

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

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8 SYNOPSIS: Existing law provides procedures for
9 handling a charge relating to fighting dogs.

10 This bill would further provide procedures
11 for seizing a dog involved in a charge relating to
12 fighting dogs by expediting the disposition process
13 of the dog and requiring the posting of a bond by
14 the owner of certain dogs under certain conditions
15 for the care of the seized dog or would require the
16 dog to be forfeited under certain conditions.

17
18 A BILL
19 TO BE ENTITLED
20 AN ACT
21

22 To amend Section 3-1-29 of the Code of Alabama 1975,
23 relating to fighting dogs; to further provide procedures for
24 seizing a dog involved in a charge relating to fighting dogs;
25 to expedite the disposition process of the dogs; to require
26 the posting of a bond by the owner of certain dogs under

1 certain conditions for the care of the seized dog; and to
2 require the dog to be forfeited under certain conditions.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Section 3-1-29 of the Code of Alabama
5 1975, is amended to read as follows:

6 "§3-1-29.

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

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

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

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

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

24 "(c) Any dog used to fight other dogs in violation
25 of subsection (a) of this section, shall be confiscated as
26 contraband by the sheriff or other law enforcement officers
27 and shall not be returned to the owner, trainer or possessor

1 of said dog. The court shall award the animals to the humane
2 society or other agency handling stray animals. At its
3 discretion, the humane society or other agency handling stray
4 animals shall humanely dispatch or dispose of any confiscated
5 dog.

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

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

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

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

9 "(g) After confiscation, any entity holding a dog
10 confiscated pursuant to this section may make application to
11 the circuit court for issuance of an order requiring the owner
12 or keeper of the dog to post a bond or deposit funds with the
13 clerk of the court to cover the reasonable costs of the
14 seizure, care, keeping, and the possible disposal of the dog.
15 Reasonable costs shall include, but not be limited to,
16 transportation, food, shelter, and care, including veterinary
17 care. The bond or deposited funds shall be ordered posted in
18 30-day increments until such time as the case that was the
19 cause of the dog being confiscated is resolved. The court
20 shall set a hearing date no more than 10 days from filing of
21 the application and shall give notice of the same to the owner
22 or keeper of the dog.

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

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

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

10 "(4) At the end of the time for which expenses are
11 covered by the bond or deposit of funds, if the owner or
12 keeper fails to post a new bond or deposit new funds with the
13 clerk of the court, which must be received before the
14 expiration date of the previous bond or deposit of funds, then
15 the dog shall be forfeited by operation of law. The court may
16 correct, alter, or otherwise adjust the bond or funds to be
17 deposited upon a motion made before the expiration date of the
18 previous bond or deposit of funds; provided, however, no
19 person may file more than one motion seeking an adjustment to
20 the bond or funds to be deposited for each six-month period
21 for which the dog is held under this section.

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

26 "(6) Upon resolution of any criminal charges brought
27 against the owner or keeper of the dog confiscated pursuant to

1 this section, the owner or keeper shall be refunded the amount
2 remaining on any bond posted or funds deposited in accordance
3 with this section not expended for the seizure, care, keeping,
4 or disposal of the dog.

5 "(f)(h) If any dog owner is convicted under
6 subsection (a) or (b) of this section, the ~~animal(s)~~ animal or
7 animals shall be awarded to the local humane society or other
8 animal welfare agency.

9 "(i) At any time, if a dog is confiscated pursuant
10 to this section, the state or entity holding the dog may file
11 a petition with the circuit court seeking civil forfeiture of
12 the seized dog.

13 "(1) As part of this petition, the state or entity
14 holding the dog may seek an extension of any bond ordered by
15 the judge under subsection (g) of this section, pending
16 resolution of the civil forfeiture petition filed pursuant to
17 this subsection. The bond extension shall be considered in
18 accordance with the procedures set forth in subsection (g) of
19 this section. Upon resolution of a civil forfeiture petition
20 filed under this subsection, the owner or keeper shall be
21 refunded the amount remaining on any bond posted or funds
22 deposited in accordance with this subsection not expended for
23 the seizure, care, keeping, or disposal of the dog.

24 "(2) The court shall set a hearing date no more than
25 20 days from the filing of the petition for civil forfeiture
26 and shall give notice of the hearing to the owner or keeper of
27 the dog.

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

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

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.