

1 HB176
2 135568-1
3 By Representatives Barton, Fincher, Sessions, McClurkin,
4 McMillan, Ison and Williams (J)
5 RFD: Agriculture and Forestry
6 First Read: 07-FEB-12

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8 SYNOPSIS: Existing law prohibits cock fights and fines
9 a person convicted of cock fighting not less than
10 twenty dollars nor more than fifty dollars.

11 This bill would make it a Class A
12 misdemeanor upon a first conviction for a person to
13 do any of the following: Train a cock with the
14 intent that the cock will fight another cock; cause
15 any cock to fight with another cock or cause cocks
16 to injure each other for amusement or gain; own,
17 manage, operate, finance, commercially advertise,
18 promote, sell admission tickets to, or employ
19 persons at any facility for the purpose of
20 cockfighting; possess or use any device or
21 substance intended to enhance the ability of a cock
22 to fight; wager money or anything of value on the
23 results of a cockfight; pay or receive money or
24 anything of value for admission to cock fights;
25 permit or cause a minor to do certain acts relating
26 to cockfighting; or knowingly permit any act in
27 violation of the above. Upon a second or subsequent

1 conviction of the above acts it would be a Class C
2 felony.

3 This bill would make it a Class C felony
4 upon a first conviction and a Class B felony upon a
5 second or subsequent conviction to permit or cause
6 a minor to do certain acts relating to
7 cockfighting.

8 This bill would make it a Class A
9 misdemeanor for a person to do any of the
10 following: Be knowingly present, as a spectator, at
11 a place where preparations are being made for an
12 exhibition of cockfighting with the intent to be
13 present at the preparations; be knowingly present
14 at an exhibition or to knowingly aid or abet
15 another in the exhibition.

16 This bill would require persons who
17 regularly keep cocks to register the location of
18 the cocks with the Alabama Department of
19 Agriculture and Industries for the purpose of
20 disease control.

21 This bill would provide confiscation
22 procedures for fighting cocks and would define
23 terms.

24 This bill would also provide additional
25 fines and forfeiture of certain property and
26 profits and would provide procedures for filing a

1 report on seizures of cocks found to be fighting
2 and for destroying cocks found to be fighting.

3 Amendment 621 of the Constitution of Alabama
4 of 1901, now appearing as Section 111.05 of the
5 Official Recompilation of the Constitution of
6 Alabama of 1901, as amended, prohibits a general
7 law whose purpose or effect would be to require a
8 new or increased expenditure of local funds from
9 becoming effective with regard to a local
10 governmental entity without enactment by a 2/3 vote
11 unless: it comes within one of a number of
12 specified exceptions; it is approved by the
13 affected entity; or the Legislature appropriates
14 funds, or provides a local source of revenue, to
15 the entity for the purpose.

16 The purpose or effect of this bill would be
17 to require a new or increased expenditure of local
18 funds within the meaning of the amendment. However,
19 the bill does not require approval of a local
20 governmental entity or enactment by a 2/3 vote to
21 become effective because it comes within one of the
22 specified exceptions contained in the amendment.

23
24 A BILL
25 TO BE ENTITLED
26 AN ACT
27

1 To amend Section 13A-12-4 of the Code of Alabama
2 1975, relating to cockfighting; and to add Sections 13A-12-4.1
3 and 13A-12-4.2 to the Code of Alabama 1975; to make it a Class
4 A misdemeanor upon a first conviction and a Class C felony
5 upon a second or subsequent conviction of certain acts
6 relating to cockfighting; to make it a Class C felony upon a
7 first conviction and a Class B felony upon a second or
8 subsequent conviction to permit or cause a minor to do certain
9 acts relating to cockfighting; to make it a Class A
10 misdemeanor to be present at cockfights under certain
11 conditions; to require the registration of the location of
12 certain cocks; to provide confiscation procedures for fighting
13 cocks, define terms, provide additional fines and forfeiture
14 of certain property and profits, and provide procedures for
15 filing a report on seizures of cocks found to be fighting and
16 for destroying cocks found to be fighting; and in connection
17 therewith to have as its purpose or effect the requirement of
18 a new or increased expenditure of local funds within the
19 meaning of Amendment 621 of the Constitution of Alabama of
20 1901, now appearing as Section 111.05 of the Official
21 Recompilation of the Constitution of Alabama of 1901, as
22 amended.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. Section 13A-12-4, Code of Alabama 1975,
25 is amended to read as follows:

26 "§13A-12-4.

1 ~~"Any person who keeps a cockpit or who in any public~~
2 ~~place fights cocks shall, on conviction, be fined not less~~
3 ~~than \$20.00 nor more than \$50.00.~~

4 "(a) (1) Upon a first conviction, it shall be a Class
5 A misdemeanor for any person to do any of the following:

6 "a. Train a cock with the intent that the cock will
7 fight another cock.

8 "b. For amusement or gain, to cause any cock to
9 fight with another cock or cause any cock to injure another
10 cock.

11 "c. To own, manage, or operate any facility or
12 property for the purpose of cockfighting, or to finance,
13 commercially advertise, promote, sell admission tickets, or
14 employ persons for the same.

15 "d. To possess or use any device or substance
16 intended to enhance the ability of a cock to fight or inflict
17 injury on another cock with the intent the device or substance
18 be used for such purposes.

19 "e. To wager money or anything of value on the
20 result of such fighting.

21 "f. To pay or receive money or anything of value for
22 the admission of a person to a place for cock fighting.

23 "g. To knowingly permit any act in violation of
24 subdivision (1).

25 "(2) A second or subsequent conviction of this
26 subsection shall be a Class C felony.

1 "(b) (1) Upon a first conviction, it shall be a Class
2 C felony for any person to permit or cause a minor to do
3 either of the following:

4 "a. Attend an exhibition of the fighting of any
5 cock.

6 "b. Undertake or be involved in any act described in
7 this section.

8 "(2) A second or subsequent conviction of this
9 subsection shall be a Class B felony.

10 "(c) It shall be a Class A misdemeanor for any
11 person to be knowingly present, as a spectator, at any place,
12 building, or tenement where preparations are being made for a
13 cockfight with the intent to be present at the cockfight, to
14 be knowingly present at the cockfight, or to knowingly aid or
15 abet another in the cockfight.

16 "(d) Any cock used to fight another cock in
17 violation of subsection (a) shall be confiscated as contraband
18 by the sheriff or other law enforcement officer incident to a
19 lawful arrest or search warrant, or both, and shall not be
20 returned to the owner, trainer, or possessor of the cock until
21 a hearing has been conducted or otherwise pursuant to Section
22 13A-12-4.2.

23 "(e) Any person who regularly keeps cocks shall
24 register the location of the cocks with the Alabama Department
25 of Agriculture and Industries for the purpose of disease
26 control.

1 "(f) For purposes of this section and Sections
2 13A-12-4.1 and 13A-12-4.2, the following terms have the
3 following meanings:

4 "(1) COCK. A male chicken.

5 "(2) COCKFIGHTING. An intentional fight between two
6 or more cocks. The term does not include conduct which is
7 otherwise permitted under the agricultural or animal husbandry
8 laws, customs, or practices of this state or of the United
9 States not specifically prohibited by this section or other
10 laws, which include, but are not limited to, conditioning of
11 poultry for general health purposes.

12 " (3) TRAIN. To intentionally develop the skills of
13 a cock for the purpose of fighting, injuring, or killing
14 another cock."

15 Section 2. Sections 13A-12-4.1 and 13A-12-4.2 are
16 added to the Code of Alabama 1975, to read as follows:

17 §13A-12-4.1.

18 (a) Any person found to be in violation of
19 subsection (a) of Section 13A-12-4 shall be subject to all of
20 the following:

21 (1) In addition to any other penalties provided by
22 law, a fine of ten thousand dollars (\$10,000) is imposed for
23 conviction of a Class A misdemeanor and a fine of twenty
24 thousand dollars (\$20,000) is imposed for conviction of a
25 Class C felony.

26 (2) Forfeiture of all profits resulting from the
27 cockfighting as well as any property, real or personal, that

1 is a proceed of profits derived from the cockfighting,
2 traceable to the cockfighting, or used to facilitate the
3 cockfighting.

4 (3) Forfeiture of any interest in any property, real
5 or otherwise, used directly in connection with the
6 cockfighting.

7 (b) Fines collected under subsection (a) shall be
8 distributed as follows:

9 (1) Twenty-five percent to the investigating law
10 enforcement agency.

11 (2) Twenty-five percent to the prosecuting agency.

12 (3) Twenty-five percent to the Alabama Department of
13 Agriculture and Industries.

14 (4) Twenty-five percent to the State General Fund.

15 §13A-12-4.2.

16 (a) Upon seizure of any cock under subsection (c) of
17 Section 13A-12-4, the law enforcement officer making the
18 seizure shall report the seizure and the facts connected
19 therewith to the state veterinarian or his or her designee,
20 the district attorney, or other prosecuting official in the
21 judicial circuit. The law enforcement agency shall provide the
22 state veterinarian or his or her designee a reasonable period
23 of time to arrive and test the involved cocks for disease
24 before transporting or destroying any cocks on the premises to
25 prevent any possible transmission of disease. The report shall
26 contain a full description of the cocks seized and detained,
27 the name of the person in whose possession it was found, the

1 name of the person making claim to the cocks, or any interest
2 therein, if the name is known or can be ascertained, the date
3 of seizure, and a statement of the circumstances surrounding
4 the seizing of the cocks. The district attorney or other
5 prosecuting officer of the judicial circuit upon receiving the
6 report shall within three business days institute, or cause to
7 be instituted, condemnation proceedings in the circuit court,
8 on the civil docket.

9 (b) A veterinarian, upon delivery of the seized
10 cocks to his or her office, or should one not be willing or
11 available, an animal shelter or at any time thereafter, after
12 consulting with the state veterinarian or his or her designee,
13 may destroy or order the destruction of any cock that is in
14 his or her opinion injured, diseased past recovery, lacks any
15 useful purpose due to training or viciousness, or whose
16 continued existence is inhumane and destruction is necessary
17 to relieve pain or suffering. Absent negligence, wantonness,
18 recklessness, or deliberate misconduct, a veterinarian shall
19 not be held civilly or criminally liable for any actions taken
20 under this section performed in good faith.

21 (c) A cock confiscated pursuant to subsection (c) of
22 Section 13A-12-4 shall be taken to a veterinarian, or should
23 one not be willing or available an animal shelter, pending
24 condemnation proceedings. The court shall set a condemnation
25 hearing date not more than 30 days from the filing of the
26 application and shall give notice of the same to the owners of
27 the cock. The state shall have the burden to prove by a

1 preponderance of the evidence that the confiscated cock was
2 used in violation of Section 13A-12-4.

3 (1) Upon a finding by the court that the cock was so
4 used, the cock shall remain in the custody of a veterinarian,
5 or should one not be willing or available, an animal shelter.
6 It shall be within the sole discretion of the veterinarian or
7 the animal shelter after consulting with the State
8 Veterinarian or his or her designee to determine whether the
9 cock is diseased, injured, or lacks any useful purpose due to
10 training or viciousness, and if so, a veterinarian may
11 humanely destroy or order the destruction of such cock.

12 (2) Expenses incurred in connection with the
13 housing, care, or upkeep of a cock by any person, firm,
14 partnership, corporation, or other entity after seizure of the
15 cock pursuant to subsection (c) of Section 13A-12-4 shall be
16 taxed against the owner. In the event that no owner of the
17 seized animals can be identified, the property owner or
18 operator of the real property used for cockfighting shall be
19 the presumptive owner of the cock. In the event that the owner
20 is not charged with violating Section 13A-12-4 or is acquitted
21 of violating that section, this subsection shall not apply if
22 the court has also found by a preponderance of the evidence
23 that the cock seized was not used in connection with
24 cockfighting.

25 (3) If, after a hearing, the state is unable to
26 prove by a preponderance of the evidence that the confiscated
27 cock was used in violation of Section 13A-12-4, then the

1 seized cock shall remain in the custody of the veterinarian or
2 animal shelter pending the outcome of any criminal proceedings
3 brought against the owners of the cock.

4 (d) If any cock owner is acquitted of all criminal
5 charges under Section 13A-12-4, and the cock seized has not
6 been destroyed under subsection (b), or used in violation of
7 Section 13A-12-4 as determined by the court under subsection
8 (c), the cock shall be returned to the owner.

9 Section 3. Although this bill would have as its
10 purpose or effect the requirement of a new or increased
11 expenditure of local funds, the bill is excluded from further
12 requirements and application under Amendment 621, now
13 appearing as Section 111.05 of the Official Recompilation of
14 the Constitution of Alabama of 1901, as amended, because the
15 bill defines a new crime or amends the definition of an
16 existing crime.

17 Section 4. This act shall become effective on the
18 first day of the third month following its passage and
19 approval by the Governor, or its otherwise becoming law.