

1 HB115
2 126321-3
3 By Representatives Ison and Fincher
4 RFD: Agriculture and Forestry
5 First Read: 01-MAR-11

ENGROSSED

A BILL

TO BE ENTITLED

AN ACT

To amend Section 3-1-29 of the Code of Alabama 1975, relating to fighting dogs; to further provide procedures for seizing a dog involved in a charge relating to fighting dogs; to expedite the disposition process of the dogs; to require the posting of a bond by the owner of certain dogs under certain conditions for the care of the seized dog; and to require the dog to be forfeited under certain conditions.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 3-1-29 of the Code of Alabama 1975, is amended to read as follows:

"§3-1-29.

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

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

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

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

3 "(b) It shall be a Class C felony for any person to
4 be knowingly present, as a spectator, at any place, building,
5 or tenement where preparations are being made for an
6 exhibition of the fighting of dogs, with the intent to be
7 present at such preparations, or to be knowingly present at
8 such exhibition or to knowingly aid or abet another in such
9 exhibition.

10 "(c) Any dog used to fight other dogs in violation
11 of subsection (a) of this section, shall be confiscated as
12 contraband by the sheriff or other law enforcement officers
13 and shall not be returned to the owner, trainer or possessor
14 of said dog. The court shall award the animals to the humane
15 society or other agency handling stray animals. At its
16 discretion, the humane society or other agency handling stray
17 animals shall humanely dispatch or dispose of any confiscated
18 dog.

19 "(d) Any dog confiscated pursuant to subsection
20 ~~(b)~~ (c) of this section by the sheriff or other law
21 enforcement officers shall be taken to the local humane
22 society or other animal welfare agency.

23 "(e) An appointed veterinarian or officer of the
24 humane society or other animal welfare agency may upon
25 delivery or at any time thereafter destroy the animal that is
26 in his or her opinion injured, diseased past recovery, or

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

3 ~~"(e)~~ (f) After confiscation the humane society or
4 other animal welfare agency may make application to the
5 circuit court for a hearing to determine whether any animal
6 seized pursuant to subsection ~~(b)~~ (c) of this section shall be
7 humanely destroyed due to disease, injury or lack of any
8 useful purpose because of training or viciousness. The court
9 shall set a hearing date not more than 30 days from the filing
10 of the application and shall give notice of the same to the
11 owners of the animals. Upon a finding by the court that the
12 seized animals are diseased, injured or lack any useful
13 purpose due to training or viciousness, it shall be within the
14 authority of the humane society or other animal welfare agency
15 to humanely destroy such animal. Any animal found by the court
16 not to be diseased, injured or lacking any useful purpose due
17 to training or viciousness shall be delivered to a
18 court-approved private veterinarian or a private housing
19 facility under the supervision of a veterinarian. Expenses
20 incurred in connection with the housing, care or upkeep of the
21 dogs by any person, firm, partnership, corporation or other
22 entity shall be taxed against the owner.

23 ~~"(g) After confiscation, any entity holding a dog~~
24 ~~confiscated pursuant to this section may make application to~~
25 ~~the circuit court for issuance of an order requiring the owner~~
26 ~~or keeper of the dog to post a bond or deposit finds funds~~

1 with the clerk of the court to cover the reasonable costs of
2 the seizure, care, keeping, and the possible disposal of the
3 dog. Reasonable costs shall include, but not be limited to,
4 transportation, food, shelter, and care, including veterinary
5 care. The bond or deposited funds shall be ordered posted in
6 30-day increments until such time as the case that was the
7 cause of the dog being confiscated is resolved. The court
8 shall set a hearing date no more than 10 days from filing of
9 the application and shall give notice of the same to the owner
10 or keeper of the dog.

11 "(1) If, within 72 hours of the conclusion of the
12 hearing, the owner or keeper fails to post the bond or deposit
13 funds with the clerk of the court as ordered by the court,
14 then the dog shall be forfeited by operation of law.

15 "(2) If the owner or keeper presents sufficient
16 evidence for the judge presiding over the hearing to determine
17 that the owner or keeper is indigent, the owner or keeper may
18 be relieved of the requirement to post a bond or deposit funds
19 with the clerk of the court.

20 "(3) The owner or keeper may choose at any time to
21 surrender the dog to the local animal shelter or other animal
22 housing facility holding the dog. The surrender shall not be
23 considered a presumption of guilt.

24 "(4) At the end of the time for which expenses are
25 covered by the bond or deposit of funds, if the owner or
26 keeper fails to post a new bond or deposit new funds with the

1 clerk of the court, which must be received before the
2 expiration date of the previous bond or deposit of funds, then
3 the dog shall be forfeited by operation of law. The court may
4 correct, alter, or otherwise adjust the bond or funds to be
5 deposited upon a motion made before the expiration date of the
6 previous bond or deposit of funds; provided, however, no
7 person may file more than one motion seeking an adjustment to
8 the bond or funds to be deposited for each six-month period
9 for which the dog is held under this section.

10 "(5) The entity holding the dog confiscated pursuant
11 to this section shall be entitled to draw on any bond posted
12 or funds deposited to cover the actual costs incurred in the
13 seizure, care, keeping, and the possible disposal of the dog.

14 "(6) Upon resolution of any criminal charges brought
15 against the owner or keeper of the dog confiscated pursuant to
16 this section, the owner or keeper shall be refunded the amount
17 remaining on any bond posted or funds deposited in accordance
18 with this section not expended for the seizure, care, keeping,
19 or disposal of the dog.

20 "(f) If any dog owner is convicted under
21 subsection (a) or (b) of this section, the animal(s) animal or
22 animals shall be awarded to the local humane society or other
23 animal welfare agency.

24 "(i) At any time, if a dog is confiscated pursuant
25 to this section, the state or entity holding the dog may file

1 a petition with the circuit court seeking civil forfeiture of
2 the seized dog.

3 "(1) As part of this petition, the state or entity
4 holding the dog may seek an extension of any bond ordered by
5 the judge under subsection (g) of this section, pending
6 resolution of the civil forfeiture petition filed pursuant to
7 this subsection. The bond extension shall be considered in
8 accordance with the procedures set forth in subsection (g) of
9 this section. Upon resolution of a civil forfeiture petition
10 filed under this subsection, the owner or keeper shall be
11 refunded the amount remaining on any bond posted or funds
12 deposited in accordance with this subsection not expended for
13 the seizure, care, keeping, or disposal of the dog.

14 "(2) The court shall set a hearing date no more than
15 20 days from the filing of the petition for civil forfeiture
16 and shall give notice of the hearing to the owner or keeper of
17 the dog.

18 "(3) If the state meets its burden at the forfeiture
19 hearing, the judge shall order the owner or keeper to forfeit
20 ownership of the dog.

21 "(4) If the state fails to meet its burden at this
22 forfeiture hearing, the judge shall order the dog immediately
23 returned to the owner or keeper."

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

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House of Representatives

4 Read for the first time and re-
5 ferred to the House of Representa-
6 tives committee on Agriculture and
7 Forestry..... 01-MAR-11
8
9 Read for the second time and placed
10 on the calendar 1 amendment 09-MAR-11
11
12 Read for the third time and passed
13 as amended..... 21-APR-11
14
Yea 83, Nays 2, Abstains 0

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Greg Pappas
Clerk