

By: Representatives Brown, Whittington

To: Agriculture; Judiciary B

HOUSE BILL NO. 373

1 AN ACT TO AMEND SECTION 97-41-1, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE CRIME OF ANIMAL CRUELTY; TO DISTINGUISH BETWEEN
3 MISDEMEANOR AND FELONY DEGREES OF THE CRIME; TO CLARIFY AND REVISE
4 THE ELEMENTS OF THE OFFENSE; TO DEFINE CERTAIN TERMS RELATING TO
5 THE CRIME; TO SPECIFICALLY EXEMPT CERTAIN ACTIVITIES FROM
6 CONSTITUTING THE CRIME; TO REPEAL SECTIONS 97-41-3, 97-41-5,
7 97-41-7, 97-41-9, 97-41-13, 97-41-15, 97-41-16 AND 97-41-17,
8 MISSISSIPPI CODE OF 1972, WHICH RELATE TO THE VARIOUS PROHIBITIONS
9 AGAINST CRUELTY TO ANIMALS AND THE ELEMENTS OF THE OFFENSE; AND
10 FOR RELATED PURPOSES.

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

12 **SECTION 1.** Section 97-41-1, Mississippi Code of 1972, is
13 amended as follows:

14 97-41-1. (1) For the purposes of Chapter 41, Title 97,
15 Mississippi Code of 1972, the following words and phrases shall
16 have the meanings ascribed in this subsection (1), unless the
17 context clearly requires otherwise:

18 (a) "Animal" means any nonhuman mammal, bird, reptile
19 or amphibian.

20 (b) "Owner" means a person who has control, custody,
21 possession, title or other legal interest in an animal.

22 (c) "Adequate care" means care sufficient to preserve
23 the health and well-being of an animal and, except for emergencies
24 or circumstances beyond the reasonable control of the guardian,
25 includes, but is not limited to, the following:

26 (i) Food of sufficient quality and quantity to
27 allow for normal growth or maintaining of body weight;

28 (ii) Access to potable water of a drinkable
29 temperature in sufficient quantity for an animal or group of
30 animals;



31 (iii) Shelter that protects an animal from the
32 adverse effects of weather and extreme temperatures which is
33 species and breed appropriate;

34 (iv) Veterinary care sufficient to relieve
35 distress from unreasonable, unnecessary or unjustifiable injury,
36 neglect or disease;

37 (v) Adequate exercise to prevent debility;

38 (vi) If the animal is enclosed, adequate
39 ventilation for normal breathing to prevent injury or suffering,
40 lighting cycles of either natural or artificial light, and an area
41 free of excess waste, debris or other contaminants that could
42 injure or adversely affect the animal's health.

43 (d) "Torture" means an act primarily taken to inflict
44 pain or suffering that causes unreasonable, unnecessary or
45 unjustifiable serious bodily injury or death.

46 (2) A person shall * * * be guilty of simple animal cruelty
47 if he knowingly, intentionally or recklessly:

48 (a) Abandons or leaves an animal at a location without
49 providing for or arranging for the animal's continued sustenance;

50 (b) Fails to provide adequate care for an animal;

51 (c) Causes unreasonable, unnecessary or unjustifiable
52 physical pain, stress or injury to an animal including, but not
53 limited to, overriding, or overdriving to the point of exhaustion,
54 kicking, hitting, tormenting or inhumanely carrying or
55 transporting an animal in a manner that restricts the animal from
56 normal postural adjustments or causes hyperthermia or hypothermia,
57 confining or tethering an animal in a manner that restricts the
58 animal from normal postural adjustments, access to food, water or
59 shelter, or poses or causes damage or injury; or

60 (d) Causes any act listed in this subsection (2) to be
61 done.

62 (3) A person shall be guilty of the felony of aggravated
63 animal cruelty if he knowingly, intentionally or maliciously



64 starves, dehydrates, tortures, poisons, beats, burns, shoots or
65 otherwise mutilates an animal, resulting in serious bodily injury
66 or death to the animal.

67 (4) (a) A first conviction of simple animal cruelty shall
68 be a misdemeanor punishable by a fine of not more than One
69 Thousand Dollars (\$1,000.00), imprisonment in jail not to exceed
70 six (6) months, or both.

71 (b) A second conviction of simple animal cruelty shall
72 be a misdemeanor punishable by a fine of not less than Two Hundred
73 Fifty Dollars (\$250.00) nor more than One Thousand Dollars
74 (\$1,000.00), imprisonment in jail not less than one (1) nor more
75 than six (6) months, or both.

76 (c) A third or subsequent conviction of simple animal
77 cruelty shall constitute a felony.

78 (5) A conviction of a felony under this section shall be
79 punishable by a fine of not more than Five Thousand Dollars
80 (\$5,000.00), imprisonment in the custody of the Department of
81 Corrections not to exceed five (5) years, or both.

82 (6) For purposes of this section, each incident of cruelty
83 and each animal treated cruelly shall constitute the basis for a
84 separate offense.

85 (7) For any conviction under this section, the court may
86 order restitution to the animal's owner as well as to law
87 enforcement agencies, or animal control organizations or societies
88 for the prevention of cruelty to animals, for the costs of
89 investigation, sheltering, transporting, rehabilitation and other
90 costs related to securing the conviction.

91 (8) In addition to other prescribed penalties, a person
92 convicted under this section may be prohibited by the court from
93 possessing an animal or animals or from residing or working where
94 animals are kept.



95 (9) A person convicted under this section, in addition to
96 any other punishment that may be imposed, may be ordered to
97 undergo psychiatric evaluation and treatment.

98 **SECTION 2.** (1) Any and all of the activities associated
99 with or incidental to the lawful practices and activities
100 described in this section are not violations of Chapter 41, Title
101 97, Mississippi Code of 1972, or any other state law pertaining to
102 the criminal offense of animal cruelty. Those exempt activities
103 include:

104 (a) Fishing, or hunting or trapping of wildlife, as
105 regulated by state law or by rule or regulation of the Department
106 of Marine Resources or the Department of Wildlife, Fisheries and
107 Parks;

108 (b) Activities conducted for scientific or medical
109 research or for teaching, as governed by generally acceptable
110 standards, and subject to review by an institutional animal care
111 and use committee recommended by the American Veterinary Medical
112 Association;

113 (c) Accepted animal husbandry practices, including
114 slaughter; or

115 (d) Accepted veterinary practices performed by a
116 licensed veterinarian or authorized agent thereof.

117 (2) Nothing in Chapter 41, Title 97, Mississippi Code of
118 1972, shall be construed as prohibiting a person from injuring or
119 killing an animal, except those animals otherwise protected by
120 state or federal law, reasonably believed to constitute a threat
121 of injury or death to humans, livestock, poultry or other domestic
122 or lawfully kept animals.

123 (3) Any law enforcement officer, animal control officer,
124 veterinarian, or agent of a society for the prevention of cruelty
125 to animals who, acting in good faith, humanely euthanizes or
126 causes to be euthanized any animal found neglected or abandoned
127 and injured, diseased or severely debilitated past reasonable



128 recovery, shall not be held criminally or civilly liable for that
129 action.

130 (4) A veterinarian or other person who, in good faith,
131 reports a suspected incident of animal cruelty to a local law
132 enforcement agency or society for the prevention of cruelty to
133 animals shall not be held civilly liable for that action.

134 **SECTION 3.** Section 97-41-3, Mississippi Code of 1972, which
135 relates to the authority of certain officers to kill an injured,
136 diseased or useless animal, is repealed.

137 **SECTION 4.** Section 97-41-5, Mississippi Code of 1972, which
138 prohibits the carrying of an animal in a cruel manner, is
139 repealed.

140 **SECTION 5.** Section 97-41-7, Mississippi Code of 1972, which
141 prohibits confining animals without food or water, is repealed.

142 **SECTION 6.** Section 97-41-9, Mississippi Code of 1972, which
143 prohibits the owner or custodian of an animal to neglect or refuse
144 to furnish it with sustenance, is repealed.

145 **SECTION 7.** Section 97-41-13, Mississippi Code of 1972, which
146 provides penalties for the crimes of cruelty to animals, is
147 repealed.

148 **SECTION 8.** Section 97-41-15, Mississippi Code of 1972, which
149 prohibits malicious injury to livestock, is repealed.

150 **SECTION 9.** Section 97-41-16, Mississippi Code of 1972, which
151 prohibits malicious injury to a dog or cat, is repealed.

152 **SECTION 10.** Section 97-41-17, Mississippi Code of 1972,
153 which prohibits administering poison to an animal, is repealed.

154 **SECTION 11.** The provisions of Section 2 of this act shall be
155 codified in Chapter 41, Title 97, Mississippi Code of 1972.

156 **SECTION 12.** This act shall take effect and be in force from
157 and after July 1, 2011.

