

SESSION OF 2006

**CONFERENCE COMMITTEE REPORT BRIEF  
SENATE BILL NO. 408**

As Agreed to March 29, 2006

**Brief\***

SB 408, dealing with the crime of cruelty to animals, would do the following.

**Cruelty to Animals Made a Felony.** The bill would bifurcate the crime of cruelty to animals to make the intentional malicious killing, injuring, maiming, torturing, burning or mutilating of any animal an off grid nonperson felony subject to a penalty of not less than 30 days or more than one year imprisonment and a fine not less than \$500 nor more than \$5,000. Persons convicted of this offense must have a psychological evaluation prepared by the court during the mandatory 30 days imprisonment. Another requirement would be completion of an anger management program. "Maliciously" would be defined to mean a state of mind characterized by actual evil-mindedness or specific intent to do a harmful act without a reasonable justification or excuse.

**Other Acts of Cruelty to Animals-Second Offense a Felony.** Other described acts of cruelty to animals would be subject to the penalty of a class A nonperson misdemeanor for the first offense and a non-grid nonperson felony subject to a penalty of not less than five days imprisonment.

**Harming a Police Dog.** The penalty for the crime of inflicting harm, disability, or death to a police dog, arson dog, and similar dogs is raised to an off grid nonperson felony subject to a sentence of not less than 30 days or more than one year and a fine of not less than \$500 to not more than \$5,000. A psychological evaluation also would be required as well as completion of an anger management program.

**Illegal Ownership of Any Animal.** The crime of illegal ownership of a dog is expanded to cover any animal and to apply to

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persons convicted of cruelty to animals. This crime would be punishable as a class B nonperson misdemeanor.

**Kennel Owners, Pet Shop Licensure.** The Livestock Commissioner of the Kansas Animal Health Department would be required to refuse to issue or renew, and shall suspend or revoke, any license or permit (*e.g.* to operate a pet shop, engage in animal breeding, or operate an animal shelter), of any person who has been convicted of second or subsequent offenses of cruelty to animals. Current law allows suspension or revocation for any conviction of cruelty to animals. The bill would make this option permissive upon first convictions.

**Animal Husbandry and Domestic Pets.** The bill would expand animal husbandry acts that would be exempt from cruelty to animals to include the careful or thrifty management of one's herd or animals, including animal care practices common in the industry or region. Another provision would exempt accepted practices of animal husbandry for domestic pet animals pursuant to regulations of the Animal Welfare Act and administered by the United States Department of Agriculture Animal and Plant Health Inspection Service.

**Pest Control.** Normal or accepted practices of pest control would be exempt from the cruelty to animal provisions.

### **Conference Committee Action**

The Conference Committee agreed to all House amendments and further agreed to make the second and subsequent offenses where maliciousness is not involved a non-grid nonperson felony subject to not less than five days imprisonment.

### **Background**

The provisions contained in SB 408 were supported by Senator David Haley, Senator Phil Journey, the Kansas Humane Society, Wayside Waifs Humane Society of Kansas City, Power of Paws, Friends of Animals in Kansas, the Mayor of Bel Aire, the Kansas Coalition Against Sexual and Domestic Violence, the Wichita Director of Environmental Services, Kansas Federation of Animal Owners, Humane Society of the United States, and other individuals. The Kansas Livestock Association and the Kansas Dairy Association also

offered testimony.

The Senate Committee amended SB 408 to bifurcate the crime and make the intentional killing or causing serious physical harm to an animal an off grid nonperson felony; to require registration of these offenders under the Kansas Offender Registration Act; to require psychological evaluations of these offenders; to make the killing or harming of a police dog, arson dog, or similar dogs an off grid nonperson felony; to make the second and subsequent conviction of the crime of cruelty to animals where there has not been the killing or causing of serious physical harm a level 10, nonperson felony with a minimum five-day sentence in the county jail; and made other amendments.

The Senate Committee of the Whole amendment was technical in nature.

The House Committee amended the bill to do the following:

- Change the definition of cruelty to animals to include maliciously injuring, maiming, torturing, burning, or mutilating any animal;
- Inserted the definition of maliciously;
- Deleted the provision whereby the Department of Corrections would be required to reimburse the cost of maintenance of offenders convicted of animal cruelty;
- Inserted the provision regarding anger control programs;
- Deleted the provision whereby a county would be required to pay expenses when an animal, ordered to be taken to an animal shelter, is returned to the owner or keeper of the animal;
- Deleted the requirements that would have imposed offender registration;
- Inserted expanded animal husbandry, domestic pet and pest control provisions; and
- Deleted the provisions regarding second or subsequent convictions of the lesser cruelty to animals provision.

The fiscal note prepared for SB 408 as introduced stated that the bill would have no fiscal impact or the impact could not be estimated. Note many of the provisions of SB 402 were amended into SB 408. The fiscal note on SB 402 said the bill will result in an unquantifiable need for additional prison beds.