

1 HB259
2 147628-2
3 By Representative DeMarco
4 RFD: Agriculture and Forestry
5 First Read: 12-FEB-13

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8 SYNOPSIS: Under existing law, a person who kills a dog
9 used by a peace officer in the line of duty is
10 guilty of a Class C Felony.

11 This bill would make it a crime to interfere
12 or attempt to interfere with the duties of a police
13 animal, a search and rescue animal, or the handler
14 of a police animal or search and rescue animal.

15 This bill would make it a crime to harass,
16 assault, injure, cause the death, or attempt to
17 harass, assault, injure, or cause the death of a
18 police animal or search and rescue animal.

19 This bill would provide for penalties and
20 restitution of certain expenses relating to the
21 crimes created by this bill.

22 This bill would provide for exclusions and
23 defenses and would repeal existing law.

24 Amendment 621 of the Constitution of Alabama
25 of 1901, now appearing as Section 111.05 of the
26 Official Recompilation of the Constitution of
27 Alabama of 1901, as amended, prohibits a general

1 law whose purpose or effect would be to require a
2 new or increased expenditure of local funds from
3 becoming effective with regard to a local
4 governmental entity without enactment by a 2/3 vote
5 unless: it comes within one of a number of
6 specified exceptions; it is approved by the
7 affected entity; or the Legislature appropriates
8 funds, or provides a local source of revenue, to
9 the entity for the purpose.

10 The purpose or effect of this bill would be
11 to require a new or increased expenditure of local
12 funds within the meaning of the amendment. However,
13 the bill does not require approval of a local
14 governmental entity or enactment by a 2/3 vote to
15 become effective because it comes within one of the
16 specified exceptions contained in the amendment.

17
18 A BILL
19 TO BE ENTITLED
20 AN ACT
21

22 Relating to police animals and search and rescue
23 animals and handlers of these animals; to make it a crime to
24 harass, interfere, or attempt to interfere with the duties of
25 the animal or handler; to make it a crime to assault or
26 injure, to attempt to assault or injure, or to cause or
27 attempt to cause the death of a police animal or search and

1 rescue animal; to provide penalties for violations; to provide
2 for restitution of certain expenses; to provide for exclusions
3 and defenses; to repeal Section 13A-11-15 of the Code of
4 Alabama 1975; and in connection therewith would have as its
5 purpose or effect the requirement of a new or increased
6 expenditure of local funds within the meaning of Amendment 621
7 of the Constitution of Alabama of 1901, now appearing as
8 Section 111.05 of the Official Recompilation of the
9 Constitution of Alabama of 1901, as amended.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. For purposes of this act, the following
12 terms shall have the following meanings:

13 (1) CONTAINMENT AREA. Any area used to hold a police
14 animal or search and rescue animal regardless whether on duty
15 or off duty, including, but not limited to, a kennel, car
16 unit, trailer, tent, staging area, stable, paddock, tie-out,
17 or fenced area or pasture.

18 (2) HANDLER. A peace officer, firefighter, search
19 and rescue person, or other specifically trained individual
20 who uses a police animal or search and rescue animal in the
21 performance of his or her duties. For purposes of this act, a
22 peace officer and firefighter are defined in Section 36-30-1,
23 Code of Alabama 1975.

24 (3) HARASS. Any act or omission, or attempted act
25 or omission, with or without actual physical contact, which
26 results or could result in harm, disabling, restriction,
27 control of the animal, or a distraction from duties of the

1 animal or handler including, but not limited, to the
2 following:

3 a. Taunting, teasing, tormenting, mistreating,
4 spitting, shouting, inappropriate gesturing or noises, or
5 approaching in a menacing fashion.

6 b. Poking, prodding, striking, or kicking.

7 c. Spraying, throwing, pushing, or otherwise
8 projecting an item or substance, including a flash of light or
9 laser, in a manner likely to cause harm or distraction from
10 duties.

11 d. Placing food, drugs, chemicals, poison or other
12 items in the path, area of operation, or containment.

13 (4) PHYSICAL HARM. Any injury, illness, or other
14 impairment, regardless of its gravity or duration.

15 (5) POLICE ANIMAL. An animal, generally a dog or
16 horse, which is not a human, with specialized training or in
17 the process of specialized training, which is used by, and
18 under the control of a peace officer or firefighter, in the
19 performance of his or her duties.

20 (6) SEARCH AND RESCUE ANIMAL. Any animal with
21 specialized training or in the process of specialized
22 training, which is utilized for the principal purpose of
23 aiding in the detection of missing persons, including, but not
24 limited to, tracking persons who are lost or missing
25 regardless whether living or deceased, sometimes referred to
26 as a "SAR" animal.

1 (7) SERIOUS PHYSICAL HARM. Any physical harm that
2 carries a substantial risk of death, permanent or temporary
3 maiming or disfigurement, or that causes pain or suffering of
4 any gravity or duration.

5 Section 2. (a) Any person who intentionally and
6 knowingly causes, attempts to cause, or causes another person
7 to harass, interfere, or obstruct a police animal or search
8 and rescue animal being used by a handler in lawfully
9 performing duties or causes harassment, interference, or
10 obstruction of a handler in lawfully performing his or her
11 duties is guilty of a Class A misdemeanor.

12 (b) Any person who intentionally and knowingly
13 causes or attempts to cause physical harm to a police animal
14 or search and rescue animal which results in no long-term
15 damage or disfigurement of the animal and any temporary loss
16 of service of the animal does not exceed 30 calendar days, is
17 guilty of a Class A misdemeanor.

18 (c) Any person who intentionally and knowingly
19 causes or attempts to cause serious physical harm, theft, or
20 death of a police animal or search and rescue animal is guilty
21 of a Class C felony.

22 (d) Any person who intentionally and knowingly
23 enters a containment area of a police animal or search and
24 rescue animal without the consent of the handler, causes or
25 attempts to cause any item or substance to enter the
26 containment area without the consent of the handler, or who
27 releases a police animal or search and rescue animal without

1 the consent of the handler, is guilty of a Class A
2 misdemeanor.

3 (e) An owner or keeper of a dog or other animal, who
4 fails to reasonably restrain the dog or animal from taunting,
5 tormenting, chasing, approaching in a menacing fashion or
6 apparent attitude of attack, or attempting to bite or
7 otherwise endanger a police animal or search and rescue
8 animal, is responsible for any violation of this act in the
9 same manner as if he or she knowingly caused or attempted to
10 cause the violation.

11 Section 3. (a) This act shall apply regardless
12 whether the police animal or search and rescue animal is in
13 the actual performance of assisting a handler in his or her
14 duties or is off duty.

15 (b) If the police animal or search and rescue animal
16 is in a containment area not in the immediate presence of the
17 handler, this act only applies to an offender who knows or
18 should know at the time of the violation that the animal that
19 is the subject of the violation is a police animal or search
20 and rescue animal.

21 Section 4. In addition to any other penalties
22 imposed, any person who violates this act may be ordered by
23 the court to pay restitution to the owner of the police animal
24 or search and rescue animal and the agency involved for
25 expenses caused by the violation, including, but not limited
26 to, the following:

1 (1) Any veterinary expenses resulting from the
2 violation.

3 (2) Replacement costs of the animal if it is stolen,
4 killed, or disabled temporarily or permanently, and can no
5 longer perform its duties.

6 (3) The salary of the handler for the period of time
7 his or her services are lost to the employer and any expenses
8 for a replacement employee during that period of time, if
9 needed.

10 (4) The value of any services lost to employer until
11 replacement services are obtained.

12 (5) Any lost or damaged equipment.

13 (6) Training, retraining, or rehabilitation expenses
14 for the animal and for the handler.

15 Section 5. (a) This act does not prohibit a
16 credentialed euthanasia technician, an authorized handler, or
17 a veterinarian from euthanizing a police animal or search and
18 rescue animal in an emergency if the animal is critically
19 wounded and would otherwise endure undue suffering and pain.

20 (b) It is a defense that the accused person, acting
21 as handler or as an employee or agent of the handler or
22 employing agency, engaged in a reasonable act of training,
23 handling, or discipline of the animal or reasonably believed
24 the violating conduct was necessary to prevent serious
25 physical harm or death of another person.

26 Section 6. Section 13A-11-15 of the Code of Alabama
27 1975, is repealed.

1 Section 7. Although this bill would have as its
2 purpose or effect the requirement of a new or increased
3 expenditure of local funds, the bill is excluded from further
4 requirements and application under Amendment 621, now
5 appearing as Section 111.05 of the Official Recompilation of
6 the Constitution of Alabama of 1901, as amended, because the
7 bill defines a new crime or amends the definition of an
8 existing crime.

9 Section 8. This act shall become effective on the
10 first day of the third month following its passage and
11 approval by the Governor, or its otherwise becoming law.