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3 SENATE GA COMMITTEE SUBSTITUTE FOR SB146 AS AMENDED
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8 SYNOPSIS: Existing law prohibits cock fights and fines
9 a person convicted of cock fighting not less than
10 twenty dollars nor more than fifty dollars.

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

1 violation of the above. Upon a second or subsequent
2 conviction of the above acts it would be a Class C
3 felony.

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

12 This bill would require persons who
13 regularly keep cocks to register the location of
14 the cocks with the Alabama Department of
15 Agriculture and Industries for the purpose of
16 disease control.

17 This bill would provide confiscation
18 procedures for fighting cocks and would define
19 terms.

20 This bill would also provide additional
21 fines and forfeiture of certain property and
22 profits and would provide procedures for filing a
23 report on seizures of cocks found to be fighting
24 and for destroying cocks found to be fighting.

25 Amendment 621 of the Constitution of Alabama
26 of 1901, now appearing as Section 111.05 of the

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

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

19
20 A BILL

21 TO BE ENTITLED

22 AN ACT

23
24 To amend Section 13A-12-4 of the Code of Alabama
25 1975, relating to cockfighting; and to add Sections 13A-12-4.1
26 and 13A-12-4.2 to the Code of Alabama 1975; to make it a Class

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

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

19 "§13A-12-4.

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

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

1 "a. To sell a cock with the intent that the cock
2 will fight another cock or train a cock with the intent that
3 the cock will fight another cock.

4 "b. For amusement or gain, to cause any cock to
5 fight with another cock or cause any cock to injure another
6 cock.

7 "c. To own, manage, or operate any facility or
8 property for the purpose of cockfighting, or to finance,
9 commercially advertise, promote, sell admission tickets, or
10 employ persons for the same.

11 "d. To possess or use any device or substance
12 intended to enhance the ability of a cock to fight or inflict
13 injury on another cock with the intent the device or substance
14 be used for such purposes.

15 "e. To wager money or anything of value on the
16 result of such fighting.

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

19 "g. To permit or cause a minor to do either of the
20 following:

21 "1. Attend an exhibition of the fighting of any
22 cock.

23 "2. Undertake or be involved in any act described in
24 this subsection.

25 "h. To knowingly permit any act in violation of
26 subdivision (1).

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

3 "(b) It shall be a Class A misdemeanor for any
4 person to be knowingly present, as a spectator, at any place,
5 building, or tenement where preparations are being made for a
6 cockfight with the intent to be present at the cockfight, to
7 be knowingly present at the cockfight, or to knowingly aid or
8 abet another in the cockfight.

9 "(c) Any cock used to fight another cock in
10 violation of subsection (a) shall be confiscated as contraband
11 by the sheriff or other law enforcement officer incident to a
12 lawful arrest or search warrant, or both, and shall not be
13 returned to the owner, trainer, or possessor of the cock until
14 a hearing has been conducted or otherwise pursuant to Section
15 13A-12-4.2.

16 "(d) Any person who regularly keeps cocks shall
17 register the location of the cocks with the Alabama Department
18 of Agriculture and Industries for the purpose of disease
19 control.

20 "(e) For purposes of this section and Sections
21 13A-12-4.1 and 13A-12-4.2, the following terms have the
22 following meanings:

23 "(1) COCK. A male chicken.

24 "(2) COCKFIGHTING. An intentional fight between two
25 or more cocks. The term does not include conduct which is
26 otherwise permitted under the agricultural or animal husbandry

1 laws, customs, or practices of this state or of the United
2 States not specifically prohibited by this section or other
3 laws, which include, but are not limited to, conditioning of
4 poultry for general health purposes.

5 "(3) TRAIN. To intentionally develop the skills of a
6 cock for the purpose of fighting, injuring, or killing another
7 cock."

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

10 §13A-12-4.1.

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

14 (1) In addition to any other penalties provided by
15 law, a fine of ten thousand dollars (\$10,000) is imposed for
16 conviction of a Class A misdemeanor and a fine of twenty
17 thousand dollars (\$20,000) is imposed for conviction of a
18 Class C felony.

19 (2) Forfeiture of all profits resulting from the
20 cockfighting as well as any property, real or personal, that
21 is a proceed of profits derived from the cockfighting,
22 traceable to the cockfighting, or used to facilitate the
23 cockfighting.

24 (3) Forfeiture of any interest in any property, real
25 or otherwise, used directly in connection with the
26 cockfighting.

1 §13A-12-4.2.

2 (a) Upon seizure of any cock under subsection (c) of
3 Section 13A-12-4, the law enforcement officer making the
4 seizure shall report the seizure and the facts connected
5 therewith to the state veterinarian or his or her designee,
6 the district attorney, or other prosecuting official in the
7 judicial circuit. The law enforcement agency shall provide the
8 state veterinarian or his or her designee a reasonable period
9 of time to arrive and test the involved cocks for disease
10 before transporting or destroying any cocks on the premises to
11 prevent any possible transmission of disease. The report shall
12 contain a full description of the cocks seized and detained,
13 the name of the person in whose possession it was found, the
14 name of the person making claim to the cocks, or any interest
15 therein, if the name is known or can be ascertained, the date
16 of seizure, and a statement of the circumstances surrounding
17 the seizing of the cocks. The district attorney or other
18 prosecuting officer of the judicial circuit upon receiving the
19 report shall within three business days institute, or cause to
20 be instituted, condemnation proceedings in the circuit court,
21 on the civil docket.

22 (b) A veterinarian, upon delivery of the seized
23 cocks to his or her office, or should one not be willing or
24 available, an animal shelter or at any time thereafter, after
25 consulting with the state veterinarian or his or her designee,
26 may destroy or order the destruction of any cock that is in

1 his or her opinion injured, diseased past recovery, lacks any
2 useful purpose due to training or viciousness, or whose
3 continued existence is inhumane and destruction is necessary
4 to relieve pain or suffering. A veterinarian shall not be held
5 civilly or criminally liable for any actions taken under this
6 section performed in good faith absent negligence, wantonness,
7 recklessness, or deliberate misconduct. .

8 (c) A cock confiscated pursuant to subsection (c) of
9 Section 13A-12-4 shall be taken to a veterinarian, or should
10 one not be willing or available, an animal shelter, pending
11 condemnation proceedings. The court shall set a condemnation
12 hearing date not more than 30 days from the filing of the
13 application and shall give notice of the same to the owners of
14 the cock. The state shall have the burden to prove by a
15 preponderance of the evidence that the confiscated cock was
16 used in violation of Section 13A-12-4.

17 (1) Upon a finding by the court that the cock was so
18 used, the cock shall remain in the custody of a veterinarian,
19 or should one not be willing or available, an animal shelter.
20 It shall be within the sole discretion of the veterinarian or
21 animal shelter to determine whether the cock is diseased,
22 injured, or lacks any useful purpose due to training or
23 viciousness, and if so, a veterinarian may humanely destroy or
24 order the destruction of such cock.

25 (2) Expenses incurred in connection with the
26 housing, care, or upkeep of a cock by any person, firm,

1 partnership, corporation, or other entity after seizure of the
2 cock pursuant to subsection (c) of Section 13A-12-4 shall be
3 taxed against the owner. In the event that no owner of the
4 seized animals can be identified, the property owner or
5 operator of the real property used for cockfighting shall be
6 the presumptive owner of the cock. In the event that the owner
7 is not charged with violating Section 13A-12-4 or is acquitted
8 of violating that section, this subsection shall not apply if
9 the court has also found by a preponderance of the evidence
10 that the cock seized was not used in connection with
11 cockfighting.

12 (3) If, after a hearing, the state is unable to
13 prove by a preponderance of the evidence that the confiscated
14 cock was used in violation of Section 13A-12-4, then the
15 seized cock shall remain in the custody of the veterinarian or
16 animal shelter pending the outcome of any criminal proceedings
17 brought against the owners of the cock.

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

23 Section 3. Although this bill would have as its
24 purpose or effect the requirement of a new or increased
25 expenditure of local funds, the bill is excluded from further
26 requirements and application under Amendment 621, now

1 appearing as Section 111.05 of the Official ReCompilation of
2 the Constitution of Alabama of 1901, as amended, because the
3 bill defines a new crime or amends the definition of an
4 existing crime.

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