

108TH CONGRESS
1ST SESSION

S. 736

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

IN THE SENATE OF THE UNITED STATES

MARCH 27, 2003

Mr. ENSIGN (for himself, Mr. ALLARD, Ms. CANTWELL, Mr. DORGAN, Mr. HARKIN, Mr. LEVIN, Mr. LUGAR, Mr. HAGEL, Mr. LIEBERMAN, Mr. WYDEN, Mr. REID, and Mr. LEAHY) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Animal Welfare Act to strengthen enforcement of provisions 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”.

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

3 (a) IN GENERAL.—Section 26 of the Animal Welfare
4 Act (7 U.S.C. 2156) is amended—

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

7 (2) by inserting after subsection (b) the fol-
8 lowing:

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

15 (3) in subsection (e) (as redesignated by para-
16 graph (1)), by striking “(c)” and inserting “(d)”;

17 (4) in subsection (f) (as redesignated by para-
18 graph (1))—

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

21 (B) by striking “1 year” and inserting “2
22 years”;

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

25 “(g) INVESTIGATIONS.—

1 “(1) IN GENERAL.—The Secretary or any per-
2 son authorized by the Secretary shall make such in-
3 vestigations as the Secretary considers necessary to
4 determine whether any person has violated or is vio-
5 lating any provision of this section.

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

13 “(3) WARRANTS.—

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

24 “(B) APPLICATION; EXECUTION.—A
25 United States marshal or any person authorized

1 under this section to conduct an investigation
2 may apply for and execute a warrant issued
3 under subparagraph (A), and any animal, para-
4 phernalia, instrument, or other property or
5 thing seized under such a warrant shall be held
6 by the authorized person pending disposition of
7 the animal, paraphernalia, instrument, or other
8 property or thing by a court in accordance with
9 this subsection.

10 “(4) STORAGE OF ANIMALS.—

11 “(A) IN GENERAL.—An animal seized by a
12 United States marshal or other authorized per-
13 son under paragraph (3) shall be taken prompt-
14 ly to an animal housing facility in which the
15 animal shall be stored humanely.

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

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

1 “(ii)(I) keep the remaining animals at
2 the location where the animals were seized;

3 “(II) provide for the humane care of
4 the animals; and

5 “(III) cause the animals to be banded,
6 tagged, or marked by microchip and photo-
7 graphed or videotaped for evidentiary pur-
8 poses.

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

14 “(6) FORFEITURE.—

15 “(A) IN GENERAL.—Any animal, para-
16 phernalia, instrument, vehicle, money, or other
17 property or thing involved in a violation of this
18 section shall be liable to be proceeded against
19 and forfeited to the United States at any time
20 on complaint filed in any United States district
21 court or other court of the United States for
22 any jurisdiction in which the animal, para-
23 phernalia, instrument, vehicle, money, or other
24 property or thing is found.

1 “(B) DISPOSITION.—On entry of a judg-
2 ment of forfeiture, a forfeited animal shall be
3 disposed of by humane means, as the court may
4 direct.

5 “(C) COSTS.—Costs incurred by the
6 United States for care of an animal seized and
7 forfeited under this section shall be recoverable
8 from the owner of the animal—

9 “(i) in the forfeiture proceeding, if the
10 owner appears in the forfeiture proceeding;
11 or

12 “(ii) in a separate civil action brought
13 in the jurisdiction in which the owner is
14 found, resides, or transacts business.

15 “(D) CLAIM TO PROPERTY.—

16 “(i) IN GENERAL.—The owner, custo-
17 dian, or other person claiming an interest
18 in a seized animal may prevent disposition
19 of the animal by posting, or may be or-
20 dered by any United States district court
21 or other court of the United States, or by
22 any tribal court, for any jurisdiction in
23 which the animal is found to post, not
24 later than 10 days after the animal is
25 seized, a bond with the court in an amount

1 sufficient to provide for the care of the
2 animal (including housing, feeding, and
3 veterinary treatment) for not less than 30
4 days.

5 “(ii) RENEWAL.—The owner, custo-
6 dian, or other person claiming an interest
7 in a seized animal may renew a bond, or
8 be ordered to renew a bond, by posting a
9 new bond, in an amount sufficient to pro-
10 vide for the care of the animal for at least
11 an additional 30 days, not later than 10
12 days after the expiration of the period for
13 which a previous bond was posted.

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

17 “(7) EUTHANIZATION.—Notwithstanding para-
18 graphs (1) through (6), an animal may be humanely
19 euthanized if a veterinarian determines that the ani-
20 mal is suffering extreme pain.”; and

21 (6) in subsection (h) (as redesignated by para-
22 graph (1))—

23 (A) in subparagraphs (A) and (B) of para-
24 graph (2), by inserting before the semicolon the
25 following: “(including a movement to, from, or

1 within land under the jurisdiction of an Indian
2 tribe)”; and

3 (B) in paragraph (3), by striking “tele-
4 phone, radio, or television” and inserting “tele-
5 phone, the Internet, radio, television, or any
6 technology”.

7 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
8 23 of the Animal Welfare Act (7 U.S.C. 2153) is amend-
9 ed—

10 (1) by striking “SEC. 23. The Secretary” and
11 inserting the following:

12 **“SEC. 23. FEES; AUTHORIZATION OF APPROPRIATIONS.**

13 “(a) FEES.—The Secretary”; and

14 (2) by striking the third sentence and inserting
15 the following:

16 “(b) AUTHORIZATION OF APPROPRIATIONS.—There
17 are authorized to be appropriated such sums as are nec-
18 essary to carry out this Act.”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section take effect on the later of—

21 (1) the date of enactment of this Act; or

22 (2) May 13, 2003.

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