

1 SB246
2 116129-1
3 By Senator Little (Z)
4 RFD: Judiciary
5 First Read: 14-JAN-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, cruelty to animals, and
11 cruelty to dogs and cats.

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

19
20 A BILL
21 TO BE ENTITLED
22 AN ACT
23

24 To amend Sections 3-1-29, 13A-11-14, 13A-11-244, and
25 13A-12-6 of the Code of Alabama 1975, relating to animals; to
26 further provide procedures for seizing an animal involved in a
27 charge for fighting dogs, hog and canine fighting, cruelty to

1 animals, and cruelty to dogs and cats; to expedite the
2 disposition process of the animal; and to require the posting
3 of a bond by the owner of the seized animal under certain
4 conditions for the care of the seized animal.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. Sections 3-1-29, 13A-11-14, 13A-11-244,
7 and 13A-12-6 of the Code of Alabama 1975, are amended to read
8 as follows:

9 "§3-1-29.

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

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

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

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

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

1 ~~"Any dog used to fight other dogs in violation of~~
2 ~~subsection (a) of this section, shall be confiscated as~~
3 ~~contraband by the sheriff or other law enforcement officers~~
4 ~~and shall not be returned to the owner, trainer or possessor~~
5 ~~of said dog. The court shall award the animals to the humane~~
6 ~~society or other agency handling stray animals. At its~~
7 ~~discretion, the humane society or other agency handling stray~~
8 ~~animals shall humanely dispatch or dispose of any confiscated~~
9 ~~dog.~~

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

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

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

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

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

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

23 "(d) An appointed veterinarian or officer of the
24 local humane society or other animal welfare agency may
25 destroy the animal upon its delivery or at any time thereafter
26 if he or she is of the opinion that the animal is injured,
27 diseased past recovery, or whose continued existence is

1 inhumane and destruction is necessary to relieve pain or
2 suffering.

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

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

1 "(g) After the court has ordered the owner of the
2 seized animal 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 animal shall be forfeited by operation of law.

8 "(h) The operator of the local humane society or
9 other animal welfare agency where the animal 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 animal. If the owner is acquitted at trial, he
13 or she shall be entitled to possession of the animal and any
14 remaining funds not expended for the care of the animal.

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

19 "§13A-11-14.

20 "(a) A person commits the crime of cruelty to
21 animals if, except as otherwise authorized by law, he or she
22 intentionally or recklessly does any of the following:

23 "(1) Subjects any animal to cruel mistreatment; ~~or.~~

24 "(2) Subjects any animal in his or her custody to
25 cruel neglect; ~~or.~~

26 "(3) Kills or injures without good cause any animal
27 belonging to another.

1 "(b) Cruelty to animals is a Class B misdemeanor.

2 "(c) If the sheriff or other law enforcement officer
3 or agent of the county or the municipality determines that it
4 is necessary or appropriate to seize any animal used in
5 violation of subsection (a), the sheriff or other law
6 enforcement officer or agent of the county or municipality
7 shall seize the animal and take it to the local humane society
8 or other animal welfare agency.

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

16 "(e) Within 10 days of the seizure of the animal,
17 the sheriff or other law enforcement officer or agent of the
18 county or the municipality shall request that the judge
19 presiding over the case require the owner of the animal to
20 post a bond or deposit funds with the clerk of the court to
21 cover the cost of food, shelter, and care, including
22 veterinary care, for the animal, throughout the duration of
23 the case that was the cause of the animal being seized. The
24 judge shall hold a hearing within 10 days of the application,
25 at which time the sheriff or other law enforcement officer or
26 agent of the county or municipality shall be required to
27 demonstrate probable cause for seizing the animal.

1 "(f) If probable cause is established, the judge
2 shall order the owner to post bond or deposit funds with the
3 clerk of the court to cover the cost of food, shelter, and
4 care, including veterinary care, for the animal for a period
5 of at least 30 days, and upon application of the sheriff or
6 other law enforcement officer, an agent of the county or the
7 municipality, or the operator of the local humane society or
8 other animal welfare agency where the animal is being held,
9 for successive 30-day periods thereafter until the case has
10 been resolved. The owner may choose to surrender the animal to
11 the local law enforcement agency, the local humane society, or
12 other animal welfare agency where the animal is being held
13 without the surrender being considered a presumption of guilt.

14 "(g) After the court has ordered the owner of the
15 seized animal to post bond or deposit funds with the clerk of
16 the court, the owner shall have five days to comply. If the
17 owner fails to post bond or deposit funds with the clerk of
18 the court as ordered within five days, or if the owner fails
19 to post bond or deposit funds for any subsequent 30-day
20 period, the animal shall be forfeited by operation of law.

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

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

5 "§13A-11-244.

6 "(a) The law enforcement officer or any agent of the
7 county or of the municipality, without the requirement of any
8 fee or charge for court costs, shall immediately petition the
9 municipal court if the violation involves a municipal
10 ordinance or the district court in the county in which the dog
11 or cat is found for a hearing to be set within ~~20~~ 10 days of
12 seizure of the dog or cat or issuance of the order to provide
13 care. The hearing shall be held not more than 10 days after
14 the setting of the date to determine whether the owner, if
15 known, is able to provide adequately and protectively for the
16 dog or cat and is fit to have custody of the dog or cat. The
17 hearing shall be concluded and the court order entered within
18 30 days after the date the hearing is commenced.

19 "(b) The owner, at least five days prior to holding
20 such a hearing, shall be notified of the date of the hearing
21 to determine if the owner is able to provide adequately and
22 protectively for the dog or cat and is fit to have custody of
23 the dog or cat.

24 "§13A-12-6.

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

1 "(b) The crime of hog and canine fighting occurs
2 when a person organizes or conducts any commercial or private
3 event, commonly referred to as a "catch," wherein there is a
4 display of combat or fighting between one or more domestic or
5 feral canines and feral or domestic hogs and in which it is
6 intended or reasonably foreseeable that the canines or hogs
7 would be injured, maimed, mutilated, or killed.

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

12 "(1) Finance, commercially advertise, sell admission
13 tickets, or employ persons.

14 "(2) Own, manage, or operate any facility or
15 property.

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

17 "(4) Knowingly purchase tickets of admission.

18 "(d) This section shall not apply to the lawful
19 hunting of hogs with canines or the use of canines for the
20 management, farming, or herding of hogs which are livestock or
21 the private training of canines for the purposes enumerated in
22 this subsection provided that such training is conducted in
23 the field and is not in violation of this section.

24 "(e) A violation of this section is a Class A
25 misdemeanor upon conviction for a first offense. A second or
26 subsequent violation is a Class C felony. After a first

1 violation, a judge shall inform the defendant of the enhanced
2 penalty upon a second or subsequent violation.

3 "(f) If the sheriff or other law enforcement officer
4 or agent of the county or the municipality determines that it
5 is necessary or appropriate to seize any animal used in
6 violation of this section, the sheriff or other law
7 enforcement officer or agent of the county or municipality
8 shall seize the animal and take it to the local humane society
9 or other animal welfare agency.

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

17 "(h) Within 10 days of the seizure of the animal,
18 the sheriff or other law enforcement officer or agent of the
19 county or the municipality shall request that the judge
20 presiding over the case require the owner of the animal to
21 post a bond or deposit funds with the clerk of the court to
22 cover the cost of food, shelter, and care, including
23 veterinary care, for the animal, throughout the duration of
24 the case that was the cause of the animal being seized. The
25 judge shall hold a hearing within 10 days of the application,
26 at which time the sheriff or other law enforcement officer or

1 agent of the county or municipality shall be required to
2 demonstrate probable cause for seizing the animal.

3 "(i) If probable cause is established, the judge
4 shall order the owner to post bond or deposit funds with the
5 clerk of the court to cover the cost of food, shelter, and
6 care, including veterinary care, for the animal for a period
7 of at least 30 days, and upon application of the sheriff or
8 other law enforcement officer, an agent of the county or the
9 municipality, or the operator of the local humane society or
10 other animal welfare agency where the animal is being held,
11 for successive 30-day periods thereafter until the case has
12 been resolved. The owner may choose to surrender the animal to
13 the local law enforcement agency, the local humane society, or
14 other animal welfare agency where the animal is being held
15 without the surrender being considered a presumption of guilt.

16 "(j) After the court has ordered the owner of the
17 seized animal to post bond or deposit funds with the clerk of
18 the court, the owner shall have five days to comply. If the
19 owner fails to post bond or deposit funds with the clerk of
20 the court as ordered within five days, or if the owner fails
21 to post bond or deposit funds for any subsequent 30-day
22 period, the animal shall be forfeited by operation of law.

23 "(k) The operator of the local humane society or
24 other animal welfare agency where the animal is being held
25 shall be entitled to draw on any bond or funds deposited no
26 more than once a week to cover the actual costs incurred in
27 caring for the animal. If the owner is acquitted at trial, he

1 or she shall be entitled to possession of the animal and any
2 remaining funds not expended for the care of the animal.

3 "(1) Upon conviction of the charges under which the
4 animal was seized and held as evidence, the court may award
5 custody of the animal to the facility housing the animal, the
6 local humane society, or other animal welfare agency."

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