

1 HB480
2 117144-1
3 By Representative Ison
4 RFD: Judiciary
5 First Read: 02-FEB-10

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8 SYNOPSIS: Existing law provides procedures for
9 handling a charge relating to fighting dogs, hog
10 and canine fighting, and cruelty to dogs and cats.

11 This bill would further provide procedures
12 for seizing an animal involved in a charge for any
13 of the above crimes by expediting the disposition
14 process of the animal and requiring the posting of
15 a bond by the owner of certain animals under
16 certain conditions for the care of the seized
17 animal.

18
19 A BILL
20 TO BE ENTITLED
21 AN ACT
22

23 To amend Sections 3-1-29, 13A-11-244, and 13A-12-6
24 of the Code of Alabama 1975, relating to animals; to further
25 provide procedures for seizing an animal involved in a charge
26 for fighting dogs, hog and canine fighting, and cruelty to
27 dogs and cats; to expedite the disposition process of the

1 animal; and to require the posting of a bond by the owner of
2 certain animals under certain conditions for the care of the
3 seized animal.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. Sections 3-1-29, 13A-11-244, and 13A-12-6
6 of the Code of Alabama 1975, are amended to read as follows:

7 "§3-1-29.

8 "(a) It shall be a Class C felony for any person to
9 do any of the following:

10 "(1) ~~To own~~ Own, possess, keep, or train any dog
11 with the intent that ~~such~~ the dog shall be engaged in an
12 exhibition of fighting with another dog~~.~~

13 "(2) For amusement or gain, ~~to~~ cause any dog to
14 fight with another dog, or cause any dogs to injure each
15 other~~.~~

16 "(3) ~~To permit~~ Permit any act in violation of
17 subdivisions (1) and (2) of this subsection.

18 "(b) It shall be a Class C felony for any person to
19 be knowingly present, as a spectator, at any place, building,
20 or tenement where preparations are being made for an
21 exhibition of the fighting of dogs, with the intent to be
22 present at ~~such~~ the preparations, or to be knowingly present
23 at ~~such~~ the exhibition or to knowingly aid or abet another in
24 ~~such~~ the exhibition.

25 "~~Any dog used to fight other dogs in violation of~~
26 ~~subsection (a) of this section, shall be confiscated as~~
27 ~~contraband by the sheriff or other law enforcement officers~~

1 and shall not be returned to the owner, trainer or possessor
2 of said dog. The court shall award the animals to the humane
3 society or other agency handling stray animals. At its
4 discretion, the humane society or other agency handling stray
5 animals shall humanely dispatch or dispose of any confiscated
6 dog.

7 "(c) Any dog confiscated pursuant to subsection (b)
8 of this section by the sheriff or other law enforcement
9 officers shall be taken to the local humane society or other
10 animal welfare agency.

11 "(d) An appointed veterinarian or officer of the
12 humane society or other animal welfare agency may upon
13 delivery or at any time thereafter destroy the animal that is
14 in his opinion injured, diseased past recovery, or whose
15 continued existence is inhumane and destruction is necessary
16 to relieve pain or suffering.

17 (e) After confiscation the humane society or other
18 animal welfare agency may make application to the circuit
19 court for a hearing to determine whether any animal seized
20 pursuant to subsection (b) of this section shall be humanely
21 destroyed due to disease, injury or lack of any useful purpose
22 because of training or viciousness. The court shall set a
23 hearing date not more than 30 days from the filing of the
24 application and shall give notice of the same to the owners of
25 the animals. Upon a finding by the court that the seized
26 animals are diseased, injured or lack any useful purpose due
27 to training or viciousness, it shall be within the authority

1 of the humane society or other animal welfare agency to
2 humanely destroy such animal. Any animal found by the court
3 not to be diseased, injured or lacking any useful purpose due
4 to training or viciousness shall be delivered to a
5 court-approved private veterinarian or a private housing
6 facility under the supervision of a veterinarian. Expenses
7 incurred in connection with the housing, care or upkeep of the
8 dogs by any person, firm, partnership, corporation or other
9 entity shall be taxed against the owner.

10 "(f) If any dog owner is convicted under subsection
11 (a) of this section, the animal(s) shall be awarded to the
12 local humane society or other animal welfare agency.

13 "(c) If the sheriff or other law enforcement officer
14 or agent of the county or the municipality determines that it
15 is necessary or appropriate to seize any animal used in
16 violation of subsection (a), the sheriff or other law
17 enforcement officer or agent of the county or municipality
18 shall seize the animal and take it to the local humane society
19 or other animal welfare agency.

20 "(d) An appointed veterinarian or officer of the
21 local humane society or other animal welfare agency may
22 destroy the animal upon its delivery or at any time thereafter
23 if he or she is of the opinion that the animal is injured,
24 diseased past recovery, or whose continued existence is
25 inhumane and destruction is necessary to relieve pain or
26 suffering.

1 "(e) Within 10 days of the seizure of the animal,
2 the sheriff or other law enforcement officer or agent of the
3 county or the municipality shall request that the judge
4 presiding over the case require the owner of the animal to
5 post a bond or deposit funds with the clerk of the court to
6 cover the cost of food, shelter, and care, including
7 veterinary care, for the animal, throughout the duration of
8 the case that was the cause of the animal being seized. The
9 judge shall hold a hearing within 10 days of the application,
10 at which time the sheriff or other law enforcement officer or
11 agent of the county or municipality shall be required to
12 demonstrate probable cause for seizing the animal.

13 "(f) If probable cause is established, the judge
14 shall order the owner to post bond or deposit funds with the
15 clerk of the court to cover the cost of food, shelter, and
16 care, including veterinary care, for the animal for a period
17 of at least 30 days, and upon application of the sheriff or
18 other law enforcement officer, an agent of the county or the
19 municipality, or the operator of the local humane society or
20 other welfare agency where the animal is being held, for
21 successive 30-day periods thereafter until the case has been
22 resolved. The owner may choose to surrender the animal to the
23 local law enforcement agency, the local humane society, or
24 other animal welfare agency where the animal is being held
25 without the surrender being considered a presumption of guilt.

26 "(g) After the court has ordered the owner of the
27 seized to post bond or deposit funds with the clerk of the

1 court, the owner shall have five days to comply. If the owner
2 fails to post bond or deposit funds with the clerk of the
3 court as ordered within five days, or if the owner fails to
4 post bond or deposit funds for any subsequent 30-day period,
5 the animal shall be forfeited by operation of law.

6 "(h) The operator of the local humane society or
7 other animal welfare agency where the animal is being held
8 shall be entitled to draw on any bond or funds deposited no
9 more than once a week to cover the actual costs incurred in
10 caring for the animal. If the owner is acquitted at trial, he
11 or she shall be entitled to possession of the animal and any
12 remaining funds not expended for the care of the animal.

13 "(i) Upon conviction of the charges under which the
14 animal was seized and held as evidence, the court may award
15 custody of the animal to the facility housing the animal, the
16 local humane society, or other animal welfare agency.

17 "§13A-11-244.

18 "(a) The law enforcement officer or any agent of the
19 county or of the municipality, without the requirement of any
20 fee or charge for court costs, shall immediately petition the
21 municipal court if the violation involves a municipal
22 ordinance or the district court in the county in which the dog
23 or cat is found for a hearing to be set within ~~20~~ 10 days of
24 seizure of the dog or cat or issuance of the order to provide
25 care. The hearing shall be held not more than 10 days after
26 the setting of the date to determine whether the owner, if
27 known, is able to provide adequately and protectively for the

1 dog or cat and is fit to have custody of the dog or cat. The
2 hearing shall be concluded and the court order entered within
3 30 days after the date the hearing is commenced.

4 "(b) The owner, at least five days prior to holding
5 such a hearing, shall be notified of the date of the hearing
6 to determine if the owner is able to provide adequately and
7 protectively for the dog or cat and is fit to have custody of
8 the dog or cat.

9 "§13A-12-6.

10 "(a) As used in this section, the term "hog" shall
11 mean a pig, swine, or boar.

12 "(b) The crime of hog and canine fighting occurs
13 when a person organizes or conducts any commercial or private
14 event, commonly referred to as a "catch," wherein there is a
15 display of combat or fighting between one or more domestic or
16 feral canines and feral or domestic hogs and in which it is
17 intended or reasonably foreseeable that the canines or hogs
18 would be injured, maimed, mutilated, or killed.

19 "(c) The crime of hog and canine fighting occurs
20 when a person intentionally does any of the following for the
21 purpose of organizing, conducting, or financially or
22 materially supporting any event as provided in subsection (b):

23 "(1) Finance, commercially advertise, sell admission
24 tickets, or employ persons.

25 "(2) Own, manage, or operate any facility or
26 property.

27 "(3) Supply, breed, train, or keep canines or hogs.

1 "(4) Knowingly purchase tickets of admission.

2 "(d) This section shall not apply to the lawful
3 hunting of hogs with canines or the use of canines for the
4 management, farming, or herding of hogs which are livestock or
5 the private training of canines for the purposes enumerated in
6 this subsection provided that such training is conducted in
7 the field and is not in violation of this section.

8 "(e) A violation of this section is a Class A
9 misdemeanor upon conviction for a first offense. A second or
10 subsequent violation is a Class C felony. After a first
11 violation, a judge shall inform the defendant of the enhanced
12 penalty upon a second or subsequent violation.

13 "(f) If the sheriff or other law enforcement officer
14 or agent of the county or the municipality determines that it
15 is necessary or appropriate to seize any animal used in
16 violation of this section, the sheriff or other law
17 enforcement officer or agent of the county or municipality
18 shall seize the animal and take it to the local humane society
19 or other animal welfare agency.

20 "(g) An appointed veterinarian or officer of the
21 local humane society or other animal welfare agency may
22 destroy the animal upon its delivery or at any time thereafter
23 if he or she is of the opinion that the animal is injured,
24 diseased past recovery, or whose continued existence is
25 inhumane and destruction is necessary to relieve pain or
26 suffering.

1 "(h) Within 10 days of the seizure of a canine used
2 in violation of this section, the sheriff or other law
3 enforcement officer or agent of the county or the municipality
4 shall request that the judge presiding over the case require
5 the owner of the canine to post a bond or deposit funds with
6 the clerk of the court to cover the cost of food, shelter, and
7 care, including veterinary care, for the canine, throughout
8 the duration of the case that was the cause of the canine
9 being seized. The judge shall hold a hearing within 10 days of
10 the application, at which time the sheriff or other law
11 enforcement officer or agent of the county or municipality
12 shall be required to demonstrate probable cause for seizing
13 the canine.

14 "(i) If probable cause is established, the judge
15 shall order the owner to post bond or deposit funds with the
16 clerk of the court to cover the cost of food, shelter, and
17 care, including veterinary care, for the canine for a period
18 of at least 30 days, and upon application of the sheriff or
19 other law enforcement officer, an agent of the county or the
20 municipality, or the operator of the local humane society or
21 other animal welfare agency where the canine is being held,
22 for successive 30-day periods thereafter until the case has
23 been resolved. The owner may choose to surrender the canine to
24 the local law enforcement agency, the local humane society, or
25 other animal welfare agency where the canine is being held
26 without the surrender being considered a presumption of guilt.

1 "(j) After the court has ordered the owner of the
2 seized canine to post bond or deposit funds with the clerk of
3 the court, the owner shall have five days to comply. If the
4 owner fails to post bond or deposit funds with the clerk of
5 the court as ordered within five days, or if the owner fails
6 to post bond or deposit funds for any subsequent 30-day
7 period, the canine shall be forfeited by operation of law.

8 "(k) The operator of the local humane society or
9 other animal welfare agency where the canine is being held
10 shall be entitled to draw on any bond or funds deposited no
11 more than once a week to cover the actual costs incurred in
12 caring for the canine. If the owner is acquitted at trial, he
13 or she shall be entitled to possession of the canine and any
14 remaining funds not expended for the care of the canine.

15 "(l) Upon conviction of the charges under which the
16 canine was seized and held as evidence, the court may award
17 custody of the canine to the facility housing the canine, the
18 local humane society, or other animal welfare agency."

19 Section 2. This act shall become effective on the
20 first day of the third month following its passage and
21 approval by the Governor, or its otherwise becoming law.