

107TH CONGRESS
2D SESSION

S. 3118

To strengthen enforcement of provisions of the Animal Welfare Act relating to animal fighting, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 16, 2002

Mr. ENSIGN (for himself, Mr. ALLARD, and Ms. CANTWELL) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To strengthen enforcement of provisions of the Animal Welfare Act relating to animal fighting, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Animal Fighting Pro-
5 hibition Enforcement Act”.

6 **SEC. 2. ENFORCEMENT OF ANIMAL FIGHTING PROHIBI-**
7 **TIONS UNDER THE ANIMAL WELFARE ACT.**

8 Section 26 of the Animal Welfare Act (7 U.S.C.
9 2156) is amended—

1 (1) by redesignating subsections (c) through (h)
2 as subsections (d) through (i), respectively;

3 (2) by inserting after subsection (b) the fol-
4 lowing:

5 “(c) SHARP INSTRUMENTS.—It shall be unlawful for
6 any person to knowingly sell, buy, transport, or deliver in
7 interstate or foreign commerce a knife, a gaff, or any
8 other sharp instrument attached, or designed or intended
9 to be attached, to the leg of a bird for use in an animal
10 fighting venture.”;

11 (3) in subsection (e) (as redesignated by para-
12 graph (1))—

13 (A) by striking “subsection (c)” and in-
14 serting “subsection (d)”;

15 (4) in subsection (f) (as redesignated by para-
16 graph (1))—

17 (A) by striking “(a), (b), or (c)” and in-
18 serting “(a), (b), (c), or (d)”;

19 (B) by striking “1 year” and inserting “2
20 years”;

21 (5) by striking subsection (g) (as redesignated
22 by paragraph (1)) and inserting the following:

23 “(g) INVESTIGATIONS.—

24 “(1) IN GENERAL.—The Secretary or any per-
25 son authorized by the Secretary shall make such in-

1 vestigations as the Secretary considers necessary to
2 determine whether any person has violated or is vio-
3 lating any provision of this section.

4 “(2) ASSISTANCE.—Through cooperative agree-
5 ments, the Secretary may obtain the assistance of
6 the Federal Bureau of Investigation, the Depart-
7 ment of the Treasury, and other law enforcement
8 agencies of the United States and of State and local
9 governmental agencies in the conduct of investiga-
10 tions under paragraph (1).

11 “(3) WARRANTS.—

12 “(A) ISSUANCE.—A judge of the United
13 States, United States magistrate judge, or
14 judge of a State court of record in the district
15 in which is located an animal, paraphernalia,
16 instrument, or other property or thing that
17 there is probable cause to believe was involved,
18 is about to be involved, or is intended to be in-
19 volved in a violation of this section may issue
20 a warrant to search for and seize the animal or
21 other property or thing.

22 “(B) APPLICATION; EXECUTION.—A
23 United States marshal or any person authorized
24 under this section to conduct an investigation
25 may apply for and execute a warrant issued

1 under subparagraph (A), and any animal, para-
2 phernalia, instrument, or other property or
3 thing seized under such a warrant shall be held
4 by the authorized person pending disposition of
5 the animal, paraphernalia, instrument, or other
6 property or thing by a court in accordance with
7 this subsection.

8 “(4) DISPOSITION OF ANIMALS.—

9 “(A) IN GENERAL.—At the discretion of
10 the United States marshal or other authorized
11 person, an animal seized under paragraph (3)
12 shall be taken promptly to an animal housing
13 facility in which the animal may be stored hu-
14 manely.

15 “(B) NO FACILITY AVAILABLE.—If there is
16 not available a suitable animal storage facility
17 sufficient in size to hold all of the animals in-
18 volved in a violation, the United States marshal
19 or other authorized person shall—

20 “(i) seize a representative sample of
21 the animals for evidentiary purposes to be
22 transported to an animal storage facility in
23 which the animals may be stored hu-
24 manely; and

1 “(ii) keep the remaining animals at
2 the location where they were seized and
3 cause the animals to be banded, tagged, or
4 marked by microchip and photographed or
5 videotaped for evidentiary purposes.

6 “(5) CARE.—While a seized animal is held in
7 custody, the United States marshal or other author-
8 ized person shall ensure that the animal is provided
9 necessary care (including housing, feeding, and vet-
10 erinary treatment).

11 “(6) FORFEITURE.—

12 “(A) IN GENERAL.—Any animal, para-
13 phernalia, instrument, or other property or
14 thing involved in a violation of this section shall
15 be liable to be proceeded against and forfeited
16 to the United States at any time on complaint
17 filed in any United States district court or
18 other court of the United States for any juris-
19 diction in which the animal, paraphernalia, in-
20 strument, or other property or thing is found,
21 and on entry of a judgment of forfeiture shall
22 be disposed of by humane means, as the court
23 may direct.

24 “(B) COSTS.—Costs incurred by the
25 United States for care of an animal seized and

1 forfeited under this section shall be recoverable
2 from the owner of the animal—

3 “(i) in the forfeiture proceeding, if the
4 owner appears in the forfeiture proceeding;
5 or

6 “(ii) in a separate civil action brought
7 in the jurisdiction in which the owner is
8 found, resides, or transacts business.

9 “(C) CLAIM TO PROPERTY.—

10 “(i) IN GENERAL.—The owner, custo-
11 dian, or other person claiming an interest
12 in a seized animal may prevent disposition
13 of the animal by posting, or may be or-
14 dered by any United States district court
15 or other court of the United States for any
16 jurisdiction in which the animal is found to
17 post, not later than 10 days after the ani-
18 mal is seized, a bond with the court in an
19 amount sufficient to provide for the care of
20 the animal (including housing, feeding, and
21 veterinary treatment) for not less than 30
22 days.

23 “(ii) RENEWAL.—The owner, custo-
24 dian, or other person claiming an interest
25 in a seized animal may renew a bond, or

1 be ordered to renew a bond, by posting a
2 new bond, in an amount sufficient to pro-
3 vide for the care of the animal for at least
4 an additional 30 days, not later than 10
5 days after the expiration of the period for
6 which a previous bond was posted.

7 “(iii) DISPOSITION.—If a bond expires
8 and is not renewed, the animal may be dis-
9 posed of as provided in subparagraph (A).

10 “(7) EUTHANIZATION.—Notwithstanding para-
11 graphs (1) through (6), an animal may be humanely
12 euthanized if a veterinarian determines that the ani-
13 mal is suffering extreme pain.”.

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