or license to engage in door-to-door sales or other solicitations established by the political subdivision in which the property of the owner, keeper, or harborer is located, provided that the person was not committing a criminal offense other than a minor misdemeanor or was not teasing, tormenting, or abusing the dog.

Sec. 959.132. (A) As used in this section:

(1) "Companion animal" has the same meaning as in section 959.131 of the Revised Code.

(2) "Impounding agency" means a county humane society organized under section 1717.05 of the Revised Code, an animal shelter, or a law enforcement agency that has impounded a companion animal in accordance with this section.

(3) "Offense" means a violation of section 959.131 of the Revised Code or an attempt, in violation of section 2923.02 of the Revised Code, to violate section 959.131 of the Revised Code.

(4) "Officer" means any law enforcement officer, agent of a county humane society, or other person appointed to act as an animal control officer for a municipal corporation or township in accordance with state law, an ordinance, or a resolution.

(B) An officer may seize and cause to be impounded at an impounding agency a companion animal that the officer has probable cause to believe is the subject of an offense. No officer or impounding agency shall impound a companion animal that is the subject of an offense in a shelter owned, operated, or controlled by a board of county commissioners pursuant to Chapter 955. of the Revised Code unless the board, by resolution, authorizes the impoundment of such a companion animal in a shelter owned, operated, or controlled by that board and has executed, in the case when the officer is other than a dog warden or assistant dog warden, a contract specifying the terms and conditions of the impoundment.

(C) The officer shall give written notice of the seizure and impoundment to the owner, keeper, or harborer of the companion animal that was seized

and impounded. If the officer is unable to give the notice to the owner, keeper, or harbinger of the companion animal, the officer shall post the notice on the door of the residence or in another conspicuous place on the premises at which the companion animal was seized. The notice shall include a statement that a hearing will be held not later than ten days after the notice is provided or at the next available court date to determine whether the officer had probable cause to seize the companion animal and, if applicable, to determine the amount of a bond or cash deposit that is needed to provide for the companion animal's care and keeping for not less than thirty days beginning on the date on which the companion animal was impounded.

(D) A companion animal that is seized under this section may be humanely destroyed immediately or at any time during impoundment if a licensed veterinarian determines it to be necessary because the companion animal is suffering.

(E)(1) Not later than ten days after notice is provided or at the next available court date, the court shall hold a hearing to determine whether the officer impounding a companion animal had probable cause to seize the companion animal. If the court determines that probable cause exists, the court shall determine the amount of a bond or cash deposit that is needed to provide for the companion animal's care and keeping for not less than thirty days beginning on the date on which the companion animal was impounded.

(2) If the court determines that probable cause does not exist, the court immediately shall order the impounding agency to return the companion animal to its owner if possible. If the companion animal cannot be returned because it has died as a result of neglect or other misconduct by the impounding agency or if the companion animal is injured as a result of neglect or other misconduct by the impounding agency, the court shall order the impounding agency to pay the owner an amount determined by the court to be equal to the reasonable market value of the companion animal at the time that it was impounded plus statutory interest as defined in section 1343.03 of the Revised Code from the date of the impoundment or an amount determined by the court to be equal to the reasonable cost of treatment of the injury to the companion animal, as applicable. The requirement established in division (E)(2) of this section regarding the payment of the reasonable market value of the companion animal shall not apply in the case of a dog that, in violation of section 955.01 of the Revised Code, was not registered at the time it was seized and impounded.

(3) If the court determines that probable cause exists and determines the amount of a bond or cash deposit, the case shall continue and the owner shall post a bond or cash deposit to provide for the companion animal's care

and keeping for not less than thirty days beginning on the date on which the companion animal was impounded. The owner may renew a bond or cash deposit by posting, not later than ten days following the expiration of the period for which a previous bond or cash deposit was posted, a new bond or cash deposit in an amount that the court, in consultation with the impounding agency, determines is sufficient to provide for the companion animal's care and keeping for not less than thirty days beginning on the date on which the previous period expired. If no bond or cash deposit is posted or if a bond or cash deposit expires and is not renewed, the impounding agency may determine the disposition of the companion animal unless the court issues an order that specifies otherwise.

(F) If a person is convicted of committing an offense, the court may impose the following additional penalties against the person:

(1) A requirement that the person pay for the costs incurred by the impounding agency in caring for a companion animal involved in the applicable offense, provided that the costs were incurred during the companion animal's impoundment. A bond or cash deposit posted under this section may be applied to the costs.

(2) An order permanently terminating the person's right to possession, title, custody, or care of the companion animal that was involved in the offense. If the court issues such an order, the court shall order the disposition of the companion animal.

(G) If a person is found not guilty of committing an offense, the court immediately shall order the impounding agency to return the companion animal to its owner if possible and to return the entire amount of any bond or cash deposit posted under division (E) of this section. If the companion animal cannot be returned because it has died as a result of neglect or other misconduct by the impounding agency or if the companion animal is injured as a result of neglect or other misconduct by the impounding agency, the court shall order the impounding agency to pay the owner an amount determined by the court to be equal to the reasonable market value of the companion animal at the time that it was impounded plus statutory interest as defined in section 1343.03 of the Revised Code from the date of the impoundment or an amount determined by the court to be equal to the reasonable cost of treatment of the injury to the companion animal, as applicable. The requirements established in this division regarding the return of a bond or cash deposit and the payment of the reasonable market value of the companion animal shall not apply in the case of a dog that, in violation of section 955.01 of the Revised Code, was not registered at the time it was seized and impounded.

(H) If charges are filed under section 959.131 of the Revised Code against the custodian or caretaker of a companion animal, but the companion animal that is the subject of the charges is not impounded, the court in which the charges are pending may order the owner or person having custody of the companion animal to provide to the companion animal the necessities described in division (C)(2) of section 959.131 of the Revised Code until the final disposition of the charges. If the court issues an order of that nature, the court also may authorize an officer or another person to visit the place where the companion animal is being kept, at the times and under the conditions that the court may set, to determine whether the companion animal is receiving those necessities and to remove and impound the companion animal if the companion animal is not receiving those necessities.

Sec. 959.16. (A) No person shall knowingly do any of the following:

- (1) Promote, engage in, or be employed at dogfighting;
- (2) Receive money or anything else of value for the admission of another person to a dogfighting event or a place kept for dogfighting;
- (3) Sell, purchase, possess, or train a dog for dogfighting;
- (4) Use, train, or possess a dog for seizing, detaining, or maltreating a domestic animal;
- (5) ~~Purchase a ticket or~~ Pay money or give anything else of value in exchange for admission to or be present at a dogfight;
- (6) Witness a dogfight if it is presented as a public spectacle.

(B) The department of agriculture may investigate complaints and follow up rumors of dogfighting activities and may report any information so gathered to an appropriate prosecutor or law enforcement agency.

(C) Any peace officer, as defined in section 2935.01 of the Revised Code, ~~shall confiscate~~ may seize and cause to be impounded in accordance with section 959.161 of the Revised Code any dogs that have been, are, or are intended to be used in dogfighting ~~and~~. In addition, any peace officer shall confiscate any equipment or devices used in training such dogs or as part of dogfights.

Sec. 959.161. (A) As used in this section:

(1) "Fighting dog" means a dog that a peace officer has probable cause to believe has been, is, or is intended to be used in dogfighting in violation of section 959.16 of the Revised Code.

(2) "Impounding entity" means the entity that has possession of an impounded fighting dog during its impoundment.

(3) "Peace officer" has the same meaning as in section 2935.01 of the Revised Code.

(4) "Violation" means a violation of section 959.16 of the Revised Code or an attempt, in violation of section 2923.02 of the Revised Code, to violate section 959.16 of the Revised Code.

(B) A peace officer may seize and cause to be impounded with an impounding entity a fighting dog that the peace officer has probable cause to believe is involved in a violation.

(C) A fighting dog that is seized under this section may be humanely destroyed under either of the following circumstances:

(1) During its seizure if it is necessary because the fighting dog is suffering;

(2) At any time during its impoundment if a licensed veterinarian determines it to be necessary because the fighting dog is suffering.

(D) Procedures, requirements, and other provisions that are established in divisions (C), (E), (F), and (G) of section 959.132 of the Revised Code shall apply to the seizure, impoundment, and disposition of a fighting dog. For purposes of that application, references in those divisions of section 959.132 of the Revised Code to "companion animal," "impounding agency," "officer," and "offense" shall be deemed to be replaced, respectively, with references to "fighting dog," "impounding entity," "peace officer," and "violation" as defined in this section. Likewise, references in those divisions of section 959.132 of the Revised Code to "section 959.131 of the Revised Code" shall be deemed to be replaced with references to section 959.16 of the Revised Code, as applicable.

SECTION 2. That existing sections 955.28 and 959.16 and section 959.132 of the Revised Code are hereby repealed.



Speaker _____ of the House of Representatives.



President _____ of the Senate.

Passed June 10, 2008

Approved June 27, 2008



Governor.

Sub. H. B. No. 71

6750

127th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Mark C. Flanders

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
1st day of July, A. D. 2008.

Jim B.

Secretary of State.

File No. 127

Effective Date September 30, 2008