

By: Representative Mims

To: Judiciary B

## HOUSE BILL NO. 1358

1 AN ACT TO AMEND SECTION 97-41-19, MISSISSIPPI CODE OF 1972,  
2 TO INCREASE THE MINIMUM FINE FOR DOG FIGHTING; TO BRING FORWARD  
3 SECTIONS 97-33-1, 97-41-11, 97-41-13, 97-41-16, 97-41-18 AND  
4 97-43-7, WHICH RELATE TO PROHIBITIONS ON FIGHTING ANIMALS,  
5 WAGERING AND BETTING, FOR THE PURPOSES OF AMENDMENT; AND FOR  
6 RELATED PURPOSES.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

8 **SECTION 1.** Section 97-41-19, Mississippi Code of 1972, is  
9 amended as follows:

10 97-41-19. (1) If \* \* \* a person (a) \* \* \* sponsors,  
11 promotes, stages or conducts a fight or fighting match between  
12 dogs \* \* \*; (b) \* \* \* wagers or bets, promotes or encourages the  
13 wagering or betting of any money or other valuable thing upon any  
14 such fight or \* \* \* the result \* \* \* of the fight; (c) \* \* \* owns  
15 a dog with the intent to willfully enter it or to participate in  
16 any such fight \* \* \*; or (d) \* \* \* trains or transports a dog for  
17 the purposes of participation in any such fight, he or she shall  
18 be guilty of a felony, and, upon conviction, shall be punished by  
19 a fine of not less than \* \* \* Two Thousand Dollars (\$ 2,000.00)  
20 nor more than Five Thousand Dollars (\$5,000.00), or by



21 imprisonment in the State Penitentiary for a term of not less than  
22 one (1) year nor more than three (3) years, or by both such fine  
23 and imprisonment, in the discretion of the court.

24 (2) If \* \* \* a person \* \* \* is present, as a spectator, at  
25 any location where preparations are being made for an exhibition  
26 of a fight between dogs with the intent to be present at such  
27 preparations, or if any person \* \* \* is present at an exhibition  
28 of a fight between dogs with the intent to be present at such  
29 exhibition, he or she shall be guilty of a felony and, upon  
30 conviction, shall be punished by a fine of not less than \* \* \* One  
31 Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars  
32 (\$5,000.00), or by imprisonment in the State Penitentiary for a  
33 term of not more than one (1) year, or by both such fine and  
34 imprisonment, in the discretion of the court.

35 (3) Any law enforcement officer making an arrest under  
36 subsection (1) of this section may lawfully take possession of all  
37 dogs and all paraphernalia, implements, equipment or other  
38 property used in violation of subsection (1) of this section.

39 \* \* \* The officer shall file with the circuit court of the  
40 county within which the alleged violation occurred an affidavit  
41 stating therein (a) the name of the person charged, (b) a  
42 description of the property taken, (c) the time and place of the  
43 taking, (d) the name of the person who claims to own such  
44 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.

\* \* \* The officer shall \* \* \* 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 the 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 or her professional judgment, \* \* \* the 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 \* \* \* the officer of the humane society or animal welfare agency.

The owner of a dog \* \* \* that is euthanized without an order of the court with such certification of a licensed



70 veterinarian \* \* \*, officer of the humane society or other animal  
71 welfare agency shall have a right of action for damages against  
72 the department or agency by which the arresting or seizing officer  
73 is employed.

74       Upon conviction of the person charged with a violation of  
75 subsection (1) of this section, all dogs seized shall be adjudged  
76 by the court to be forfeited and the court shall order a humane  
77 disposition of the same. In no event shall the court order the  
78 dog to be euthanized without the certification of a licensed  
79 veterinarian \* \* \*, officer of the humane society or other animal  
80 welfare agency that, in his judgment, the dog is not likely to  
81 survive or that, by reason of its physical condition, the dog  
82 should be humanely euthanized.

83       In the event of the acquittal or final discharge without  
84 conviction of the accused, the court shall direct the delivery of  
85 the property so held in custody to the owner thereof. All  
86 reasonable expenses incurred by the custodian of seized dogs and  
87 property shall be charged as costs of court, to be taxed against  
88 the owner or county in the discretion of the court.

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

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

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



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

**SECTION 2.** Section 97-33-1, Mississippi Code of 1972, is brought forward as follows:

97-33-1. Except as otherwise provided in Section 97-33-8, if any person shall encourage, promote or play at any game, play or amusement, other than a fight or fighting match between dogs, for money or other valuable thing, or shall wager or bet, promote or encourage the wagering or betting of any money or other valuable things, upon any game, play, amusement, cockfight, Indian ball play or duel, other than a fight or fighting match between dogs, or upon the result of any election, event or contingency whatever, upon conviction thereof, he shall be fined in a sum not more than Five Hundred Dollars (\$500.00); and, unless such fine and costs be immediately paid, shall be imprisoned for any period not more than ninety (90) days. However, this section shall not apply to betting, gaming or wagering:

(a) On a cruise vessel as defined in Section 27-109-1 whenever such vessel is in the waters within the State of Mississippi, which lie adjacent to the State of Mississippi south of the three (3) most southern counties in the State of Mississippi, including the Mississippi Sound, St. Louis Bay, Biloxi Bay and Pascagoula Bay, and in which the registered voters of the county in which the port is located have not voted to



prohibit such betting, gaming or wagering on cruise vessels as provided in Section 19-3-79;

(b) In a structure located, in whole or in part, on shore in any of the three (3) most southern counties in the State of Mississippi in which the registered voters of the county have voted to allow such betting, gaming or wagering on cruise vessels as provided in Section 19-3-79, if:

(i) The structure is owned, leased or controlled by a person possessing a gaming license, as defined in Section 75-76-5, to conduct legal gaming on a cruise vessel under paragraph (a) of this section;

(ii) The part of the structure in which licensed gaming activities are conducted is located entirely in an area which is located no more than eight hundred (800) feet from the mean high-water line (as defined in Section 29-15-1) of the waters within the State of Mississippi, which lie adjacent to the State of Mississippi south of the three (3) most southern counties in the State of Mississippi, including the Mississippi Sound, St. Louis Bay, Biloxi Bay and Pascagoula Bay, or, with regard to Harrison County only, no farther north than the southern boundary of the right-of-way for U.S. Highway 90, whichever is greater; and

(iii) In the case of a structure that is located in whole or part on shore, the part of the structure in which licensed gaming activities are conducted shall lie adjacent to state waters south of the three (3) most southern counties in the



State of Mississippi, including the Mississippi Sound, St. Louis Bay, Biloxi Bay and Pascagoula Bay. When the site upon which the structure is located consists of a parcel of real property, easements and rights-of-way for public streets and highways shall not be construed to interrupt the contiguous nature of the parcel, nor shall the footage contained within the easements and rights-of-way be counted in the calculation of the distances specified in subparagraph (ii);

(c) On a vessel as defined in Section 27-109-1 whenever such vessel is on the Mississippi River or navigable waters within any county bordering on the Mississippi River, and in which the registered voters of the county in which the port is located have not voted to prohibit such betting, gaming or wagering on vessels as provided in Section 19-3-79; or

(d) That is legal under the laws of the State of Mississippi.

**SECTION 3.** Section 97-41-11, Mississippi Code of 1972, is brought forward as follows:

97-41-11. 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 place kept for such purpose, and to arrest each and every person concerned or participating therein.

**SECTION 4.** Section 97-41-13, Mississippi Code of 1972, is brought forward as follows:

97-41-13. Any person who shall violate any of Sections 97-41-3 through 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 (\$10.00) nor more than One Hundred Dollars (\$100.00), or shall be imprisoned in the county jail not less than ten (10) days nor more than one hundred (100) days, or both.

**SECTION 5.** Section 97-41-16, Mississippi Code of 1972, is brought forward as follows:

97-41-16. (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





193 construed as applying, to any animal other than a domesticated dog  
194 or cat.

195       (2)   (a)   If a person shall intentionally or with criminal  
196 negligence wound, deprive of adequate shelter, food or water, or  
197 carry or confine in a cruel manner, any domesticated dog or cat,  
198 or cause any person to do the same, then he or she shall be guilty  
199 of the offense of simple cruelty to a dog or cat. A person who is  
200 convicted of the offense of simple cruelty to a dog or cat shall  
201 be guilty of a misdemeanor and fined not more than One Thousand  
202 Dollars (\$1,000.00), or imprisoned not more than six (6) months,  
203 or both.

204       (b)   If a person with malice shall intentionally  
205 torture, mutilate, maim, burn, starve or disfigure any  
206 domesticated dog or cat, or cause any person to do the same, then  
207 he or she shall be guilty of the offense of aggravated cruelty to  
208 a dog or cat.

209       (i)   A person who is convicted of a first offense  
210 of aggravated cruelty to a dog or cat shall be guilty of a  
211 misdemeanor and fined not more than Two Thousand Five Hundred  
212 Dollars (\$2,500.00), or imprisoned for not more than six (6)  
213 months, or both.

214       (ii)   A person who is convicted of a second or  
215 subsequent offense of aggravated cruelty to a dog or cat, the  
216 offenses being committed within a period of five (5) years, shall  
217 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:



243 1. Any law enforcement agency; or  
244 2. Any agency or department of a political  
245 subdivision that is charged with the control, protection or  
246 welfare of dogs or cats within the subdivision. The agency or  
247 department may reimburse a nongovernmental organization for such  
248 costs, if the organization possesses nonprofit status under the  
249 United States Internal Revenue Code and has the purpose of  
250 protecting the welfare of, or preventing cruelty to, dogs or cats.

251 (ii) The person convicted:

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

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

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

265 (4) (a) Nothing in this section shall be construed as  
266 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;



315                   2. Regulated under the provisions of the  
316 Health Research Extension Act of 1985, Public Law No. 99-158; or

317                   3. Subject to any other applicable state or  
318 federal law or regulation governing animal research as in effect  
319 on July 1, 2011.

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

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

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

334                   (b) If the owner or person in control of a dog or cat  
335 is precluded, by natural or other causes beyond his reasonable  
336 control, from acting to prevent an act or omission that might  
337 otherwise constitute an allegation of the offense of simple  
338 cruelty to a dog or cat or the offense of aggravated cruelty to a  
339 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.

**SECTION 6.** Section 97-41-18, Mississippi Code of 1972, is brought forward as follows:

97-41-18. (1) For the purposes of this section, "hog" means a pig, swine or boar.





389           (2) It is unlawful for any person to organize or conduct any  
390 commercial event commonly referred to as a "catch" wherein there  
391 is a display of combat or fighting among one or more domestic or  
392 feral canines and feral or domestic hogs and in which it is  
393 intended or reasonably foreseeable that the canines or hogs would  
394 be injured, maimed, mutilated or killed.

395           (3) It is unlawful for any person to organize, conduct or  
396 financially or materially support any event prohibited by this  
397 section.

398           (4) The provisions of this section shall not apply to any  
399 competitive event in which canines trained for hunting or herding  
400 activities are released in an open or enclosed area to locate and  
401 corner hogs, commonly referred to as a "bay event," and in which  
402 competitive points are deducted if a hog is caught and held.

403           (5) The provisions of this section shall not apply to the  
404 lawful hunting of hogs with canines or the use of canines for the  
405 management, farming or herding of hogs which are livestock or the  
406 private training of canines for the purposes enumerated in this  
407 subsection provided that such training is conducted for the field  
408 using accepted dog handling and training practices and is not in  
409 violation of the provisions of subsection (1) of this section.

410           (6) Any person convicted under the provisions of this  
411 section shall be fined not more than One Thousand Dollars  
412 (\$1,000.00), imprisoned for not more than six (6) months, or both.



413           **SECTION 7.** Section 97-43-7, Mississippi Code of 1972, is  
414 brought forward as follows:

415           97-43-7. (1) Any person convicted of engaging in activity  
416 in violation of the provisions of this chapter shall be guilty of  
417 a felony and, upon conviction, shall be fined not more than  
418 Twenty-five Thousand Dollars (\$25,000.00) or imprisoned not more  
419 than twenty (20) years, or both.

420           (2) In lieu of a fine otherwise authorized by law, any  
421 person convicted of engaging in conduct in violation of the  
422 provisions of this chapter, through which he derived pecuniary  
423 value, or by which he caused personal injury or property damage or  
424 other loss, may be sentenced to pay a fine that does not exceed  
425 three (3) times the gross value gained or three (3) times the  
426 gross loss caused, whichever is the greater, plus court costs and  
427 the costs of investigation and prosecution, reasonably incurred.

428           (3) The court shall hold a hearing to determine the amount  
429 of the fine authorized by subsection (2) of this section.

430           (4) For the purposes of subsection (2) of this section,  
431 "pecuniary value" means:

432                   (a) Anything of value in the form of money, a  
433 negotiable instrument, or a commercial interest or anything else  
434 the primary significance of which is economic advantage; or

435                   (b) Any other property or service that has a value in  
436 excess of One Hundred Dollars (\$100.00).



437           **SECTION 8.** This act shall take effect and be in force from  
438 and after July 1, 2018.

