

SECOND REGULAR SESSION

# SENATE BILL NO. 819

94TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR RUPP.

Pre-filed December 1, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

3103S.051

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## 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.

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Section A. Sections 513.605, 578.025, and 578.030, RSMo, are repealed  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

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

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

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

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

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

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

16 (3) "Criminal activity" is the commission, attempted commission,  
17 conspiracy to commit, or the solicitation, coercion or intimidation of another  
18 person to commit any crime which is chargeable by indictment or information

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

19 under the following Missouri laws:

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

55 (8) "Seizing agency", the agency which is the primary employer of the  
56 officer or agent seizing the property, including any agency in which one or more  
57 of the employees acting on behalf of the seizing agency is employed by the state  
58 of Missouri or any political subdivision of this state;

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

65 (10) (a) "Trustee":

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

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

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

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

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

578.025. 1. Any person who:

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

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

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

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

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

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

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

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

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

578.026. 1. Any duly authorized public health official or law  
2 enforcement officer may seek a warrant from the appropriate court to  
3 enable him or her to enter private property in order to inspect, care  
4 for, or impound dogs that are the subject of a violation of section  
5 578.025. All requests for such warrants shall be accompanied by an  
6 affidavit stating the probable cause to believe a violation of section  
7 578.025 has occurred.

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

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

27 (1) Be given a disposition hearing within thirty days of the filing

28 of the request for the purpose of granting immediate disposition of the  
29 dogs impounded;

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

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

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

40 4. The owner or custodian or any person claiming an interest in  
41 any dog that has been impounded because of being the subject of a  
42 violation of section 578.025 may prevent disposition of the dog by  
43 posting bond or security in an amount sufficient to provide for the  
44 dog's care and keeping for at least thirty days, inclusive of the date on  
45 which the animal was taken into custody. Notwithstanding the fact  
46 that bond may be posted pursuant to this subsection, the authority  
47 having custody of the animal may humanely dispose of the dog at the  
48 end of the time for which expenses are covered by the bond or security,  
49 unless there is a court order prohibiting such disposition. Such order  
50 shall provide for a bond or other security in the amount necessary to  
51 protect the authority having custody of the dog from any cost of the  
52 care, keeping or disposal of the dog. The authority taking custody of  
53 a dog shall give notice of the provisions of this section by posting a  
54 copy of this section at the place where the dog was taken into custody  
55 or by delivering it to a person residing on the property.

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

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

4 seizure in order to enforce the provisions of sections 578.025 to 578.050.

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

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