



Rep. Ryan Spain

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10000HB2810ham001

LRB100 10495 SLF 24154 a

1 AMENDMENT TO HOUSE BILL 2810

2 AMENDMENT NO. _____. Amend House Bill 2810 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Humane Care for Animals Act is amended by
5 changing Sections 3.04, 3.05, and 4 as follows:

6 (510 ILCS 70/3.04)

7 Sec. 3.04. Arrests and seizures; penalties.

8 (a) Any law enforcement officer making an arrest for an
9 offense involving one or more companion animals under
10 subsection (a) of Section 3 or Section 3.01, 3.02, ~~or~~ 3.03,
11 4.01, or 7.1 of this Act may lawfully take possession of some
12 or all of the companion animals in the possession of the person
13 arrested. The officer, after taking possession of the companion
14 animals, must file with the court before whom the complaint is
15 made against any person so arrested an affidavit stating the
16 name of the person charged in the complaint, a description of

1 the condition of the companion animal or companion animals
2 taken, and the time and place the companion animal or companion
3 animals were taken, together with the name of the person from
4 whom the companion animal or companion animals were taken and
5 name of the person who claims to own the companion animal or
6 companion animals if different from the person from whom the
7 companion animal or companion animals were seized. He or she
8 must at the same time deliver an inventory of the companion
9 animal or companion animals taken to the court of competent
10 jurisdiction. The officer must place the companion animal or
11 companion animals in the custody of an animal control or animal
12 shelter and the agency must retain custody of the companion
13 animal or companion animals subject to an order of the court
14 adjudicating the charges on the merits and before which the
15 person complained against is required to appear for trial. If
16 the animal control or animal shelter owns no facility capable
17 of housing the companion animals, has no space to house the
18 companion animals, or is otherwise unable to house the
19 companion animals or the health or condition of the animals
20 prevents their removal, the animals shall be impounded at the
21 site of the violation pursuant to a court order authorizing the
22 impoundment, provided that the person charged is an owner of
23 the property. Employees or agents of the animal control or
24 animal shelter or law enforcement shall have the authority to
25 access the on-site impoundment property for the limited purpose
26 of providing care and veterinary treatment for the impounded

1 animals and ensuring their well-being and safety. For an
2 on-site impoundment, a petition for posting of security may be
3 filed under Section 3.05 of this Act. Disposition of the
4 animals shall be controlled by Section 3.06 of this Act. The
5 State's Attorney may, within 14 days after the seizure, file a
6 "petition for forfeiture prior to trial" before the court
7 having criminal jurisdiction over the alleged charges, asking
8 for permanent forfeiture of the companion animals seized. The
9 petition shall be filed with the court, with copies served on
10 the impounding agency, the owner, and anyone claiming an
11 interest in the animals. In a "petition for forfeiture prior to
12 trial", the burden is on the prosecution to prove by a
13 preponderance of the evidence that the person arrested violated
14 subsection (a) of Section 3 or Section 3.01, 3.02, 3.03, or
15 4.01, or 7.1 of this Act or Section 26-5 or 48-1 of the
16 Criminal Code of 1961 or the Criminal Code of 2012.

17 (b) An owner whose companion animal or companion animals
18 are removed by a law enforcement officer under this Section
19 must be given written notice of the circumstances of the
20 removal and of any legal remedies available to him or her. The
21 notice must be delivered in person, posted at the place of
22 seizure, or delivered to a person residing at the place of
23 seizure or, if the address of the owner is different from the
24 address of the person from whom the companion animal or
25 companion animals were seized, delivered by registered mail to
26 his or her last known address.

1 (c) In addition to any other penalty provided by law, upon
2 conviction for violating Sections 3, 3.01, 3.02, ~~or~~ 3.03, or
3 7.1 the court may order the convicted person to forfeit to an
4 animal control or animal shelter the animal or animals that are
5 the basis of the conviction. Upon an order of forfeiture, the
6 convicted person is deemed to have permanently relinquished all
7 rights to the animal or animals that are the basis of the
8 conviction, if not already done so. The forfeited animal or
9 animals shall be adopted or humanely euthanized. In no event
10 may the convicted person or anyone residing in his or her
11 household be permitted to adopt or otherwise possess the
12 forfeited animal or animals. The court, additionally, may order
13 that the convicted person and persons dwelling in the same
14 household as the convicted person who conspired, aided, or
15 abetted in the unlawful act that was the basis of the
16 conviction, or who knew or should have known of the unlawful
17 act, may not own, harbor, or have custody or control of any
18 other animals for a period of time that the court deems
19 reasonable.

20 (Source: P.A. 99-321, eff. 1-1-16.)

21 (510 ILCS 70/3.05)

22 Sec. 3.05. Security for companion animals and animals used
23 for fighting purposes.

24 (a) In the case of companion animals as defined in Section
25 2.01a or animals used for fighting purposes in violation of

1 subsection (a) of Section 3 or Section 3.01, 3.02, 3.03,
2 ~~Section 4.01, or 7.1~~ of this Act or Section 26-5 or 48-1 of the
3 Criminal Code of 1961 or the Criminal Code of 2012, the animal
4 control or animal shelter having custody of the animal or
5 animals may file a petition with the court requesting that the
6 person from whom the animal or animals are seized, or the owner
7 of the animal or animals, be ordered to post security. The
8 security must be in an amount sufficient to secure payment of
9 all reasonable expenses expected to be incurred by the animal
10 control or animal shelter in caring for and providing for the
11 animal or animals pending the disposition of the charges.
12 Reasonable expenses include, but are not limited to, estimated
13 medical care and boarding of the animal or animals for 30 days.
14 The amount of the security shall be determined by the court
15 after taking into consideration all of the facts and
16 circumstances of the case, including, but not limited to, the
17 recommendation of the impounding organization having custody
18 and care of the seized animal or animals and the cost of caring
19 for the animal or animals. If security has been posted in
20 accordance with this Section, the animal control or animal
21 shelter may draw from the security the actual costs incurred by
22 the agency in caring for the seized animal or animals.

23 (b) Upon receipt of a petition, the court must set a
24 hearing on the petition, to be conducted within 5 business days
25 after the petition is filed. The petitioner must serve a true
26 copy of the petition upon the defendant and the State's

1 Attorney for the county in which the animal or animals were
2 seized. The petitioner must also serve a true copy of the
3 petition on any interested person. For the purposes of this
4 subsection, "interested person" means an individual,
5 partnership, firm, joint stock company, corporation,
6 association, trust, estate, or other legal entity that the
7 court determines may have a pecuniary interest in the animal or
8 animals that are the subject of the petition. The court must
9 set a hearing date to determine any interested parties. The
10 court may waive for good cause shown the posting of security.

11 (c) If the court orders the posting of security, the
12 security must be posted with the clerk of the court within 5
13 business days after the hearing. If the person ordered to post
14 security does not do so, the animal or animals are forfeited by
15 operation of law and the animal control or animal shelter
16 having control of the animal or animals must dispose of the
17 animal or animals through adoption or must humanely euthanize
18 the animal. In no event may the defendant or any person
19 residing in the defendant's household adopt the animal or
20 animals.

21 (d) The impounding organization may file a petition with
22 the court upon the expiration of the 30-day period requesting
23 the posting of additional security. The court may order the
24 person from whom the animal or animals were seized, or the
25 owner of the animal or animals, to post additional security
26 with the clerk of the court to secure payment of reasonable

1 expenses for an additional period of time pending a
2 determination by the court of the charges against the person
3 from whom the animal or animals were seized.

4 (e) In no event may the security prevent the impounding
5 organization having custody and care of the animal or animals
6 from disposing of the animal or animals before the expiration
7 of the 30-day period covered by the security if the court makes
8 a final determination of the charges against the person from
9 whom the animal or animals were seized. Upon the adjudication
10 of the charges, the person who posted the security is entitled
11 to a refund of the security, in whole or in part, for any
12 expenses not incurred by the impounding organization.

13 (f) Notwithstanding any other provision of this Section to
14 the contrary, the court may order a person charged with any
15 violation of this Act to provide necessary food, water,
16 shelter, and care for any animal or animals that are the basis
17 of the charge without the removal of the animal or animals from
18 their existing location and until the charges against the
19 person are adjudicated. Until a final determination of the
20 charges is made, any law enforcement officer, animal control
21 officer, Department investigator, or an approved humane
22 investigator may be authorized by an order of the court to make
23 regular visits to the place where the animal or animals are
24 being kept to ascertain if the animal or animals are receiving
25 necessary food, water, shelter, and care. Nothing in this
26 Section prevents any law enforcement officer, Department

1 investigator, or approved humane investigator from applying
2 for a warrant under this Section to seize any animal or animals
3 being held by the person charged pending the adjudication of
4 the charges if it is determined that the animal or animals are
5 not receiving the necessary food, water, shelter, or care.

6 (g) Nothing in this Act shall be construed to prevent the
7 voluntary, permanent relinquishment of any animal by its owner
8 to an animal control or animal shelter in lieu of posting
9 security or proceeding to a forfeiture hearing. Voluntary
10 relinquishment shall have no effect on the criminal charges
11 that may be pursued by the appropriate authorities.

12 (h) If an owner of a companion animal is acquitted by the
13 court of charges made pursuant to this Act, the court shall
14 further order that any security that has been posted for the
15 animal shall be returned to the owner by the impounding
16 organization.

17 (i) The provisions of this Section only pertain to
18 companion animals and animals used for fighting purposes.

19 (Source: P.A. 97-1108, eff. 1-1-13; 97-1150, eff. 1-25-13.)

20 (510 ILCS 70/4) (from Ch. 8, par. 704)

21 Sec. 4. Prohibited acts. No person may sell, offer for
22 sale, barter, or give away as a pet or a novelty any rabbit or
23 any baby chick, duckling or other fowl which has been dyed,
24 colored, or otherwise treated to impart an artificial color
25 thereto. Baby chicks or ducklings shall not be sold, offered

1 for sale, bartered, or given away as pets or novelties.
2 Rabbits, ducklings or baby chicks shall not be awarded as
3 prizes.

4 No person may adopt, transfer, sell, offer for sale,
5 barter, or give away as a pet a dog or cat forfeited under
6 Section 3.04 or 3.05 of this Act to the person who forfeited
7 the animal or a person residing in that person's household.

8 A person convicted of violating this Section is guilty of a
9 Class B misdemeanor. A second or subsequent violation is a
10 Class 4 felony, with every day that a violation continues
11 constituting a separate offense.

12 (Source: P.A. 92-650, eff. 7-11-02.)".