

# ALABAMA ANIMAL CRUELTY LAWS

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### **Introduction**

Criminal animal protection laws in Alabama are found in four different chapters of the Code of Alabama: Title 2, Chapter 15; Title 3, Chapter 1; Title 13A, Chapter 11; and Title 13A Chapter 12.

This document begins Title 13A (“the criminal code”) Chapter 11 (“offenses against public order and safety”) Article 1 (“offenses against public order and decency”). It summarizes each subsection that relates to animals, including the overarching law against intentional and reckless cruelty, neglect, and infliction of injury or death, as well as specific laws pertaining to police dogs and greyhounds used for racing.

This document then summarizes Title 13A (“the criminal code”) Chapter 11 (“offenses against public order and safety”) Article 11 (“cruelty to a dog or cat”). This article contains laws that define first and second degree offenses of cruelty to dogs and cats; rules for the appointment, powers, and duties of county and municipality agents who are instated to enforce these laws; and applicability limitations and rules of construction.

This document then summarizes the relevant sections of Title 13A (“the criminal code”) Chapter 12 (“offenses against public health and morals”) Article 1 (“general provisions”). This includes specific laws pertaining to cockfighting, “bear exploitation,” and “hog and canine fighting.”

This document then summarizes relevant sections of Title 3 (“animals”) Chapter 1 (“general provisions”). This includes a law permitting agents of local societies for the prevention of cruelty to animals to euthanize animals under certain circumstances; a law prohibiting wanton or malicious killing or disabling of animals belonging to others, and exceptions thereto; a law regulating the killing or disabling of livestock belonging to others, and exceptions thereto; a law allowing officers of local humane societies to take charge of abused and neglected animals, and defining officers’ duties; a law prohibiting the sale of baby rabbits, chicks, ducklings, and some other species for use as pets or novelties; a law allowing county commissions to appoint humane officers; and laws related to dog-fighting and the confiscation of dogs who have been used for fighting.

This document then summarizes Title 2 (“agriculture”) Chapter 15 (“livestock”) Article 5 (“handling of livestock in markets and transit”). This contains rules against excessive delays in agricultural animal transport, rules for the physical design of agricultural animal transport vehicles, and rules against excessive physical injury to animals who are used in agriculture.

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**Overview of Statutory Provisions and Case Law**

- 1. Cruelty to Animals:** ALA. CODE §§ 13A-11-14; 13A-11-15; 13A-11-16; 13A-11-241; 3-1-8; 3-1-10 & 3-1-11
- 2. Procedure and Persons with Authority to Investigate Animal Cruelty:** ALA. CODE §§ 13A-11-242 – 245
- 3. Exemptions:** ALA. CODE § 13A-11-246
- 4. Animal Fighting:** ALA. CODE §§ 13A-12-4; 13A-12-5; 13A-12-6 & 3-1-29
- 5. Livestock Provisions:** ALA. CODE §§ 3-1-11.1 & 2-15-110 – 114
- 6. Miscellaneous Provisions:** ALA. CODE §§ 3-1-13 & 3-1-15
- 7. Bestiality:** ALA. CODE §§ 13A-6-63 – 64

## 1. CRUELTY TO ANIMALS

### ALA. CODE § 13A-11-14 (1975).Cruelty to Animals.

(a) A person commits the crime of cruelty to animals if, except as otherwise authorized by law, he or she intentionally<sup>2</sup> or recklessly<sup>3</sup>:

- (1) Subjects any animal to cruel mistreatment; or
- (2) Subjects any animal in his or her custody to cruel neglect; or
- (3) Kills or injures without good cause any animal belonging to another.

(b) Cruelty to animals is a Class B misdemeanor and on the first conviction of a violation of this section shall be punished by a fine of not more than three thousand dollars (\$3,000) or imprisonment in the county jail for not more than six months, or both fine and imprisonment; on a second conviction of a violation of this section, shall be punished by a fine of not less than five hundred dollars (\$500) nor more than three thousand dollars (\$3,000) or imprisonment in the county jail for not more than six months, or both fine and imprisonment; and on a third or subsequent conviction of a violation of this section, shall be punished by a fine of not less than one thousand dollars (\$1,000) nor more than three thousand dollars (\$3,000) or imprisonment in the county jail for not more than six months, or both fine and imprisonment.

#### Applicable Case Law:

##### *Clark v. State*, 555 So.2d 823 (Ala. Crim. App. 1989).

**Facts:** Clark was convicted of “cruelty to animals” for “killing without good cause” two dogs “belonging to another.” Clark’s “cause” was not stated in the case. Rather, Clark was seen driving down a road, after which a witness (who was also the dogs’ “owner”) heard gunshots, and subsequently saw Clark driving back from the location of the gunshots. The witness and dog “owner” then found the dogs who had been shot. When the Sheriff arrived, he found Clark with the gun that had been used to shoot the dogs.

**Holding:** The case was remanded on appeal for the use of evidence that was inadmissible because it had been obtained during an improper arrest.

**Sentencing:** Clark was sentenced to 60 days in county jail along with a \$250 fine.

##### *LaRue v. State*, 478 So. 2d 13 (Ala. Crim. App. 1985).

**Facts:** LaRue was convicted of “cruelty to animals” for keeping dogs in grossly inadequate conditions on his property, from which the dogs suffered serious injuries and illnesses. LaRue appealed the conviction on several grounds, one of which was willful destruction of evidence (the dogs were euthanized before the defense could inspect them).

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<sup>2</sup> “A person acts intentionally with respect to a result or to conduct described by a statute defining an offense, when his purpose is to cause that result or to engage in that conduct.” ALA. CODE 1975 § 13A-2-2(1).

<sup>3</sup> “A person acts recklessly with respect to a result or to a circumstance described by a statute defining an offense when he is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that disregard thereof constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation. A person who creates a risk but is unaware thereof solely by reason of voluntary intoxication, as defined in subdivision (e)(2) of section 13A-3-2, acts recklessly with respect thereto.” ALA. CODE 1975 § 13A-2-2(3).

**Holding:** The appeals court determined that the dogs' euthanasia could not overturn the appellant's conviction because: (1) the euthanasia occurred for "good cause" because of the dogs' condition; (2) there was no evidence that the euthanasia was prejudicial to the appellant; and (3) sufficiently reliable multiple-eyewitness testimony of the dogs' condition *at the time of their seizure* from the property. Defendant also argued that the State did not prove the elements of "mistreatment or neglect," but merely proved the existence of fleas and disease. The eyewitness testimony was sufficient to prove mistreatment as it included a detailed description of the dogs' health, a detailed description of their dirty, inadequate living environment, and an indication that they were not provided with adequate food.

**ALA. CODE § 13A-11-15 (1975). Killing Police Dogs.**

No person shall intentionally, knowingly, recklessly or with criminal negligence kill a dog used by a peace officer to perform tasks within the line and scope of said officer's duties. For the purposes of this section the term "peace officer" shall have the meaning prescribed in Section 36-30-1. Any person who violates the provisions of this section shall, upon conviction, be guilty of a Class C felony as defined by this Code. The provisions of this section shall not apply to any person who violates the provisions of this section during the course of an orderly demonstration or activity in pursuit of one's civil rights.

No Applicable Case Law.

**ALA. CODE § 13A-11-16 (1975). Greyhounds used for racing.**

- (a) It is the intent of the Legislature that animals that participate in greyhound racing on which pari-mutuel wagering is conducted and animals that are bred and trained for greyhound racing be treated humanely, both on and off the racetrack, throughout the lives of the animals.
- (b) A greyhound bred, trained, or used for greyhound racing may not be put to death by any means other than lethal injection. A greyhound may not be removed from this state for the purpose of being destroyed.
- (c) (1) Any person who violates this section on the first offense shall be guilty of a Class C misdemeanor.
- (2) A person who violates this section on a second or subsequent offense shall be guilty of a Class A misdemeanor.

No Applicable Case Law.

**ALA. CODE § 13A-11-241 (1975). Cruelty to a dog or cat.**

(a) A person commits the crime of cruelty to a dog or cat in the first degree if he or she intentionally tortures<sup>4</sup> any dog or cat<sup>5</sup> or skins a domestic dog or cat or offers for sale or exchange or offers to buy or exchange the fur, hide, or pelt of a domestic dog or cat. Cruelty to a dog or cat in the first degree is a Class C felony. A conviction for a felony pursuant to this section shall not be considered a felony for purposes of the Habitual Felony Offender Act, Section 13A-5-9 to 13A-5-10.1, inclusive.

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<sup>4</sup> The word "torture" as used in this act shall mean the act of doing physical injury to a dog or cat by the infliction of inhumane treatment or gross physical abuse meant to cause said animal intensive or prolonged pain or serious physical injury, or thereby causing death due to said act. ALA. CODE 1975 § 13A-11-240 (a).

<sup>5</sup> The words "dog or cat" as used in this act shall mean any domesticated member of the dog or cat family. ALA. CODE 1975 § 13A-11-240 (c).

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(b) A person commits the crime of cruelty to a dog or cat in the second degree if he or she, in a cruel<sup>6</sup> manner, overloads, overdrives, deprives of necessary sustenance or shelter, unnecessarily or cruelly beats, injures, mutilates, or causes the same to be done. Cruelty to a dog or cat in the second degree is a Class A misdemeanor.

No Applicable Case Law.

**ALA. CODE § 3-1-8 (1975). Destruction of certain abandoned animals by members, etc., of societies for prevention of cruelty to animals.**

Any agent, officer or member of a duly incorporated society for the prevention of cruelty to animals may lawfully destroy or cause to be destroyed any animal found abandoned and not properly cared for which may appear, in the judgment of two reputable citizens called by him to view the same in his presence, to be superannuated, infirm, glandered, injured or diseased past recovery for any useful purpose.

No Applicable Case Law.

**ALA. CODE § 3-1-10 (1975). Wanton, malicious, etc., destruction, injury, etc., of animal or article or commodity of value of another - prohibited.**

Any person, who unlawfully, wantonly or maliciously kills, disables, disfigures, destroys or injures any animal or article or commodity of value which is the property of another must, on conviction, be fined not less than twice the value of the injury or damage to the owner of the property nor more than \$1,000.00 and may also be imprisoned in the county jail, or sentenced to hard labor for the county for not more than six months, and so much of the fine as may be necessary to repair the injury or loss shall go to the party injured.

**Applicable Case Law:**

***Cox v. State*, 30 Ala. App. 321, 5 So.2d 119 (Ala. App. 1941).**

**Facts:** Cox was convicted of shooting a cow belonging to Casey.

**Holding:** Although the carcass of the cow was found on Cox's property, that fact is not enough evidence to show that he was the one to shoot her. Reversed and remanded.

***Philips v. State*, 25 Ala. App. 353, 146 So. 535 (Ala. App. 1933).**

**Facts:** Philips convicted of cruelly killing a dog belonging to Ritter.

**Holding:** Affirmed. Do not need to say that the defendant maliciously killed the dog in the indictment charges to be convicted under this section of the code.

***Inglis v. State*, 13 Ala. App. 184, 68 So. 583 (Ala. App. 1915).**

**Facts:** Inglis convicted of killing a hog owned by Hays, which was found dead in Inglis' field. Inglis told a third party, Leadbetter, to shoot six hogs including the one owned by Hays.

**Holding:** Affirmed. Leadbetter's witness statement was admissible and proper.

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<sup>6</sup> The word "cruel" as used in this act shall mean: Every act, omission, or neglect, including abandonment, where unnecessary or unjustifiable pain or suffering, including abandonment, is caused or where unnecessary pain or suffering is allowed to continue. ALA. CODE 1975 § 13A-11-240 (b).

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***Bass v. State*, 63 Ala. 108 (Ala. 1879).**

**Facts:** Bass was convicted killing two oxen belonging to Saunders. Bass killed the oxen because they trespassed upon his property and were damaging his corn crop. Fined \$100, the value of the oxen (\$50 each).

**Holding:** Reversed and remanded for a jury to decide because, unless the owner of the oxen turned down his fence and turned the oxen on the crop, the defendant is guilty of killing the oxen.

***Busby v. State*, 77 Ala. 66 (Ala. 1884).**

**Facts:** Busby convicted of “maliciously disabling” two mules by shooting them when they were trespassing on his crop. A witness indicated that the shoes worn by defendant would have made a “track” such as the one seen in the field.

**Holding:** One offense because the number of “property” is immaterial when the act is committed at essentially the same time. It was improper to have a fact witness elicit a mere opinion about who and what shoe could have caused the imprint in the field.

**ALA. CODE § 3-1-11 (1975). Wanton, malicious, etc., destruction, injury, etc., of animal or article or commodity of value of another – proof of trespassing by animal in mitigation or justification of offense; tender of compensation**

Upon the trial, the defendant may prove in mitigation or justification, as the jury may determine, that, at the time of the killing, disabling, disfiguring, destruction or injury, the animal killed, disabled, disfigured, destroyed or injured was trespassing and had within six months previously thereto trespassed upon a growing crop, enclosed by a lawful fence or while such animal was running at large in violation of law. No conviction must be had, if it is shown that, before the commencement of the prosecution, compensation for the injury was made or tendered to the owner.

**2. PROCEDURE AND PERSONS WITH AUTHORITY TO INVESTIGATE ANIMAL CRUELTY**

**ALA. CODE § 13A-11-242 (1975). Appointment of agents.**

Any county or municipality may appoint one or more trained agents to inspect alleged violations of this article, to protect dogs or cats from any cruelty charged, and to prevent any cruelty to any dog or cat. Any appointment made pursuant to this section shall be made at a meeting of the local governing body duly called with notice.

No Applicable Case Law.

**ALA. CODE § 13A-11-243 (1975). Powers of Agents, Officers; Liability.**

(a) Any law enforcement officer and any agent of the county or the municipality appointed pursuant to Section 13A-11-242, having reasonable belief, evidence of, or having found a dog or cat to be neglected or cruelly treated may perform either of the following:

- (1) Remove the dog or cat from its present location.
- (2) Order the owner of the dog or cat to provide certain care to the dog or cat at the owner's expense without the removal of the dog or cat from its present location.

(b) Neither the county or municipality, nor any employee or agent of the county or municipality, acting in

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good faith, shall be liable for any actions taken under this section, regardless of whether or not the dog or cat is returned to its owner after impoundment.

No Applicable Case Law.

**ALA. CODE § 13A-11-244 (1975). Hearing.**

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

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

No Applicable Case Law.

**ALA. CODE § 13A-11-245 (1975). Disposition of animal.**

(a) The law enforcement officer or agent of the county or municipality may provide for the dog or cat until either the dog or cat is returned to the owner by the court, or the court refuses to return the dog or cat to the owner and implements one of the procedures pursuant to subsection (c).

(b) If the owner is adjudged by the court, with certification from a licensed veterinarian, to be able to provide adequately for and have custody of the dog or cat, the dog or cat shall be returned to the owner.

(c) If the court determines that the owner of the dog or cat is unable, unwilling, or unfit to adequately provide for, protect, and have custody of the dog or cat, the court may implement the following by court order:

(1) Upon the testimony of the person taking custody, a licensed veterinarian, or another qualified witness that the dog or cat requires destruction or other disposition for humane reasons or is of no commercial value, order the dog or cat destroyed or remanded directly to the custody of the dog or cat control, humane shelter, or similar facility designated by the county or the municipality or other appropriate person to be disposed of by the facility or person in a humane manner.

(2) Upon proof of the costs incurred by the agent or agency having custody of the dog or cat, order that the owner pay any costs incurred for the care of the dog or cat and for any costs incurred in destroying the dog or cat. A separate hearing may be held by the judge of the district court on the assessment of costs, which assessment shall include all costs of notice and hearing. In the event the court finds the owner innocent of charges, the owner shall not be charged with costs of the care of the dog or cat in custody.

(d) If the court determines that the owner is unable, unwilling, or unfit to adequately provide for and protect any other dog or cat in the custody of the owner that was not originally seized by the agency,

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agent, or other person when the dog or cat in custody was seized, the court may enjoin the owner of further possession or custody of the unseized dog or cat.

No Applicable Case Law.

### **3. EXEMPTIONS**

#### **ALA. CODE § 13A-11-246 (1975). Applicability.**

This article shall not apply to any of the following persons or institutions:

- (1) Academic and research enterprises that use dogs or cats for medical or pharmaceutical research or testing.
- (2) Any owner of a dog or cat who euthanizes the dog or cat for humane purposes.
- (3) Any person who kills a dog or cat found outside of the owned or rented property of the owner or custodian of the dog or cat when the dog or cat threatens immediate physical injury or is causing physical injury to any person, animal, bird, or silvicultural or agricultural industry.
- (4) A person who shoots a dog or cat with a BB gun not capable of inflicting serious injury when the dog or cat is defecating or urinating on the person's property.
- (5) A person who uses a training device, anti-bark collar, or an invisible fence on his or her own dog or cat or with permission of the owner.

No Applicable Case Law.

### **4. ANIMAL FIGHTING**

#### **ALA. CODE § 13A-12-4 (1975). Keeping cockfit; cockfighting.**

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

No Applicable Case Law.

#### **ALA. CODE § 13A-12-5 (1975). Unlawful bear exploitations; penalties.**

(a) A person commits the offense of unlawful bear exploitation if he or she knowingly does any one of the following:

- (1) Promotes, engages in, or is employed at a bear wrestling match.
- (2) Receives money for the admission of another person to a place kept for bear wrestling.
- (3) Sells, purchases, possesses, or trains a bear for bear wrestling.
- (4) For purposes of exploitation, subjects a bear to surgical alteration in any form, including, but not limited to, declawing, tooth removal, and severing tendons.



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- (b) Unlawful bear exploitation is a Class B felony and is punishable as provided by law.
- (c) Upon the arrest of any person for violating this section, the arresting law enforcement officer, conservation officer, or animal control officer shall have authority to seize and take custody of any bear in the possession of the arrested person.
- (d) Upon the conviction of any person for violating the provisions of this section, any court of competent jurisdiction shall have authority to order the forfeiture by the convicted person of any bear, the use of which was the basis of the conviction. Any bears ordered forfeited under this section shall be placed in the custody of a humane shelter, a society that is incorporated for the prevention of cruelty to animals, or the State Department of Conservation and Natural Resources.
- (e) In addition to the fines, penalties, and forfeitures imposed under this section, the court may require the defendant to make restitution to the state, any of its political subdivisions, or a humane shelter or a society that is incorporated for the prevention of cruelty to animals for housing, feeding, or providing medical treatment to bears used for unlawful wrestling.

No Applicable Case Law.

**ALA. CODE § 13A-12-6 (1975). Hog and canine fighting.**

- (a) As used in this section, the term "hog" shall mean a pig, swine, or boar.
- (b) The crime of hog and canine fighting occurs when a person organizes or conducts any commercial or private event, commonly referred to as a "catch," wherein there is a display of combat or fighting between one or more domestic or feral canines and feral or domestic hogs and in which it is intended or reasonably foreseeable that the canines or hogs would be injured, maimed, mutilated, or killed.
- (c) The crime of hog and canine fighting occurs when a person intentionally does any of the following for the purpose of organizing, conducting, or financially or materially supporting any event as provided in subsection (b):
  - (1) Finance, commercially advertise, sell admission tickets, or employ persons.
  - (2) Own, manage, or operate any facility or property.
  - (3) Supply, breed, train, or keep canines or hogs.
  - (4) Knowingly purchase tickets of admission.
- (d) This section shall not apply to the lawful hunting of hogs with canines or the use of canines for the management, farming, or herding of hogs which are livestock or the private training of canines for the purposes enumerated in this subsection provided that such training is conducted in the field and is not in violation of this section.
- (e) A violation of this section is a Class A misdemeanor upon conviction for a first offense. A second or subsequent violation is a Class C felony. After a first violation, a judge shall inform the defendant of the enhanced penalty upon a second or subsequent violation.

No Applicable Case Law.

**ALA. CODE § 3-1-29 (1975). Activities relating to fighting of dogs prohibited; violations; confiscation; procedures for disposition of animals; bond for the care of seized dogs.**

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

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

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

(d) Any dog confiscated pursuant to subsection (c) by the sheriff or other law enforcement officers shall be taken to the local humane society or other animal welfare agency.

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

(f) After confiscation the humane society or other animal welfare agency may make application to the circuit court for a hearing to determine whether any animal seized pursuant to subsection (c) shall be humanely destroyed due to disease, injury or lack of any useful purpose because of training or viciousness. The court shall set a hearing date not more than 30 days from the filing of the application and shall give notice of the same to the owners of the animals. Upon a finding by the court that the seized animals are diseased, injured, or lack any useful purpose due to training or viciousness, it shall be within the authority of the humane society or other animal welfare agency to humanely destroy such animal. Any animal found by the court not to be diseased, injured, or lacking any useful purpose due to training or viciousness shall be delivered to a court-approved private veterinarian or a private housing facility under the supervision of a veterinarian. Expenses incurred in connection with the housing, care, or upkeep of the dogs by any person, firm, partnership, corporation, or other entity shall be taxed against the owner.

(g) After confiscation, any entity holding a dog confiscated pursuant to this section may make application to the circuit court for issuance of an order requiring the owner or keeper of the dog to post a bond or deposit funds with the clerk of the court to cover the reasonable costs of the seizure, care, keeping, and the possible disposal of the dog. Reasonable costs shall include, but not be limited to, transportation, food, shelter, and care, including veterinary care. The bond or deposited funds shall be ordered posted in 30-day increments until such time as the case that was the cause of the dog being confiscated is resolved. The

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court shall set a hearing date no more than 10 days from filing of the application and shall give notice of the same to the owner or keeper of the dog.

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

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

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

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

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

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

(h) If any dog owner is convicted under subsection (a) or (b), the animal or animals shall be awarded to the local humane society or other animal welfare agency.

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

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

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

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

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

**Applicable Case Law:**

***Ware v. State*, 949 So. 2d 169 (Ala. Crim. App. 2006).**

**Facts:** The jury convicted Ware of six counts of “owning, possessing, keeping, and/or training a dog for fighting purposes,” and one count of possessing a controlled substance (steroids that were being administered to the dogs). There were multiple witnesses to testify as to the conditions in which the dogs were living and the presence of various forms of dogfighting paraphernalia. A veterinarian also testified about the dogs’ injuries.

**Holding:** Ware asserted that the evidence did not provide a basis for multiple convictions, because it could not prove the occurrence of more than one fight. However, the appeals court found that the multiple counts represented the multiple *dogs* who had been kept “for the purpose of engaging in fighting.” Likewise, the court found both the dog wounds admissible and the evidence obtained through a warrantless search because Ware and his wife consented to the search in question.

**Sentencing:** The trial court sentenced Ware to 20 years for dog fighting (six counts with concurrent sentences) and 20 years for possession of a controlled substance. These are larger sentences than those that would be imposed on a first-time felony offender, as per the Habitual Felony Offender Act. The appeals court noted that it was within the statutory limits (being the maximum sentence), and thus the appeals court held that it was proper to defer to the trial court decision. He was also ordered to pay restitution to the City of Mobile Animal Shelter in the amount of \$ 7,808.71, \$ 100 in each case to the victims compensation fund, \$ 100 to the Forensic Trust Fund, and \$ 1000 pursuant to the Demand Reduction Assessment Act.

***State v. Shelton*, 741 So.2d 473 (Ala. Crim. App. 1999).**

**Facts:** Police officers arrived at Shelton’s house in response to a complaint about dog-fighting taking place in his basement. No one answered the door. Then, the officers heard “intense growling” coming from the basement. They attempted the door again, at which point someone opened it, claimed not to be the owner of the house, and closed it. The officers then saw a dog “jumping up and down” on a leash in the basement, and then two dogs being let out of the house into a yard that contained several dog kennels. Finally, Shelton answered the door, and let the officers inside. An officer saw dog feces and kennels in the basement, and observed Shelton hastily putting a video camera into a dog kennel. When the officer asked whether it was his camera, Shelton and the other residents denied owning it. The officers viewed the tapes in the camera, which contained footage of dog-fighting. People’s legs were also visible on the tapes, and their clothing matched that of the people in the house. Everyone in the house was then arrested.

**Holding:** Evidence was suppressed by the trial court as a result of it having been obtained without a warrant, and outside of the claimed exception of “probable cause coupled by exigent circumstances.” The appeals court reversed this ruling, holding that the evidence was properly obtained, and as such remanded the case.

***Jones v. State*, 473 So. 2d 1197 (Ala. Crim. App. 1985).**

**Facts:** Jones was convicted of owning, possessing, keeping or training a dog “with the intent that such dog shall be engaged in an exhibition of fighting with another dog.” The jury used the following evidence to find the defendant guilty: the animal cruelty investigator who initially visited the premises

testified that he saw the dogs fighting; a veterinarian, as well as the owner of the local humane society shelter to which the dogs were taken after seizure from Ware's premises, each testified that the dogs were dehydrated and undernourished, had scars, especially on their faces, and escaped from their cages to fight one another while at the shelter. There was also an album of dogfighting photographs.

**Holding:** The appellate court held that the statute is not unconstitutionally vague because the intent merely *qualifies an action*, and because adequate standards have been developed to discern the sufficiency of evidence of intent. Jones claimed that evidence of dogs' dehydrated, undernourished, and scarred condition was irrelevant and prejudicial, and thus should not have been admitted. The appeals court noted that all of it fit the accepted relevance standards, being that there was a logical relationship between it and the inference for which it is being offered.

**Sentencing:** He was sentenced to a year and a day, and placed on probation for a term of two years, plus ordered to pay \$2,519 in restitution to and for the Birmingham Humane Society.

## 5. LIVESTOCK PROVISIONS

### **ALA. CODE § 3-1-11.1 (1975). Killing or disabling livestock; penalty.**

(a) Any person, who unlawfully, wantonly, or maliciously kills, disables, disfigures, destroys, or injures the livestock of another while the livestock is on the premises of the owner of the livestock or on the premises of a person having charge thereof shall be guilty of a Class C felony.

(b) In addition to being guilty of a Class C felony, any person who unlawfully, wantonly, or maliciously kills, disables, disfigures, destroys, or injures the livestock of another while the livestock is on the premises of the owner of the livestock, or on the premises of a person having charge thereof, shall be liable for damages sustained by the killing, disabling, disfiguring, or destroying of the livestock in an amount equal to double the value thereof.

(c) For purposes of this section, livestock is defined as equine or equidae, cows, swine, goats, and sheep.

No Applicable Case Law.

### **ALA. CODE § 2-15-110 (1975). Inhumane handling or handling in violation of article prohibited.**

In order to prevent injury to animals in livestock markets and in transit and to prevent unnecessary abuse and cruelty to animals with resultant loss of profit from the slaughter and sale of such animals, it shall be unlawful in this state to handle or transport such animals in any manner not consistent with humane methods of treatment to such extent as is reasonably possible or in a manner not in compliance with or in violation of the requirements of this article.

No Applicable Case Law.

### **ALA. CODE § 2-15-111 (1975). Conveyances used to transport livestock to proceed to destination without delay; notice to owner of livestock of breakdown.**

(a) All trucks, vans or other conveyances used for the transportation of cattle, sheep, swine or other animals along public roads, streets or highways of Alabama shall, prior to the loading of such animals, be prepared to proceed to their destination without delay and, upon loading, shall proceed by the most direct and usually traveled route.

(b) In the event of a breakdown that would cause a delay of the arrival of the livestock at their destination

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for more than one hour, the owner of such livestock shall be notified as soon as possible of such breakdown.

No Applicable Case Law.

**ALA. CODE § 2-15-112 (1975). Construction of conveyances used for transporting of livestock.**

All such trucks, vans or other conveyances used for the transporting of the animals described in this article shall be so constructed that the roof of any deck of the conveyance will not touch the highest point of the back of any animal loaded thereon. Any such conveyance which is propelled or drawn by the use of diesel fuel shall have the exhaust so placed that the fumes will not blow directly into the area in which the animals are loaded either when the conveyance is in motion or when it is motionless.

No Applicable Case Law.

**ALA. CODE § 2-15-113 (1975). Use of sticks, whips, chains, etc., in livestock markets; promulgation of rules and regulations by commissioner as to treatment of livestock in markets; inspections of markets for enforcement of section.**

In addition to the authority granted to the Commissioner of the Department of Agriculture and Industries pursuant to Division 1 of Article 4 of this chapter, the said commissioner, with the approval of the State Board of Agriculture and Industries, shall be authorized to promulgate reasonable rules and regulations for the humane treatment of animals held in livestock markets and while being sold or offered for sale in such markets, including the number, kind and size of animals that may be held in pens or areas of stipulated dimensions, regulations for the feeding and care of such animals and for the maintenance of sanitary conditions of the premises.

Sticks, canes or whips shall not be used in such a manner so as to injure an animal. The use of chains, spikes, clubs or other injurious devices are hereby prohibited except under extreme circumstances where it is necessary to prevent injury to persons or other animals; and flappers, other noisemaking devices, electric prods of not more than six volts in strength and other contrivances which have been found to be equally effective shall be used wherever possible for such purposes.

The Commissioner of Agriculture and Industries shall provide for the regular inspection of such livestock markets for the purpose of enforcing the requirements of this section.

No Applicable Case Law.

**ALA. CODE § 2-15-114 (1975). Penalties for violations of provisions or article, rules or regulations promulgated thereunder, etc.; liability of managers, etc. of transportation agencies or livestock markets permitting violations of article by employees, agents, etc.**

(a) Any person who shall violate any of the provisions or requirements of this article, or who fails to perform any duty imposed by the provisions of this article or who violates any rule or regulation duly promulgated under this article shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than \$10.00 nor more than \$100.00 and, within the discretion of the court, may also be imprisoned for not more than six months.

(b) The manager, executive officer, owner or other person in charge of any transportation agency or livestock market who knowingly allows any employee, agent or servant to violate any of the provisions or requirements of this article or who knows that any employee, agent or servant is violating any provisions

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of this article and who does not take immediate steps to correct such violations shall be guilty of a misdemeanor and upon conviction shall be punished as provided in subsection (a) of this section.

No Applicable Case Law.

## 6. MISCELLANEOUS PROVISIONS

**ALA. CODE § 3-1-13 (1975). Right of officers, etc., of humane societies to take charge of and care for neglected or abused animals; written notice to owner from whom animal taken; lien for expenses for care of animal.**

Any duly authorized officer or employee of a recognized humane society shall have the right to take charge of any animal which is sick or disabled due to neglect or is being cruelly treated or abused and to provide care for such animal until it is deemed to be in suitable condition to be returned to its owner or to the person from whose custody such animal was taken.

The officer so taking such animal shall at the time of taking the animal give written notice to the owner or person from whose custody it was taken.

The necessary expenses incurred for the care and keeping of the animal after such notice by the humane society shall be a lien thereon and, if the animal is not reclaimed within 10 days from the giving of such notice, the humane society may sell the animal to satisfy such lien. If the humane society determines that the animal cannot be sold, it may cause the animal to be otherwise disposed of.

**Applicable Case Law:**

*Humane Soc’y of Marshall Cty., v Adams, 439 So.2d 150 (Ala. 1983).*

**Facts:** Cattle owners sued humane society members who seized and sold owners’ cattle. No opportunity to contest seizure and sale.

**Holding:** This section of the statute is unconstitutional under Alabama’s Constitution at article I, Section 6, on due process grounds.

**ALA. CODE § 3-1-15 (1975). Sale, offer for sale, barter, etc. of baby rabbits, chicks, ducklings, etc. as pets or novelties.**

It shall be unlawful for any person, firm or corporation to display, sell, offer for sale, barter or give away any baby rabbits, or baby chicks, ducklings or other fowl, but not including parrots, parakeets and canaries, as pets or novelties, regardless of whether or not such rabbits or fowl are dyed, colored or otherwise artificially treated.

Whoever violates this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished as prescribed by law.

No Applicable Case Law.