

1 SB196
2 205033-1
3 By Senators Williams, Sessions, Whatley, Chesteen, Price and
4 Scofield
5 RFD: Agriculture, Conservation and Forestry
6 First Read: 18-FEB-20

SYNOPSIS: This bill would provide the Commissioner and the Department of Agriculture and Industries with exclusive jurisdiction over the regulation of working animals and animal enterprises, would provide a reporting and investigation process for alleged violations of animal cruelty by an animal enterprise, and would provide impoundment procedures for animals found to be in danger of permanent physical injury or imminent death.

 This bill would provide criminal penalties for submitting a frivolous complaint alleging an animal enterprise has engaged in animal cruelty.

 Amendment 621 of the Constitution of Alabama of 1901, as amended by Amendment 890, now appearing as Section 111.05 of the Official ReCompilation of the Constitution of Alabama of 1901, as amended, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by

1 a 2/3 vote unless: it comes within one of a number
2 of specified exceptions; it is approved by the
3 affected entity; or the Legislature appropriates
4 funds, or provides a local source of revenue, to
5 the entity for the purpose.

6 The purpose or effect of this bill would be
7 to require a new or increased expenditure of local
8 funds within the meaning of the amendment. However,
9 the bill does not require approval of a local
10 governmental entity or enactment by a 2/3 vote to
11 become effective because it comes within one of the
12 specified exceptions contained in the amendment.

13
14 A BILL
15 TO BE ENTITLED
16 AN ACT

17
18 Relating to animal enterprises and working animals;
19 to establish the Working Animal Protection and Animal
20 Enterprise Freedom Act; to guarantee certain rights to animal
21 enterprises; to provide for the regulation of working animals
22 and animal enterprises by the Commissioner and the Department
23 of Agriculture and Industries; to provide a reporting and
24 investigation process for alleged violations of animal cruelty
25 by an animal enterprise; to provide impoundment procedures for
26 animals found to be in danger; to provide criminal penalties
27 for submitting a frivolous complaint against an animal

1 enterprise; and in connection therewith to have as its purpose
2 or effect the requirement of a new or increased expenditure of
3 local funds within the meaning of Amendment 621 of the
4 Constitution of Alabama of 1901, as amended by Amendment 890,
5 now appearing as Section 111.05 of the Official Recompilation
6 of the Constitution of Alabama of 1901, as amended.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. This act shall be known and may be cited
9 as the Working Animal Protection and Animal Enterprise Freedom
10 Act.

11 Section 2. Legislative Findings.

12 The Legislature finds and declares the following:

13 (1) Farms, ranches, and other animal related
14 enterprises exist to provide food, companionship, and services
15 to the residents of the state.

16 (2) Animals, like productive people, want to work.
17 It is the purpose of this act to allow animals to participate
18 in work that benefits both the animals, their handlers, and
19 the people around them.

20 (3) The right to engage in business as an animal
21 enterprise or utilize working animals for the mutual benefit
22 and welfare of the animals and those they serve should be
23 guaranteed.

24 (4) It is the intent of the Legislature to ensure
25 that the residents of the state are afforded the choice to
26 avail themselves of animals from the animal enterprise of
27 their choice or the services provided by working animals.

1 Section 3. As used in this act, the following terms
2 shall have the following meanings:

3 (1) ANIMAL. Any warm blooded mammal, excluding human
4 beings.

5 (2) ANIMAL CONTROL OFFICER. Any person employed by a
6 county or municipality who performs animal control functions.

7 (3) ANIMAL ENTERPRISE. Any person regularly deriving
8 any revenue from any animal related business, charity, or
9 organization, including, but not limited to, the production,
10 storage, transportation, or retail or wholesale sales of
11 animals, including any enterprise utilizing a working animal
12 as defined by this act.

13 (4) COMMISSIONER. The Commissioner of Agriculture
14 and Industries or his or her designated representatives who
15 shall be employees of the state.

16 (5) DEPARTMENT. The Department of Agriculture and
17 Industries.

18 (6) HEALTH. The overall condition of an animal that
19 is free from debilitating disease or abnormality directly
20 caused by abuse from an animal enterprise.

21 (7) IMPOUNDED. Taken into custody of law
22 enforcement, the county pound, or an animal control authority
23 or designated provider of animal control services to the
24 county or municipality.

25 (8) PERSON. Any individual, partnership,
26 corporation, charity, association, and all other groups or
27 combinations.

1 (9) SALE, SELL, RETAIL SALE, WHOLESALE SALE, or
2 RESALE. The sale or transfer of ownership of an animal for a
3 fee, compensation, donation, or other consideration and
4 specifically including barter or exchange. The term adopt
5 shall have the same meaning as sale, sell, and resale when
6 ownership of an animal is transferred for a fee, compensation,
7 donation, other consideration, barter, or exchange.

8 (10) VETERINARIAN. A veterinarian licensed to
9 practice in the state.

10 (11) WORKING ANIMAL. Any animal used for the purpose
11 of performing a specific duty or function in commerce,
12 service, therapy, farming, law enforcement, search and rescue,
13 agility, competitive sport, conformation, or ranching,
14 including, but not limited to, entertainment, transportation,
15 service, education, or exhibition.

16 Section 4. (a) This act and the requirements of the
17 act are of statewide concern and occupy the whole field of
18 regulation regarding working animals and animal enterprises,
19 including the production, processing, registration, marketing,
20 sale, storage, transportation, distribution, possession, work,
21 or other use of animals as described by this act.

22 (b) The entire subject matter of this act shall be
23 subject to the exclusive jurisdiction of the commissioner and
24 the department.

25 (c) Except as otherwise specifically provided in
26 this act, no law, ordinance, rule, regulation, or resolution
27 of any county, municipality, or other political subdivision of

1 the state that terminates, bans, effectively bans by creating
2 undue financial hardship, prohibits, or in any way attempts to
3 regulate any matter relating to working animals, an animal
4 enterprise, or the production, processing, registration,
5 labeling, marketing, sale, storage, transportation,
6 distribution, possession, or notification of animal sales or
7 production and any law, ordinance, rule, regulation, or
8 resolution in conflict with, in addition to, or supplemental
9 to this act, is declared to be invalid and of no effect.

10 (d) This act shall not affect, supersede, or
11 override any zoning ordinance or business license enacted by a
12 county or municipal government, except to the extent the
13 zoning ordinance or business license purports to regulate
14 animals as prohibited by this act, the provisions of which
15 shall be void.

16 (e) Nothing in this act shall be construed to
17 preempt or limit remedies available under common law or
18 statute.

19 (f)(1) This act is in addition to, and not in lieu
20 of, federal laws and regulations pertaining to the sale, care,
21 keeping, transfer, and transport of animals.

22 (2) The commissioner may report to the appropriate
23 authority any person alleged to have violated a state or
24 federal law or regulation pertaining to the sale, care,
25 keeping, transfer, and transport of animals.

1 Section 5. (a) (1) It shall be unlawful to submit a
2 frivolous complaint alleging an animal enterprise has engaged
3 in animal cruelty.

4 (2) For the purposes of this section, frivolous
5 means a complaint clearly lacking any basis in fact or law.

6 (b) A person who submits a frivolous complaint shall
7 be guilty of a Class C misdemeanor and shall be liable for and
8 shall be ordered to pay to the commissioner or the county or
9 municipality employing an animal control officer, upon demand,
10 an amount equal to the actual costs of the department in
11 investigating the frivolous complaint and any fees for
12 boarding the animal or animals resulting from a frivolous
13 complaint.

14 Section 6. (a) (1) When a person claims that an
15 animal enterprise is in violation of Section 3-1-29,
16 13A-6-221, 13A-11-14, 13A-11-14.1, or 13A-11-241, Code of
17 Alabama 1975, the person shall make a sworn statement before a
18 municipal judge or sheriff setting forth the name of the
19 animal enterprise, or the owner, if known, the location where
20 the animal is being kept in the county or municipality, and
21 the reason the person believes the animal has been subjected
22 to animal cruelty.

23 (2) The sworn statement shall be delivered to an
24 animal control officer or investigator with the department who
25 shall complete an investigation.

26 (3) When the sworn statement claims that an animal
27 has suffered serious physical injury or death, the duties of

1 the animal control officer, including, but not limited to, the
2 animal cruelty investigation, shall be carried out with a law
3 enforcement officer having experience in animal husbandry.

4 (b) Aesthetics of the animal or animals in otherwise
5 good health or under the care of a veterinarian shall not be
6 probable cause for animal cruelty.

7 (c) An investigating agency that finds alleged
8 animal abuse may give the animal enterprise 10 business days
9 to correct the alleged abuse.

10 (d) Only the individual animals demonstrated to the
11 court as being in danger of imminent death or severe physical
12 injury, which do not have proof of veterinary care for the
13 alleged violation, upon a court order, may be subject to
14 seizure by the appropriate law enforcement agency.

15 (e) Law enforcement may not disseminate or allow
16 dissemination by any assisting third parties of any alleged
17 crime scene photos, videos, or evidence of the alleged
18 violation to the public until after conviction of the alleged
19 crime. A person in violation of this subsection shall be
20 guilty of a Class B misdemeanor.

21 Section 7. (a) (1) Should an investigation show that
22 there is probable cause of criminal animal cruelty, and if it
23 is determined the animal will be in danger of permanent
24 physical injury or imminent death, the department, the animal
25 control officer, or the law enforcement officer may petition
26 the court of competent jurisdiction in the county of the
27 alleged offense for a warrant authorizing impoundment of the

1 animals found to be in danger of permanent physical injury or
2 imminent death.

3 (2) The court shall hold an impoundment hearing with
4 all parties within 10 days.

5 (3) Each animal having probable cause for
6 impoundment shall be considered for impoundment individually.

7 (b)(1) Except as provided in subsection (c), the
8 animal or animals so ordered for impoundment by the court
9 shall be impounded at the county pound as described in Section
10 3-7A-7, Code of Alabama 1975, or the county or municipality
11 may enter into an agreement with an animal shelter or licensed
12 veterinarian to impound the animal or animals.

13 (2) If the county or municipality, or its designee,
14 impounds the animal, the owner of the animal, upon conviction,
15 shall be liable to the county or municipality or its designee
16 for the reasonable and customary costs and expenses incurred
17 in impounding, feeding, and providing veterinary care or
18 treatment for the animal or animals.

19 (c)(1) The owner of the animal shall be provided the
20 opportunity to choose a veterinarian of his or her choice to
21 impound the animal or animals in lieu of the county pound or
22 animal shelter.

23 (2) If the animal is impounded with a veterinarian
24 chosen by the animal enterprise, the animal enterprise shall
25 be liable for paying to the veterinarian the cost and expenses
26 incurred in impounding, feeding, and providing veterinary care
27 or treatment for the animal.

1 (d) Costs and direct expenses for the care of the
2 animal or animals shall be itemized, shall be reasonable and
3 customary, and shall not exceed the median costs charged by
4 similar businesses in that county.

5 (e) Itemized costs for impoundment shall be made
6 available to the court and the animal enterprise.

7 (f) Overhead or ancillary costs or expenses shall
8 not be considered as costs of impoundment.

9 (g) Any charitable organization designated by the
10 department, the county, or the municipality to impound the
11 animal or animals that solicits donations for the purpose of
12 the care or any expenses of the impounded animal or animals in
13 its custody shall first deduct those donations from the
14 reasonable and customary impoundment expenses and veterinary
15 care charged to the animal enterprise.

16 (h) A charitable or other organization designated by
17 the department, the county, or the municipality to impound the
18 animals shall do all of the following:

19 (1) House the animals within this state and use
20 veterinarians licensed in this state until the final
21 disposition of the animals as ordered by the court.

22 (2) Assume responsibility for the health and well
23 being of the animal or animals in its care, custody, or
24 control.

25 (3) Allow inspection of the impounded animals at any
26 time during normal business hours, excluding state and federal
27 holidays, by the department, the county, the municipality, or

1 the animal enterprise's veterinarian. Any deceased animals or
2 allegations of animal abuse shall be managed in accordance
3 with this act.

4 (4)a. Be liable for the value of the animal and
5 three times the projected revenue over the reasonably expected
6 life for any animal found to be any of the following:

7 1. Deceased.

8 2. Sterilized.

9 3. No longer able to perform its intended purpose as
10 a result of negligent care while in the care, custody, or
11 control of the designee.

12 b. There shall be a presumption that the designee
13 was negligent in caring for the animal if any of the following
14 occurs:

15 1. The animal suffers from animal cruelty while in
16 the care, custody, or control of the designee.

17 2. The animal departs from the care, custody, or
18 control of the designee with a state of malnutrition greater
19 than noted upon intake.

20 3. The animal departs from the care, custody, or
21 control of the designee with a previously undiagnosed illness
22 which the department determines could reasonably have been
23 caused by improper or insufficient care by the designee.

24 Section 8. Although this bill would have as its
25 purpose or effect the requirement of a new or increased
26 expenditure of local funds, the bill is excluded from further
27 requirements and application under Amendment 621 of the

1 Constitution of Alabama of 1901, as amended by Amendment 890,
2 now appearing as Section 111.05 of the Official ReCompilation
3 of the Constitution of Alabama of 1901, as amended, because
4 the bill defines a new crime or amends the definition of an
5 existing crime.

6 Section 9. This act shall become effective on the
7 first day of the third month following its passage and
8 approval by the Governor, or its otherwise becoming law.