

MISSISSIPPI ANIMAL PROTECTION LAWS

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Introduction

Mississippi consolidates most of its animal cruelty and abuse statutes within Title 97, Crimes, under Chapter 41, Cruelty to Animals. Title 97 also includes a prohibition against bestiality under Chapter 29, Crimes Against Morals and Decency, and against failing to isolate animals known to carry certain infectious diseases under Chapter 27, Crimes Affecting Public Health. This document presents Chapter 41 in its entirety and the relevant sections of chapters 29 and 27, including a summary of any relevant case law.

Other sections of Mississippi law affecting animal health, welfare, rights and privileges include Title 43, Public Welfare, under Chapter 6, Rights and Liabilities of Blind and Other Handicapped Persons; and various chapters under Title 49, Conservation and Ecology, relating to wild and exotic animals, non-game and endangered species, and the feeding of animals and game birds outside of wildlife enclosures. This document lists only excerpted sections from these chapters, as related to animal cruelty in particular.

Overview of Statutory Provisions and Case Law

- 1. Cruelty to Animals:** MISS. CODE ANN. §§ 97-41-1; 97-41-5; 97-41-7; 97-41-9; 97-41-16; 97-41-17
- 2. Animal Fighting:** MISS. CODE ANN. §§ 97-41-11; 97-41-18; 97-41-19
- 3. Livestock:** MISS. CODE ANN. § 97-41-15
- 4. Service Animals:** MISS. CODE ANN. §§ 43-6-155; 97-41-21; 97-41-23
- 5. Bestiality:** MISS. CODE ANN. § 97-29-59
- 6. Wildlife:** MISS. CODE ANN. §§ 49-5-107; 49-5-109; 49-8-7
- 7. Miscellaneous:** MISS. CODE ANN. §§ 97-27-7; 97-27-57
- 8. Disposition of Mistreated Animals:** MISS. CODE ANN. § 97-41-2
- 9. Penalties:** MISS. CODE ANN. §§ 97-41-13; 49-5-115; 49-8-15

1. CRUELTY TO ANIMALS

MISS. CODE ANN. § 97-41-1. Cruelty to living creatures

Except as otherwise provided in Section 97-41-16 for a dog or cat, if any person shall intentionally or with criminal negligence override, overdrive, overload, torture, torment, unjustifiably injure, deprive of necessary sustenance, food, or drink; or cruelly beat or needlessly mutilate; or cause or procure to be overridden, overdriven, overloaded, tortured, unjustifiably injured, tormented, or deprived of necessary sustenance, food or drink; or to be cruelly beaten or

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needlessly mutilated or killed, any living creature, every such offender shall, for every offense, be guilty of a misdemeanor.

Applicable Case Law:

Davis v. State, 806 So. 2d 1098 (Miss. 2001)

Facts: Defendant was responsible for the well-being of fourteen horses, and an SPCA investigation revealed that many of the horses were in a poor condition, including a colt with a broken leg. Following a conviction of animal cruelty, the defendant appealed, and the court elected to review the constitutionality of the statute.

Holding: The statute was unconstitutionally vague due to an absence of defining the appropriate *mens rea*.²

MISS. CODE ANN. § 97-41-5. Carrying in a cruel manner

If any person shall carry, or cause to be carried by hand or in or upon any vehicle or other conveyance, any creature other than a dog or cat in a cruel or inhuman manner, he shall be guilty of a misdemeanor.

No Applicable Case Law.

MISS. CODE ANN. § 97-41-7. Confinement depriving creature of food or water

If any person shall confine, or cause to be confined, in any stable, lot, or other place, any living creature other than a dog or cat, without supplying the same during such confinement with a sufficient quantity of good and wholesome food and water, he shall be guilty of a misdemeanor.

No Applicable Case Law.

MISS. CODE ANN. § 97-41-9. Failure to feed or sustain animal

If any person be the owner or have the custody of any living creature other than a dog or cat and unjustifiably neglect or refuse to furnish it necessary sustenance, food, or drink, he shall be guilty of a misdemeanor.

No Applicable Case Law.

² This case was distinguished by *Hill v. State*, discussed *infra*, §97-41-16.

MISS. CODE ANN. § 97-41-16. Maliciously injuring dogs or cats

- (1) (a) The provisions of this section shall be known and may be cited as the “Mississippi Dog and Cat Pet Protection Law of 2011.”
 - (b) The intent of the Legislature in enacting this law is to provide only for the protection of domesticated dogs and cats, as these are the animals most often serving as the loyal and beloved pets of the citizens of this state. Animals other than domesticated dogs and cats are specifically excluded from the enhanced protection described in this section for dogs and cats. The provisions of this section do not apply, and shall not be construed as applying, to any animal other than a domesticated dog or cat.
- (2) (a) If a person shall intentionally or with criminal negligence wound, deprive of adequate shelter, food or water, or carry or confine in a cruel manner, any domesticated dog or cat, or cause any person to do the same, then he or she shall be guilty of the offense of simple cruelty to a dog or cat. A person who is convicted of the offense of simple cruelty to a dog or cat shall be guilty of a misdemeanor and fined not more than One Thousand Dollars (\$1,000.00), or imprisoned not more than six (6) months, or both.
 - (b) If a person with malice shall intentionally torture, mutilate, maim, burn, starve or disfigure any domesticated dog or cat, or cause any person to do the same, then he or she shall be guilty of the offense of aggravated cruelty to a dog or cat.
 - (i) A person who is convicted of a first offense of aggravated cruelty to a dog or cat shall be guilty of a misdemeanor and fined not more than Two Thousand Five Hundred Dollars (\$2,500.00), or imprisoned for not more than six (6) months, or both.
 - (ii) A person who is convicted of a second or subsequent offense of aggravated cruelty to a dog or cat, the offenses being committed within a period of five (5) years, shall be guilty of a felony and fined not more than Five Thousand Dollars (\$5,000.00) and imprisoned for not less than one (1) year nor more than five (5) years.
 - (c) A conviction entered upon a plea of nolo contendere to a charge of aggravated cruelty to a dog or cat shall be counted as a conviction for the purpose of determining whether a later conviction is a first or subsequent offense.
 - (d) For purposes of this section, one or more alleged acts of the offenses of simple cruelty to a dog or cat or aggravated cruelty to a dog or cat, committed against one or more domesticated dogs or cats, or any combination thereof, shall constitute a single offense if the alleged acts occurred at the same time.

(3) In addition to such fine or imprisonment which may be imposed:

(a) The court shall order that restitution be made to the owner of such dog or cat. The measure for restitution in money shall be the current replacement value of such loss and the actual veterinarian fees, medicine, special supplies, loss of income and other costs incurred as a result of actions in violation of subsection (2) of this section; and

(b) The court may order that:

(i) The reasonable costs of sheltering, transporting and rehabilitating the dog or cat, and any other costs directly related to the care of the dog or cat, be reimbursed to:

1. Any law enforcement agency; or

2. Any agency or department of a political subdivision that is charged with the control, protection or welfare of dogs or cats within the subdivision. The agency or department may reimburse a nongovernmental organization for such costs, if the organization possesses nonprofit status under the United States Internal Revenue Code and has the purpose of protecting the welfare of, or preventing cruelty to, dogs or cats.

(ii) The person convicted:

1. Receive a psychiatric or psychological evaluation and counseling or treatment for a length of time as prescribed by the court. The cost of any evaluation, counseling and treatment shall be paid by the offender upon order of the court, up to a maximum amount that is no more than the jurisdictional limit of the sentencing court.

2. Perform community service for a period not exceeding the applicable maximum term of imprisonment that may be imposed for conviction of the offense.

3. Be enjoined from employment in any position that involves the care of a dog or cat, or in any place where dogs or cats are kept or confined, for a period which the court deems appropriate.

(4) (a) Nothing in this section shall be construed as prohibiting a person from:

(i) Defending himself or herself or another person from physical or economic injury being threatened or caused by a dog or cat.

(ii) Injuring or killing an unconfined dog or cat on the property of the person, if the unconfined dog or cat is believed to constitute a threat of physical injury or damage to any domesticated animal under the care or control of such person.

(iii) Acting under the provisions of Section 95-5-19 to protect poultry or livestock from a trespassing dog that is in the act of chasing or killing the poultry or livestock, or acting to protect poultry or livestock from a trespassing cat that is in the act of chasing or killing the poultry or livestock.

(iv) Engaging in practices that are licensed or lawful under the Mississippi Veterinary Practice Act, Section 73-39-51 et seq., or engaging in activities by any licensed veterinarian while following accepted standards of practice of the profession within the State of Mississippi, including the euthanizing of a dog or cat.

(v) Rendering emergency care, treatment, or assistance to a dog or cat that is abandoned, ill, injured, or in distress, if the person rendering the care, treatment, or assistance is acting in good faith.

(vi) Performing activities associated with accepted agricultural and animal husbandry practices with regard to livestock, poultry or other animals, including those activities which involve:

1. Using dogs in such practices.
2. Raising, managing and using animals to provide food, fiber or transportation.
3. Butchering animals and processing food.

(vii) Training for, or participating in, a rodeo, equine activity, dog show, event sponsored by a kennel club or other bona fide organization that promotes the breeding or showing of dogs or cats, or any other competitive event which involves the lawful use of dogs or cats.

(viii) Engaging in accepted practices of dog or cat identification.

(ix) Engaging in lawful activities that are regulated by the Mississippi Department of Wildlife, Fisheries and Parks or the Mississippi Department of Marine Resources, including without limitation, hunting, trapping, fishing, and wildlife and seafood management.

(x) Performing scientific, research, medical and zoological activities undertaken by research and education facilities or institutions that are:

1. Regulated under the provisions of the Animal Welfare Act, 7 USCS 2131 et seq., as in effect on July 1, 2011;
2. Regulated under the provisions of the Health Research Extension Act of 1985, Public Law No. 99-158; or
3. Subject to any other applicable state or federal law or regulation governing animal research as in effect on July 1, 2011.

(xi) Disposing of or destroying certain dogs under authority of Sections 19-5-50, 21-19-9 and 41-53-11, which allow counties, municipalities and certain law enforcement officers to destroy dogs running at large without proper identification indicating that such dogs have been vaccinated for rabies.

(xii) Engaging in professional pest control activities, including those activities governed by the Mississippi Pesticide Law of 1975, Section 69-23-1 et seq.; professional services related to entomology, plant pathology, horticulture, tree surgery, weed control or soil classification, as regulated under Section 69-19-1 et seq.; and any other pest control activities conducted in accordance with state law.

(xiii) Performing the humane euthanization of a dog or cat pursuant to Section 97-41-3.

(b) If the owner or person in control of a dog or cat is precluded, by natural or other causes beyond his reasonable control, from acting to prevent an act or omission that might otherwise constitute an allegation of the offense of simple cruelty to a dog or cat or the offense of aggravated cruelty to a dog or cat, then that person shall not be guilty of the offense. Natural or other causes beyond the reasonable control of the person include, without limitation, acts of God, declarations of disaster, emergencies, acts of war, earthquakes, hurricanes, tornadoes, fires, floods or other natural disasters.

(5) The provisions of this section shall not be construed to:

(a) Apply to any animal other than a dog or cat.

(b) Create any civil or criminal liability on the part of the driver of a motor vehicle if the driver unintentionally injures or kills a dog or cat as a result of the dog or cat being accidentally hit by the vehicle.

(6) (a) Except as otherwise provided in Section 97-35-47 for the false reporting of a crime, a person, who in good faith and acting without malice, reports a suspected incident of simple cruelty to a dog or cat, or aggravated cruelty to a dog or cat, to a local animal control, protection or welfare organization, a local law enforcement agency, or the Mississippi Department of Public Safety, shall be immune from civil and criminal liability for reporting the incident.

(b) A veterinarian licensed in Mississippi or a person acting at the direction of a veterinarian licensed in Mississippi, who in good faith and acting without malice, participates in the investigation of an alleged offense of simple or aggravated cruelty to a dog or cat, or makes a decision or renders services regarding the care of a dog or cat that is involved in the investigation, shall be immune from civil and criminal liability for those acts.

(7) Other than an agency or department of a political subdivision that is charged with the control, protection or welfare of dogs or cats within the subdivision, any organization that has the purpose of protecting the welfare of, or preventing cruelty to, dogs or cats, shall register the organization with the sheriff of the county in which the organization operates a physical facility for the protection, welfare or shelter of dogs or cats, on or before the first day of October each year. The provisions of this subsection (7) shall apply to any organization that has the purpose of protecting the welfare of dogs or cats, or preventing cruelty to dogs or cats, regardless of whether the organization also protects animals other than dogs or cats.

(8) Nothing in this section shall limit the authority of a municipality or board of supervisors to adopt ordinances, rules, regulations or resolutions which may be, in whole or in part, more restrictive than the provisions of this section, and in those cases, the more restrictive ordinances, rules, regulations or resolutions will govern.

Applicable Case Law:

Hill v. State, 853 So. 2d 100 (Miss. 2003)

Facts: Kenneth Hill shot and killed Big Dog, a Great Pyrenees dog belonging to Alfred Mills. The dog had passed next to Hill's trailer while returning to its own home. After hiding the body under his trailer, Hill later dragged the corpse out of his yard with his motorcycle. At trial, Hill admitted the shooting the dog and that it wasn't threatening anything at the time of the killing, but that he thought it was looking for something to eat on his property. Hill also claimed to be "dog psychic" and that other dogs would feel safer knowing this dog wasn't around any longer.

Holding: The statute prohibiting malicious or mischievous injury to dogs was held not to be unconstitutionally vague under the Due Process Clause for not defining if "spirit of revenge" refers to revenge against the dog or owner and not defining what "wanton cruelty" means in killing a dog. The court held that an ordinary person giving a fair reading of the statute would conclude that Hill's conduct was prohibited.

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Sentence: Hill was ordered to pay a \$750 fine, \$3,000 in restitution and six months in jail pending compliance with the order and good behavior.

MISS. CODE ANN. § 97-41-17. Poisoning animals

Every person who shall willfully and unlawfully administer any poison to any horse, mare, colt, mule, jack, jennet, cattle, deer, dog, cat, hog, sheep, chicken, duck, goose, turkey, pea-fowl, guinea-fowl, or partridge, or shall maliciously expose any poison substance with intent that the same should be taken or swallowed by any horse, mare, colt, mule, jack, jennet, cattle, dog, cat, hog, sheep, chicken, duck, goose, turkey, pea-fowl, guinea-fowl, or partridge, shall, upon conviction, be punished by imprisonment in the Penitentiary not exceeding three (3) years, or in the county jail not exceeding one (1) year, and by a fine not exceeding Five Hundred Dollars (\$500.00).

Applicable Case Law:

Bruister v. Haney, 102 So. 2d 806 (Miss. 1958)

Facts: Mr. and Mrs. Floy Haney brought suit against H.W. Bruister for the poisoning their trespassing chattel. The Haney's owned cattle that would graze on oats grown on their unfenced farm near Bruister's unfenced oat farm. Bruister protested that their cattle encroached on his land. Bruister mixed poison into his oats and did not tell the Haney's, but did tell other neighbors. Over time, the cattle became sick and some died.

Holding: The court found \$773 in actual damages and the jury was instructed as to the possibility of punitive damages. The jury returned a verdict for \$1,000. On appeal, the court recognized that the defendant knew the poison would kill the cattle and that the method and timing of the poison served no valid purpose and concluded that the poison was meant for the cattle. The court noted that an owner is not liable for the death of trespassing animals from poison "intended for another purpose" and is not generally bound to keep his premises safe for trespassing animals but when he exposes substances calculated to attract animals, he must use ordinary care.

2. ANIMAL FIGHTING

MISS. CODE ANN. § 97-41-11. Fighting animals

Any person who shall keep or use, or in any way be connected with or interested in the management of, or shall receive money for the admission of any person to, any place kept or used for the purpose of fighting any bear, cock or other creature, except a dog, or of tormenting or torturing the same, and every person who shall encourage, aid, or assist therein, or who shall permit or suffer any place to be so kept or used, shall be guilty of a misdemeanor. It shall be the duty of any policeman or other officer of the law, county or municipal, to enter into any such

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place kept for such purpose, and to arrest each and every person concerned or participating therein.

Applicable Case Law:

Op.Att’y.Gen. 2004-0078 (2004)

If, in the course of “wild hog baying and catching” competitions the animals are fought, killed, maimed, wounded, injured, tormented or tortured, then the practice would be illegal. However, such is a question of fact for the courts to decide.

MISS. CODE ANN. § 97-41-18. Hog and canine fighting events; prohibition

- (1) For the purposes of this section, “hog” means a pig, swine or boar.
- (2) It is unlawful for any person to organize or conduct any commercial event commonly referred to as a “catch” wherein there is a display of combat or fighting among 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.
- (3) It is unlawful for any person to organize, conduct or financially or materially support any event prohibited by this section.
- (4) The provisions of this section shall not apply to any competitive event in which canines trained for hunting or herding activities are released in an open or enclosed area to locate and corner hogs, commonly referred to as a “bay event,” and in which competitive points are deducted if a hog is caught and held.
- (5) The provisions of 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 for the field using accepted dog handling and training practices and is not in violation of the provisions of subsection (1) of this section.
- (6) Any person convicted under the provisions of this section shall be fined not more than One Thousand Dollars (\$1,000.00), imprisoned for not more than six (6) months, or both.

Applicable Case Law:

Op.Atty.Gen. No. 2006-00171 (2006)

The phrase commercial event is not specifically defined by the Mississippi Legislature in the Mississippi Code, but the clear language of SB 2210 (classified as Section 97-41-18) and application thereof in the context referenced in its text, that of a hog-dog rodeo or catch, a commercial event is an event primarily organized for the purpose of financial gain. The term would also designate an event that is advertised.

MISS. CODE ANN. § 97-41-19. Dog fights

(1) If any person

(a) shall sponsor, promote, stage or conduct a fight or fighting match between dogs, or

(b) shall wager or bet, promote or encourage the wagering or betting of any money or other valuable thing upon any such fight or upon the result thereof, or

(c) shall own a dog with the intent to wilfully enter it or to participate in any such fight,
or

(d) shall train or transport a dog for the purposes of participation in any such fight,

he shall be guilty of a felony and, upon conviction, shall be punished by a fine of not less than One Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00), or by imprisonment in the State Penitentiary for a term of not less than one (1) nor more than three (3) years, or by both such fine and imprisonment, in the discretion of the court.

(2) If any person shall be present, as a spectator, at any location where preparations are being made for an exhibition of a fight between dogs with the intent to be present at such preparations, or if any person shall be present at an exhibition of a fight between dogs with the intent to be present at such exhibition, he shall be guilty of a felony and, upon conviction, shall be punished by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or by imprisonment in the State Penitentiary for a term of not more than one (1) year, or by both such fine and imprisonment, in the discretion of the court.

(3) Any law enforcement officer making an arrest under subsection (1) of this section may lawfully take possession of all dogs and all paraphernalia, implements, equipment or other property used in violation of subsection (1) of this section. Such officer shall file with the circuit court of the county within which the alleged violation occurred an affidavit stating therein

(a) the name of the person charged,

- (b) a description of the property taken,
- (c) the time and place of the taking,
- (d) the name of the person who claims to own such property, if known, and
- (e) that the affiant has reason to believe, stating the ground of such belief, that the property taken was used in such violation.

He shall thereupon deliver the property to such court which shall, by order in writing, place such dogs, paraphernalia, implements, equipment, or other property in the custody of a licensed veterinarian, the local humane society or other animal welfare agency, or other suitable custodian, to be kept by such custodian until the conviction or final discharge of the accused, and shall send a copy of such order without delay to the district attorney of the county. The custodian named and designated in such order shall immediately assume the custody of such property and shall retain same, subject to order of the court.

Upon the certification of a licensed veterinarian or officer of the humane society or animal welfare agency that, in his professional judgment, a dog which has been seized is not likely to survive the final disposition of the charges or that, by reason of the physical condition of the dog, it should be humanely euthanized before such time, the court may order the dog humanely euthanized. The court shall make its finding of whether to issue such an order within seven (7) days from the certification by the veterinarian or officer of the humane society or animal welfare agency. The owner of a dog which is euthanized without an order of the court with such certification of a licensed veterinarian or officer of the humane society or other animal welfare agency shall have a right of action for damages against the department or agency by which the arresting or seizing officer is employed. Upon conviction of the person charged with a violation of subsection (1) of this section, all dogs seized shall be adjudged by the court to be forfeited and the court shall order a humane disposition of the same. In no event shall the court order the dog to be euthanized without the certification of a licensed veterinarian or officer of the humane society or other animal welfare agency that, in his judgment, the dog is not likely to survive or that, by reason of its physical condition, the dog should be humanely euthanized. In the event of the acquittal or final discharge without conviction of the accused, the court shall direct the delivery of the property so held in custody to the owner thereof. All reasonable expenses incurred by the custodian of seized dogs and property shall be charged as costs of court, to be taxed against the owner or county in the discretion of the court.

(4) Nothing in subsection (1) of this section shall prohibit any of the following:

- (a) The use of dogs in the management of livestock, by the owner of such livestock or other persons in lawful custody thereof;

- (b) The use of dogs in lawful hunting; and

(c) The training of dogs for any purpose not prohibited by law.

Applicable Case Law:

32 Pit Bulldogs and Other Prop. v. Cnty. of Prentiss, 808 So. 2d 971 (Miss. 2002)

Facts: Wilson Watkins was charged with dog fighting and related charges. Consequently, 32 of his dogs were seized. During a pending criminal trial regarding alleged dog fighting, a trial judge ordered the humane euthanizing of 18 seized pit bulldogs, based upon their vicious and aggressive nature, which the trial found to be a “physical condition” of the dogs per requirements of statute for authorizing euthanasia. The owner appealed, claiming they do not suffer from any ailments or injuries and that euthanasia was not in the dogs’ best interests.

Holding: The court held the dogs could not be rehabilitated as pets and posed a serious threat to other animals and people, which the court found to be a “physical condition” of the dogs. The court considered the broader context of the statute, noting two rationales for euthanizing a dog: 1. It is not likely to survive through final disposition of the charges or 2. If by reason of physical condition of the dog, it should be humanely euthanized. Under a narrow interpretation, the court found, the criteria would be the same, and therefore the first would be superfluous. The court sided with the trial judge’s view that the dog’s behavior was proper to include as part of the dog’s physical condition.

3. LIVESTOCK

MISS. CODE ANN. § 97-41-15. Maliciously injuring livestock

(1) Any person who shall maliciously, either out of a spirit of revenge or wanton cruelty, or who shall mischievously kill, maim or wound, or injure any livestock, or cause any person to do the same, shall be guilty of a felony and upon conviction, shall be committed to the custody of the State Department of Corrections for not less than twelve (12) months nor more than five years, and fined an amount not less than One Thousand Five Hundred Dollars (\$1,500.00), nor more than Ten Thousand Dollars (\$10,000.00).

(2) In addition to any such fine or imprisonment which may be imposed, the court shall order that restitution be made to the owner of any animal listed in subsection (1) of this section. The measure for restitution in money shall be the current replacement value of such loss and/or the actual veterinarian fees, special supplies, loss of income and other costs incurred as a result of actions in violation of subsection (1) of this section.

(3) For purposes of this section, the term “livestock” shall mean horses, cattle, swine, sheep and other domestic animals produced for profit.

No Applicable Case Law.

4. SERVICE ANIMALS

MISS. CODE ANN. § 97-41-21. Harassment of guide dogs

(1) An individual shall not do either of the following:

(a) Willfully and maliciously assault, beat, harass, injure, or attempt to assault, beat, harass or injure, a dog that he or she knows or has reason to believe is a guide or leader dog for a blind individual, a hearing dog for a deaf or audibly impaired individual, a service dog for a physically limited individual, or a support dog for a mobility impaired person as described in Sections 43-6-151 through 43-6-155.

(b) Willfully and maliciously impede or interfere with, or attempt to impede or interfere with, duties performed by a dog that he or she knows or has reason to believe is a guide or leader dog for a blind individual, a hearing dog for a deaf or audibly impaired individual, a service dog for a physically limited individual, or a support dog for a mobility impaired person as described in Sections 43-6-151 through 43-6-155.

(2) An individual who violates subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than ninety (90) days or a fine of not more than Five Hundred Dollars (\$500.00), or both.

(3) In a prosecution for a violation of subsection (1), evidence that the defendant initiated or continued conduct directed toward a dog described in subsection (1) after being requested to avoid or discontinue that conduct or similar conduct by a blind, deaf, audibly impaired, physically limited or mobility impaired individual being served or assisted by the dog shall give rise to a rebuttable presumption that the conduct was initiated or continued maliciously.

(4) A conviction and imposition of a sentence under this section does not prevent a conviction and imposition of a sentence under Section 97-41-16 pertaining to the offenses of simple or aggravated cruelty to a dog or cat, or any other applicable provision of law.

(5) As used in this section:

(a) "Audibly impaired" means the inability to hear air conduction thresholds at an average of forty (40) decibels or greater in the individual's better ear.

(b) "Blind" means having a visual acuity of $20/200$ or less in the individual's better eye with correction, or having a limitation of the individual's field of vision such that the widest diameter of the visual field subtends an angular distance not greater than twenty (20) degrees.

(c) “Deaf” means the individual's hearing is totally impaired or the individual's hearing, with or without amplification, is so seriously impaired that the primary means of receiving spoken language is through other sensory input, including, but not limited to, lip reading, sign language, finger spelling or reading.

(d) “Harass” means to engage in any conduct directed toward a guide, leader, hearing or service dog that is likely to impede or interfere with the dog's performance of its duties or that places the blind, deaf, audibly impaired or physically limited individual being served or assisted by the dog in danger of injury.

(e) “Injure” means to cause any physical injury to a dog described in subsection (1).

(f) “Maliciously” means any of the following:

(i) With intent to assault, beat, harass or injure a dog described in subsection (1).

(ii) With intent to impede or interfere with duties performed by a dog described in subsection (1).

(iii) With intent to disturb, endanger or cause emotional distress to a blind, deaf, audibly impaired or physically limited individual being served or assisted by a dog described in subsection (1).

(iv) With knowledge that the individual's conduct will, or is likely to, harass or injure a dog described in subsection (1).

(v) With knowledge that the individual's conduct will, or is likely to, impede or interfere with duties performed by a dog described in subsection (1).

(vi) With knowledge that the individual's conduct will, or is likely to, disturb, endanger or cause emotional distress to a blind, deaf, audibly impaired or physically limited individual being served or assisted by a dog described in subsection (1).

(g) “Physically limited” means having limited ambulatory abilities and includes, but is not limited to, having a temporary or permanent impairment or condition that does one or more of the following:

(i) Causes the individual to use a wheelchair or walk with difficulty or insecurity.

(ii) Affects sight or hearing to the extent that an individual is insecure or exposed to danger.

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(iii) Causes faulty coordination.

(iv) Reduces mobility, flexibility, coordination or perceptiveness.

No Applicable Case Law.

MISS. CODE ANN. § 97-41-23. Killing or injuring public service animal; penalty

(1) It is unlawful for any person to willfully and maliciously taunt, torment, tease, beat, strike, or to administer, expose or inject any desensitizing drugs, chemicals or substance to any public service animal. Any person who violates this section is guilty of a misdemeanor, and upon conviction thereof shall be fined not more than Two Hundred Dollars (\$200.00) and be imprisoned not more than five (5) days, or both.

(2) Any person who, without just cause, purposely kills or injures any public service animal is guilty of a felony and upon conviction shall be fined not more than Five Thousand Dollars (\$5,000.00) and be imprisoned not more than five (5) years, or both.

(3) For purposes of this section, the term “public service animal” means any animal trained and used to assist a law enforcement agency, public safety entity or search and rescue agency.

(4) A conviction and imposition of a sentence under this section does not prevent a conviction and imposition of a sentence under Section 97-41-16 pertaining to the offenses of simple or aggravated cruelty to a dog or cat, or under any other applicable provision of law.

(5) Any person guilty of violating subsection (2) of this section shall also be required to make restitution to the law enforcement agency or owner aggrieved thereby.

(6) The provisions of this section shall not apply to the lawful practice of veterinary medicine.

No Applicable Case Law.

MISS. CODE ANN. § 43-6-155. Guide, leader and listener dogs or other animals

(1) Any blind person, mobility impaired person or hearing impaired person who uses a dog or other animal specifically trained as a guide, leader, listener or for any other assistance necessary to assist such blind, mobility impaired or hearing impaired person in day-to-day activities shall be entitled to the full and equal accommodations, advantages, facilities and privileges of all public conveyances, hotels, lodging places, businesses open to the public for the sale of any goods or services and all places of public accommodation, amusement, or resort and other places to which the general public is invited, and may take the dog or other animal into conveyances and places, subject only to the conditions and limitations applicable to all persons not so accompanied, except that:

(a) The dog or other animal shall not occupy a seat in any public conveyance.

(b) The dog or other animal shall be upon a leash or otherwise sufficiently restrained in a manner appropriate for the animal while using the facilities of a common carrier.

(2) Trainers of support dogs and other support animals shall have the same rights of accommodations, advantages, facilities and privileges with support animals-in-training as those provided to blind, mobility impaired or hearing impaired persons with support animals under this section.

(3) No person shall deprive a blind, mobility impaired, hearing impaired person, or a support animal trainer of any of the advantages, facilities or privileges provided in this section, nor charge such blind, mobility impaired or hearing impaired person or support animal trainer a fee or charge for the use of the animal.

No Applicable Case Law.

5. BESTIALITY

MISS. CODE ANN. § 97-29-59. Sodomy

Every person who shall be convicted of the detestable and abominable crime against nature committed with . . . with a beast, shall be punished by imprisonment in the penitentiary for a term of not more than ten years.

No Applicable Case Law.

6. WILDLIFE

MISS. CODE ANN. § 49-5-107. Protection of nongame wildlife

...

(c) Except as provided in regulations issued by the commission, it shall be unlawful for any person to take, possess, transport, export, process, purchase, sell or offer for sale or ship nongame wildlife³ deemed by the commission to be in need of management pursuant to this section. Subject to the same exception, it shall further be unlawful for any common or contract carrier knowingly to transport or receive for shipment nongame wildlife deemed by the commission to be in need of management pursuant to this section.

³ "Nongame species" means any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean or other wild animal not otherwise legally classified by statute or regulation of this state.

No Applicable Case Law.

MISS. CODE ANN. § 49-5-109. Protection of endangered species

...

(c) Except as otherwise provided in Sections 49-5-101 through 49-5-119, it shall be unlawful for any person to take, possess, transport, export, process, sell or offer for sale or ship, and for any common or contract carrier knowingly to transport or receive for shipment any species or subspecies of wildlife appearing on any of the following lists:

(1) the list of wildlife indigenous to the state determined to be endangered within the state⁴ ...;

(2) the United States' List of Endangered Native Fish and Wildlife as it appears on July 1, 1974 (Part 17 of Title 50, Code of Federal Regulations, Appendix D); and

(3) the United States' List of Endangered Foreign Fish and Wildlife (Part 17 of Title 50, Code of Federal Regulations, Appendix A), as such list may be modified hereafter; provided, that any species or subspecies of wildlife appearing on any of the foregoing lists which enters the state from another state or from a point outside the territorial limits of the United States and which is transported across the state destined for a point beyond the state may be so entered and transported without restriction in accordance with the terms of any federal permit or permit issued under the laws or regulations of another state.

(d) In the event the United States' List of Endangered Native Fish and Wildlife is modified subsequent to July 1, 1974, by additions or deletions, such modifications whether or not involving species or subspecies indigenous to the state may be accepted as binding under subsection (c) if, after the type of scientific determination described in subsection (a), the commission by regulation accepts such modification for the state. Any such regulation shall be effective upon promulgation.

⁴ "Endangered species" means any species or subspecies of wildlife whose prospects of survival or recruitment within the state are in jeopardy or are likely within the foreseeable future to become so, due to any of the following factors:

- (1) the destruction, drastic modification, or severe curtailment of its habitat, or
- (2) its over-utilization for scientific, commercial or sporting purposes, or
- (3) the effect on it of disease, pollution, or predation, or
- (4) other natural or man-made factors affecting its prospects of survival or recruitment within the state, or
- (5) any combination of the foregoing factors.

The term shall also be deemed to include any species or subspecies of fish and wildlife appearing on the United States' List of Endangered Native Fish and Wildlife as it appears on July 1, 1974, (Part 17 of Title 50 of the Code of Federal Regulations, Appendix D) as well as any species or subspecies of fish and wildlife appearing on the United States' List of Endangered Foreign Fish and Wildlife (Part 17 of Title 50 of the Code of Federal Regulations, Appendix A), as such list may be modified hereafter.

No Applicable Case Law.

MISS. CODE ANN. § 49-8-7. Prohibited possession

- (1) (a) It is unlawful for a person to import, transfer, sell, purchase or possess any wild animal⁵ classified inherently dangerous by law or regulation unless that person holds a permit under paragraph (b) or is exempted under paragraph (c).
- (b) (i) Any person who possesses a wild animal on May 1, 1997, may receive a fee-exempt temporary permit for that animal if the person applies by July 1, 1997. The temporary permit shall be valid until such time as the department⁶ notifies the person of the adoption of the regulations for wild animals and of the date the person must apply for an annual permit. After notification, the person shall apply for an annual permit.
- (ii) A person must obtain a permit before that person takes possession of a wild animal. The applicant must comply with all the requirements of this chapter and the regulations promulgated by the commission⁷ to obtain the permit. Prior to the issuance of a permit, the applicant must provide proof of liability insurance in the amount of One Hundred Thousand Dollars (\$100,000.00) for each wild animal up to a maximum of One Million Dollars (\$1,000,000.00). An applicant shall have the burden of proving that any wild animals subject to this chapter are or will be imported, transferred, sold, purchased or possessed in compliance with this chapter and regulations.
- (c) Public zoos, university research facilities, governmental agencies, transient circuses and rehabilitation and sanctuary facilities may be exempted from having a permit if the exemption is approved by the commission.
- (d) Any permit issued under this chapter shall be valid for one (1) year and only for the species specified. A permit is required for each wild animal possessed. A permit for a female wild animal shall cover her progeny only while her progeny are physically dependent upon her or until her progeny are three (3) months old, whichever period is longer.
- (2) (a) It is unlawful for any person to sell, transfer, deliver or give a wild animal classified as inherently dangerous to any other person unless the other person holds a permit for the wild animal or is exempt from holding a permit.

⁵ “Wild animal” means any wild animal classified as inherently dangerous to humans as provided in § 49-8-5.

⁶ “Department” means the Department of Wildlife, Fisheries and Parks.

⁷ “Commission” means the Commission on Wildlife, Fisheries and Parks.

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(b) Owners of unpermitted wild animals who do not qualify for a permit to possess the wild animal shall dispose of the wild animal according to law or regulation within thirty (30) days of notification by the department. Each day of possession of the unpermitted wild animal after the thirty-day period constitutes a separate violation.

No Applicable Case Law.

7. MISCELLANEOUS

MISS. CODE ANN. § 97-27-7. Glanders or farcy

If any person, being the owner or having the charge of any animal diseased with the glanders or farcy, shall not deprive the animal of life or closely confine it remote from all other animals liable to contract the disease, he shall be guilty of a misdemeanor and, on conviction, shall be punished as provided in § 97-41-13.

Whenever a case of glanders or farcy is reported to the president of the board of supervisors, he may employ a competent veterinary surgeon, if necessary, at the expense of the county. If such veterinary surgeon declare the animal or animals affected with the glanders or farcy the sheriff shall immediately kill the animal or animals, for which service he shall be allowed not more than two dollars for each animal destroyed, to be paid out of the county treasury. And the said board of supervisors are hereby authorized and empowered, in the discretion of said board, to allow to the owner of said animal or animals, to be paid out of the county treasury, such sum therefor as the board may deem proper. If any owner of stock, having good reason to suspect that his stock is diseased shall fail to report to the president of the board, or if any official named in this section shall fail to perform the duties herein imposed, such offender shall, on conviction, be fined not less than twenty-five dollars or more than two hundred dollars, or shall be imprisoned in the county jail for a term not exceeding two months or both. The board of supervisors when any animal shall have been exposed to glanders or farcy and not actually infected, may order all such animals to be quarantined until such time as the danger of contagion shall have passed, and the place where such animals are kept shall also be quarantined.

No Applicable Case Law.

MISS. CODE ANN. § 97-29-57. Stallion or jack not to be kept in public

A person shall not keep a stallion or jack nearer than one hundred yards to a church, or in public view in an inclosure bordering on a public highway, or nearer thereto, than one hundred yards; nor shall any person stand such animals in open view of any public place, or negligently keep such animal or suffer it to run at large. Any such offender, upon conviction, shall be fined not less than twenty-five dollars, and shall be liable for all damages done by such animals so kept or running at large.

No Applicable Case Law.

8. DISPOSITION OF MISTREATED ANIMALS

MISS. CODE ANN. § 97-41-2. Seizure of mistreated animal

(1) All courts in the State of Mississippi may order the seizure of an animal by a law enforcement agency, for its care and protection upon a finding of probable cause to believe said animal is being cruelly treated, neglected or abandoned. Such probable cause may be established upon sworn testimony of any person who has witnessed the condition of said animal. The court may appoint an animal control agency, agent of an animal shelter organization, veterinarian or other person as temporary custodian for the said animal, pending final disposition of the animal pursuant to this section. Such temporary custodian shall directly contract and be responsible for any care rendered to such animal, and may make arrangements for such care as may be necessary. Upon seizure of an animal, the law enforcement agency responsible for removal of the animal shall serve notice upon the owner of the animal, if possible, and shall also post prominently a notice to the owner or custodian to inform such person that the animal has been seized. Such process and notice shall contain a description of the animal seized, the date seized, the name of the law enforcement agency seizing the animal, the name of the temporary custodian, if known at the time, and shall include a copy of the order of the court authorizing the seizure.

(2) Within five (5) days of seizure of an animal, the owner of the animal may request a hearing in the court ordering the animal to be seized to determine whether the owner is able to provide adequately for the animal and is fit to have custody of the animal. The court shall hold such hearing within fourteen (14) days of receiving such request. The hearing shall be concluded and the court order entered thereon within twenty-one (21) days after the hearing is commenced. Upon requesting a hearing, the owner shall have three (3) business days to post a bond or security with the court clerk in an amount determined by the court to be sufficient to repay all reasonable costs sufficient to provide for the animal's care. Failure to post such bond within three (3) days shall result in forfeiture of the animal to the court. If the temporary custodian has custody of the animal upon the expiration of the bond or security, the animal shall be forfeited to the court unless the court orders otherwise.

(3) In determining the owner's fitness to have custody of an animal, the court may consider, among other matters:

(a) Testimony from law enforcement officers, animal control officers, animal protection officials, and other witnesses as to the condition the animal was kept in by its owner or custodian.

- (b) Testimony and evidence as to the type and amount of care provided to the animal by its owner or custodian.
 - (c) Expert testimony as to the proper and reasonable care of the same type of animal.
 - (d) Testimony from any witnesses as to prior treatment or condition of this or other animals in the same custody.
 - (e) Violations of laws relating to animal cruelty that the owner or custodian has been convicted of prior to the hearing.
 - (f) Any other evidence the court considers to be material or relevant.
- (4) Upon proof of costs incurred as a result of the animal's seizure, including, but not limited to, animal medical and boarding, the court may order that the animal's owner reimburse the temporary custodian for such costs. A lien for authorized expenses is hereby created upon all animals seized under this section, and shall have priority to any other lien on such animal.
- (5) If the court finds the owner of the animal is unable or unfit to adequately provide for the animal, or that the animal is severely injured, diseased, or suffering, and, therefore, not likely to recover, the court may order that the animal be permanently forfeited and released to an animal control agency, animal protection organization or to the appropriate entity to be euthanized or the court may order that such animal be sold at public sale in the manner now provided for judicial sales; any proceeds from such sale shall go first toward the payment of expenses and costs relating to the care and treatment of such animal, and any excess amount shall be paid to the owner of the animal.
- (6) Upon notice and hearing as provided in this section, or as a part of any preceding conducted under the terms of this section, the court may order that other animals in the custody of the owner that were not seized be surrendered and further enjoin the owner from having custody of other animals in the future.
- (7) If the court determines the owner is able to provide adequately for, and have custody of, the animal, the court shall order the animal be claimed and removed by the owner within seven (7) days after the date of the order.
- (8) Nothing in this section shall be construed to prevent or otherwise interfere with a law enforcement officer's authority to seize an animal as evidence or require court action for the taking into custody and making proper disposition of animals as authorized in Sections 21-19-9 and 41-53-11.
- (9) For the purposes of this section the term "animal" or "animals" means any feline, exotic animal, canine, horse, mule, jack or jennet.

No Applicable Case Law.

9. PENALTIES

MISS. CODE ANN. § 97-41-13. Penalties

Any person who shall violate any of sections 97-41-3 to 97-41-11, or section 97-27-7 on the subject of cruelty to animals shall, on conviction, be fined not less than ten dollars nor more than one hundred dollars, or shall be imprisoned in the county jail not less than ten days nor more than one hundred days or both.

No Applicable Case Law.

MISS. CODE ANN. § 49-5-115. Fines, penalties, enforcement, seizures

(a) Any person who violates the provisions of subsection (c) of Section 49-5-107, or any regulations issued under Section 49-5-107 or whoever fails to procure or violates the terms of any permit issued thereunder shall be guilty of a Class I violation and punished as provided in Section 49-7-141.

(b) Any person who violates the provisions of subsection (c) of Section 49-5-109, or any regulations issued pursuant thereto or whoever fails to procure or violates the terms of any permit issued under subsections (d) and (e) of Section 49-5-111 is guilty of a Class I violation and is punishable as provided under Section 49-7-141.

(c) All law enforcement and management officers of the commission and other law enforcement officers authorized to enforce the laws of the State of Mississippi are authorized to carry out the provisions of Sections 49-5-101 through 49-5-119. Any officer or agent may, without warrant, arrest any person who the officer or agent has probable cause to believe is violating, in his presence or view, any section, regulation or permit provided for by Sections 49-5-101 through 49-5-119. An officer or agent who has made an arrest of a person for any such violation may search the person or business records at the time of arrest and seize any wildlife, records, or property taken, or used in connection with the violation.

(d) Equipment, merchandise, wildlife, or records seized under subsection (c) of this section shall be held by an officer or agent of the commission pending disposition of court proceedings, and may be forfeited to the state for destruction or disposition as the commission may deem appropriate. Prior to forfeiture, the commission may direct the transfer of wildlife so seized to a qualified zoological, educational, or scientific institution for safekeeping, costs thereof to be assessable to the defendant. The commission is authorized to issue regulations to implement this subsection.

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No Applicable Case Law.

MISS. CODE ANN. § 49-8-15. Penalties

A violation of this chapter is a Class I violation and is punishable as provided in Section 49-7-141, Mississippi Code of 1972.

No Applicable Case Law.