

107TH CONGRESS  
2D SESSION

# S. 3118

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

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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

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## 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 investigations 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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