

Regular Session, 2009

HOUSE BILL NO. 155

BY REPRESENTATIVE HARDY AND SENATORS APPEL, CROWE, DORSEY,
GUILLORY, MOUNT, AND MARIONNEAUX

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

1 AN ACT

2 To amend and reenact R.S. 14:32(A) and 39 and to enact R.S. 14:32(C)(3), (D), and (E), and
3 R.S. 22:1320, relative to certain crimes involving criminal negligence; to amend the
4 definition of negligent homicide to include the killing of a human being by a dog or
5 other animal; to amend the definition of negligent criminal injuring to include an
6 injury caused by a dog or other animal; to provide for exceptions; to provide for
7 definitions; to prohibit the denial of insurance coverage for certain cases of criminal
8 negligence; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. The ownership of dangerous dogs has become an increasing problem in
11 Louisiana resulting in the injury or death of many people following an encounter with a
12 dangerous dog. The Louisiana Legislature hereby finds that owners of dangerous dogs who
13 fail to properly confine or restrain them should be criminally responsible for the injuries
14 their animals cause to the citizens of this state. This Act shall be known as the "Luna
15 McDaniel and Michael 'Blaise' Landry Act" in honor of Mrs. Luna McDaniel, a resident of
16 Ville Platte, Louisiana, and Michael "Blaise" Landry, a resident of Morganza, who were both
17 attacked by dogs and died as a result of their injuries sustained during those attacks.

18 Section 2. R.S. 14:32(A) and 39 are hereby amended and reenacted and R.S.
19 14:32(C)(3), (D), and (E), and R.S. 22:1320 are hereby enacted to read as follows:

20 §32. Negligent homicide

21 A. Negligent homicide is either of the following:

22 (1) the ~~The~~ killing of a human being by criminal negligence.

1 (2) The killing of a human being by a dog or other animal when the owner
2 is reckless and criminally negligent in confining or restraining the dog or other
3 animal.

4 * * *

5 C.

6 * * *

7 (3) If the victim was killed by a dog or other animal, the owner of the dog
8 or other animal shall be imprisoned with or without hard labor for not more than five
9 years or fined not more than five thousand dollars, or both.

10 D. The provisions of this Section shall not apply to:

11 (1) Any dog which is owned, or the service of which is employed, by any
12 state or local law enforcement agency for the principal purpose of aiding in the
13 detection of criminal activity, enforcement of laws, or apprehension of offenders.

14 (2) Any dog trained in accordance with the standards of a national or
15 regional search and rescue association to respond to instructions from its handler in
16 the search and rescue of lost or missing individuals and which dog, together with its
17 handler, is prepared to render search and rescue services at the request of law
18 enforcement.

19 (3) Any guide or service dog trained at a qualified dog guide or service
20 school who is accompanying any blind person, visually handicapped person, deaf
21 person, hearing impaired person, or otherwise physically disabled person who is
22 using the dog as a guide or for service.

23 (4) Any attack made by a dog lawfully inside a dwelling, a place of business,
24 or a motor vehicle as defined in R.S. 32:1(40), against a person who is attempting to
25 make an unlawful entry into the dwelling, place of business, or motor vehicle, or
26 who has made an unlawful entry into the dwelling, place of business, or motor
27 vehicle, and the dog is protecting that property.

28 (5) Any attack made by livestock as defined in this Section.

1 E. For the purposes of this Section:

2 (1) "Harboring or keeping" means feeding, sheltering, or having custody
3 over the animal for three or more consecutive days.

4 (2) "Livestock" means any animal except dogs and cats, bred, kept,
5 maintained, raised, or used for profit, that is used in agriculture, aquaculture,
6 agritourism, competition, recreation, or silvaculture, or for other related purposes or
7 used in the production of crops, animals, or plant or animal products for market.
8 This definition includes but is not limited to cattle, buffalo, bison, oxen, and other
9 bovine; horses, mules, donkeys, and other equine; goats; sheep; swine; chickens,
10 turkeys, and other poultry; domestic rabbits; imported exotic deer and antelope, elk,
11 farm-raised white-tailed deer, farm-raised ratites, and other farm-raised exotic
12 animals; fish, pet turtles, and other animals identified with aquaculture which are
13 located in artificial reservoirs or enclosures that are both on privately owned property
14 and constructed so as to prevent, at all times, the ingress and egress of fish life from
15 public waters; any commercial crawfish from any crawfish pond; and any hybrid,
16 mixture, or mutation of any such animal.

17 (3) "Owner" means any person, partnership, corporation, or other legal entity
18 owning, harboring, or keeping any animal.

19 * * *

20 §39. Negligent injuring

21 A. Negligent injuring is either of the following:

22 (1) ~~the~~ The inflicting of any injury upon the person of another by criminal
23 negligence.

24 (2) The inflicting of any injury upon the person of another by a dog or other
25 animal when the owner of the dog or other animal is reckless and criminally
26 negligent in confining or restraining the dog or other animal.

27 B. The violation of a statute or ordinance shall be considered only as
28 presumptive evidence of such negligence.

29 C. Whoever commits the crime of negligent injuring shall be fined not more
30 than five hundred dollars, or imprisoned for not more than six months, or both.

1 D. The provisions of this Section shall not apply to:

2 (1) Any dog which is owned, or the service of which is employed, by any
 3 state or local law enforcement agency for the principal purpose of aiding in the
 4 detection of criminal activity, enforcement of laws, or apprehension of offenders.

5 (2) Any dog trained in accordance with the standards of a national or
 6 regional search and rescue association to respond to instructions from its handler in
 7 the search and rescue of lost or missing individuals and which dog, together with its
 8 handler, is prepared to render search and rescue services at the request of law
 9 enforcement.

10 (3) Any guide or service dog trained at a qualified dog guide or service
 11 school who is accompanying any blind person, visually handicapped person, deaf
 12 person, hearing impaired person, or otherwise physically disabled person who is
 13 using the dog as a guide or for service.

14 (4) Any attack made by a dog lawfully inside a dwelling, a place of business,
 15 or a motor vehicle as defined in R.S. 32:1(40), against a person who is attempting to
 16 make an unlawful entry into the dwelling, place of business, or motor vehicle, or
 17 who has made an unlawful entry into the dwelling, place of business, or motor
 18 vehicle and the dog is protecting that property.

19 (5) Any attack made by livestock as defined in this Section.

20 E. For the purposes of this Section:

21 (1) "Harboring or keeping" means feeding, sheltering, or having custody
 22 over the animal for three or more consecutive days.

23 (2) "Livestock" means any animal except dogs and cats, bred, kept,
 24 maintained, raised, or used for profit, that is used in agriculture, aquaculture,
 25 agritourism, competition, recreation, or silvaculture, or for other related purposes or
 26 used in the production of crops, animals, or plant or animal products for market.
 27 This definition includes but is not limited to cattle, buffalo, bison, oxen, and other
 28 bovine; horses, mules, donkeys, and other equine; goats; sheep; swine; chickens,
 29 turkeys, and other poultry; domestic rabbits; imported exotic deer and antelope, elk,
 30 farm-raised white-tailed deer, farm-raised ratites, and other farm-raised exotic

1 animals; fish, pet turtles, and other animals identified with aquaculture which are
 2 located in artificial reservoirs or enclosures that are both on privately owned property
 3 and constructed so as to prevent, at all times, the ingress and egress of fish life from
 4 public waters; any commercial crawfish from any crawfish pond; and any hybrid,
 5 mixture, or mutation of any such animal.

6 (3) "Owner" means any person, partnership, corporation, or other legal entity
 7 owning, harboring, or keeping any animal.

8 Section 2. R.S. 22:1320 is hereby enacted to read as follows:

9 §1320. Prohibition of denial of coverage

10 Notwithstanding anything to the contrary, liability coverage, which would
 11 otherwise be valid under the terms of the policy, shall not be declared void under any
 12 contract provision which specifically denies coverage for any and all acts committed
 13 due to criminal conduct, where such criminal conduct is due to the criminally
 14 negligent ownership or handling of a dog or other animal pursuant to R.S.
 15 14:32(A)(2) or R.S. 14: 39(A)(2).

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____