

SECOND REGULAR SESSION

HOUSE BILL NO. 2416

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES CUNNINGHAM (86) (Sponsor), MEINERS, DUSENBERG, BIVINS, YOUNG, YAEGER, WALSH, WALLACE, SALVA, ZIMMERMAN AND GEORGE (Co-sponsors).

Read 1st time March 12, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

5427L.01I

AN ACT

To repeal sections 513.605, 578.025, and 578.030, RSMo, and to enact in lieu thereof four new sections relating to dog fighting, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 513.605, 578.025, and 578.030, RSMo, are repealed and four new
2 sections enacted in lieu thereof, to be known as sections 513.605, 578.025, 578.026, and
3 578.030, to read as follows:

513.605. As used in sections 513.600 to 513.645, unless the context clearly indicates
2 otherwise, the following terms mean:

3 (1) (a) "Beneficial interest":

4 a. The interest of a person as a beneficiary under any other trust arrangement pursuant
5 to which a trustee holds legal or record title to real property for the benefit of such person; or

6 b. The interest of a person under any other form of express fiduciary arrangement
7 pursuant to which any other person holds legal or record title to real property for the benefit of
8 such person;

9 (b) "Beneficial interest" does not include the interest of a stockholder in a corporation
10 or the interest of a partner in either a general partnership or limited partnership. A beneficial
11 interest shall be deemed to be located where the real property owned by the trustee is located;

12 (2) "Civil proceeding", any civil suit commenced by an investigative agency under any
13 provision of sections 513.600 to 513.645;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 14 (3) "Criminal activity" is the commission, attempted commission, conspiracy to commit,
15 or the solicitation, coercion or intimidation of another person to commit any crime which is
16 chargeable by indictment or information under the following Missouri laws:
- 17 (a) Chapter 195, RSMo, relating to drug regulations;
 - 18 (b) Chapter 565, RSMo, relating to offenses against the person;
 - 19 (c) Chapter 566, RSMo, relating to sexual offenses;
 - 20 (d) Chapter 568, RSMo, relating to offenses against the family;
 - 21 (e) Chapter 569, RSMo, relating to robbery, arson, burglary and related offenses;
 - 22 (f) Chapter 570, RSMo, relating to stealing and related offenses;
 - 23 (g) Chapter 567, RSMo, relating to prostitution;
 - 24 (h) Chapter 573, RSMo, relating to pornography and related offenses;
 - 25 (i) Chapter 574, RSMo, relating to offenses against public order;
 - 26 (j) Chapter 575, RSMo, relating to offenses against the administration of justice;
 - 27 (k) Chapter 491, RSMo, relating to witnesses;
 - 28 (l) Chapter 572, RSMo, relating to gambling;
 - 29 (m) Chapter 311, RSMo, but relating only to felony violations of this chapter committed
30 by persons not duly licensed by the supervisor of liquor control;
 - 31 (n) Chapter 571, RSMo, relating to weapons offenses;
 - 32 (o) Chapter 409, RSMo, relating to regulation of securities;
 - 33 (p) Chapter 301, RSMo, relating to registration and licensing of motor vehicles;
 - 34 **(q) Section 578.025, RSMo;**
 - 35 (4) "Criminal proceeding", any criminal prosecution commenced by an investigative
36 agency under any criminal law of this state;
 - 37 (5) "Investigative agency", the attorney general's office, or the office of any prosecuting
38 attorney or circuit attorney;
 - 39 (6) "Pecuniary value":
 - 40 (a) Anything of value in the form of money, a negotiable instrument, a commercial
41 interest, or anything else the primary significance of which is economic advantage; or
 - 42 (b) Any other property or service that has a value in excess of one hundred dollars;
 - 43 (7) "Real property", any estate or legal or equitable interest in land situated in this state
44 or any interest in such real property, including, but not limited to, any lease or deed of trust upon
45 such real property;
 - 46 (8) "Seizing agency", the agency which is the primary employer of the officer or agent
47 seizing the property, including any agency in which one or more of the employees acting on
48 behalf of the seizing agency is employed by the state of Missouri or any political subdivision of
49 this state;

50 (9) "Seizure", the point at which any law enforcement officer or agent discovers and
51 exercises any control over property that an officer or agent has reason to believe was used or
52 intended for use in the course of, derived from, or realized through criminal activity. Seizure
53 includes but is not limited to preventing anyone found in possession of the property from leaving
54 the scene of the investigation while in possession of the property;

55 (10) (a) "Trustee":

56 a. Any person who holds legal or record title to real property for which any other person
57 has a beneficial interest; or

58 b. Any successor trustee or trustees to any of the foregoing persons;

59 (b) "Trustee" does not include the following:

60 a. Any person appointed or acting as a personal representative under chapter 475, RSMo,
61 or under chapter 473, RSMo;

62 b. Any person appointed or acting as a trustee of any testamentary trust or as trustee of
63 any indenture of trust under which any bonds are or are to be issued.

578.025. 1. Any person who:

2 (1) Owns, possesses, keeps, or trains any dog, with the intent that such dog shall be
3 engaged in an exhibition of fighting with another dog;

4 (2) For amusement or gain, causes any dog to fight with another dog, or causes any dogs
5 to injure each other; or

6 (3) Permits any act as described in subdivision (1) or (2) of this subsection to be done
7 on any premises under his charge or control, or aids or abets any such act is guilty of a class D
8 felony.

9 2. Any person who is knowingly present, as a spectator, at any place, building, or
10 structure where preparations are being made for an exhibition of the fighting of dogs, with the
11 intent to be present at such preparations, or is knowingly present at such exhibition or at any
12 other fighting or injuring as described in subdivision (2) of subsection 1 of this section, with the
13 intent to be present at such exhibition, fighting, or injuring is guilty of a class A misdemeanor
14 **for a first offense and a class D felony for a second or subsequent offense.**

15 3. Nothing in this section shall be construed to prohibit:

16 (1) The use of dogs in the management of livestock by the owner of such livestock or
17 his employees or agents or other persons in lawful custody of such livestock;

18 (2) The use of dogs in hunting; or

19 (3) The training of dogs or the use of equipment in the training of dogs for any purpose
20 not prohibited by law.

21 **4. Any person who pleads guilty to or is found guilty of violating the provisions of**
22 **this section shall be subject to the criminal activity forfeiture act under sections 513.600 to**
23 **513.645, RSMo.**

578.026. 1. Any duly authorized public health official or law enforcement officer
2 **may seek a warrant from the appropriate court to enable him or her to enter private**
3 **property in order to inspect, care for, or impound dogs that are the subject of a violation**
4 **of section 578.025. All requests for such warrants shall be accompanied by an affidavit**
5 **stating the probable cause to believe a violation of section 578.025 has occurred.**

6 **2. Any law enforcement officer, who has probable cause to believe a violation of**
7 **section 578.025 has occurred and has the authority to make a lawful seizure, shall take**
8 **possession of all dogs and all paraphernalia, implements, or other property or things used**
9 **or employed, or about to be employed, in the violation of any of the provisions of section**
10 **578.025. Such law enforcement officer or official under this subsection or subsection 1 of**
11 **this section, after taking possession of such dogs, paraphernalia, implements or other**
12 **property or things, shall file with the court an affidavit stating therein a description of the**
13 **property so taken and the time and place of the taking thereof together with the name of**
14 **the person from whom the same was taken and the name of the person who claims to own**
15 **such property, if known, and that the affiant has reason to believe and does believe, stating**
16 **the ground of such belief, that the property so taken was used or employed, or was about**
17 **to be used or employed, in such violation of section 578.025.**

18 **3. A person performing a lawful seizure of any dog that is the subject of a violation**
19 **of section 578.025, whether under the authority of a warrant or not, shall:**

20 **(1) Be given a disposition hearing within thirty days of the filing of the request for**
21 **the purpose of granting immediate disposition of the dogs impounded;**

22 **(2) Place impounded dogs in the care or custody of a veterinarian, the appropriate**
23 **animal control authority, or an animal shelter. If no appropriate veterinarian, animal**
24 **control authority, or animal shelter is available, the dog shall not be impounded unless it**
25 **is diseased or disabled beyond recovery for any useful purpose;**

26 **(3) Humanely kill any dog impounded if it is determined by a licensed veterinarian**
27 **that the dog is diseased or disabled beyond recovery for any useful purpose;**

28 **(4) Not be liable for any necessary damage to property if the dog has been lawfully**
29 **seized.**

30 **4. The owner or custodian or any person claiming an interest in any dog that has**
31 **been impounded because of being the subject of a violation of section 578.025 may prevent**
32 **disposition of the dog by posting bond or security in an amount sufficient to provide for**
33 **the dog's care and keeping for at least thirty days, inclusive of the date on which the animal**

34 was taken into custody. Notwithstanding the fact that bond may be posted pursuant to this
35 subsection, the authority having custody of the animal may humanely dispose of the dog
36 at the end of the time for which expenses are covered by the bond or security, unless there
37 is a court order prohibiting such disposition. Such order shall provide for a bond or other
38 security in the amount necessary to protect the authority having custody of the dog from
39 any cost of the care, keeping or disposal of the dog. The authority taking custody of a dog
40 shall give notice of the provisions of this section by posting a copy of this section at the
41 place where the dog was taken into custody or by delivering it to a person residing on the
42 property.

43 **5. The owner or custodian of any dog humanely killed pursuant to this section shall**
44 **not be entitled to recover any damages related to, nor the actual value of, the dog if the dog**
45 **was found by a licensed veterinarian to be diseased or disabled, or if the owner or**
46 **custodian failed to post bond or security for the care, keeping and disposition of the dog**
47 **after being notified of impoundment.**

578.030. [1.] The provisions of section 43.200, RSMo, notwithstanding, any member
2 of the state highway patrol or other law enforcement officer may apply for and serve a search
3 warrant, and shall have the power of search and seizure in order to enforce the provisions of
4 sections 578.025 to 578.050.

5 [2. Any member of the state highway patrol or other law enforcement officer making an
6 arrest under section 578.025 shall lawfully take possession of all dogs or other animals and all
7 paraphernalia, implements, or other property or things used or employed, or about to be
8 employed, in the violation of any of the provisions of section 578.025. Such officer, after taking
9 possession of such dogs, animals, paraphernalia, implements or other property or things, shall
10 file with the court before whom the complaint is made against any person so arrested an affidavit
11 stating therein the name of the person charged in such complaint, a description of the property
12 so taken and the time and place of the taking thereof together with the name of the person from
13 whom the same was taken and the name of the person who claims to own such property, if
14 known, and that the affiant has reason to believe and does believe, stating the ground of such
15 belief, that the property so taken was used or employed, or was about to be used or employed,
16 in such violation of section 578.025. He shall thereupon deliver the property so taken to the
17 court, which shall, by order in writing, place the same in the custody of an officer or other proper
18 person named and designated in such order, to be kept by him until the conviction or final
19 discharge of such person complained against, and shall send a copy of such order without delay
20 to the prosecuting attorney of the county. The officer or person so named and designated in such
21 order shall immediately thereupon assume the custody of such property and shall retain the same,
22 subject to the order of the court before which such person so complained against may be required

23 to appear for trial. Upon the conviction of the person so charged, all property so seized shall be
24 adjudged by the court to be forfeited and shall thereupon be destroyed or otherwise disposed of
25 as the court may order. In the event of the acquittal or final discharge without conviction of the
26 person so charged, such court shall, on demand, direct the delivery of such property so held in
27 custody to the owner thereof.]

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