

109TH CONGRESS
1ST SESSION

S. 382

To amend title 18, United States Code, to strengthen prohibitions against animal fighting, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 15, 2005

Mr. ENSIGN (for himself, Mr. SPECTER, Ms. CANTWELL, Mrs. FEINSTEIN, Mr. DEWINE, Mr. KENNEDY, Mr. KYL, Mr. KOHL, Mr. LUGAR, Mr. VITTER, Mr. LEAHY, and Mr. SANTORUM) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to strengthen prohibitions against 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 of 2005”.

1 **SEC. 2. ENFORCEMENT OF ANIMAL FIGHTING PROHIBI-**
 2 **TIONS.**

3 (a) IN GENERAL.—Chapter 3 of title 18, United
 4 States Code, is amended by adding at the end the fol-
 5 lowing:

6 **“§ 49. Animal fighting prohibition**

7 “(a) SPONSORING OR EXHIBITING AN ANIMAL IN AN
 8 ANIMAL FIGHTING VENTURE.—

9 “(1) IN GENERAL.—Except as provided in para-
 10 graph (2), it shall be unlawful for any person to
 11 knowingly sponsor or exhibit an animal in an animal
 12 fighting venture, if any animal in the venture was
 13 moved in interstate or foreign commerce.

14 “(2) SPECIAL RULE FOR CERTAIN STATES.—
 15 With respect to fighting ventures involving live birds
 16 in a State where it would not be in violation of the
 17 law, it shall be unlawful under this subsection for a
 18 person to sponsor or exhibit a bird in the fighting
 19 venture only if the person knew that any bird in the
 20 fighting venture was knowingly bought, sold, deliv-
 21 ered, transported, or received in interstate or foreign
 22 commerce for the purpose of participation in the
 23 fighting venture.

24 “(b) BUYING, SELLING, DELIVERING, OR TRANS-
 25 PORTING ANIMALS FOR PARTICIPATION IN ANIMAL
 26 FIGHTING VENTURE.—It shall be unlawful for any person

1 to knowingly sell, buy, transport, or deliver, or receive for
2 purposes of transportation, in interstate or foreign com-
3 merce, any dog or other animal for purposes of having
4 the dog or other animal participate in an animal fighting
5 venture.

6 “(c) USE OF POSTAL SERVICE OR OTHER INTER-
7 STATE INSTRUMENTALITY FOR PROMOTING ANIMAL
8 FIGHTING VENTURE.—It shall be unlawful for any person
9 to knowingly use the mail service of the United States
10 Postal Service or any instrumentality of interstate com-
11 merce for commercial speech promoting an animal fighting
12 venture except as performed outside the limits of the
13 States of the United States.

14 “(d) VIOLATION OF STATE LAW.—Notwithstanding
15 subsection (c), the activities prohibited by such subsection
16 shall be unlawful with respect to fighting ventures involv-
17 ing live birds only if the fight is to take place in a State
18 where it would be in violation of the laws thereof.

19 “(e) SHARP INSTRUMENTS.—It shall be unlawful for
20 any person to knowingly sell, buy, transport, or deliver in
21 interstate or foreign commerce a knife, a gaff, or any
22 other sharp instrument attached, or designed or intended
23 to be attached, to the leg of a bird for use in an animal
24 fighting venture.

1 “(f) PENALTIES.—Any person who violates sub-
2 section (a), (b), (c), or (e) shall be fined under this title
3 or imprisoned for not more than 2 years, or both, for each
4 such violation.

5 “(g) DEFINITIONS.—For purposes of this section—

6 “(1) the term ‘animal fighting venture’ means
7 any event which involves a fight between at least two
8 animals and is conducted for purposes of sport, wa-
9 gering, or entertainment except that the term ‘ani-
10 mal fighting venture’ shall not be deemed to include
11 any activity the primary purpose of which involves
12 the use of one or more animals in hunting another
13 animal or animals, such as waterfowl, bird, raccoon,
14 or fox hunting;

15 “(2) the term ‘instrumentality of interstate
16 commerce’ means any written, wire, radio, television
17 or other form of communication in, or using a facil-
18 ity of, interstate commerce;

19 “(3) the term ‘State’ means any State of the
20 United States, the District of Columbia, the Com-
21 monwealth of Puerto Rico, and any territory or pos-
22 session of the United States; and

23 “(4) the term ‘animal’ means any live bird, or
24 any live dog or other mammal, except man.

1 “(h) CONFLICT WITH STATE LAW.—The provisions
2 of this section do not supersede or otherwise invalidate
3 any such State, local, or municipal legislation or ordinance
4 relating to animal fighting ventures except in case of a
5 direct and irreconcilable conflict between any requirements
6 thereunder and this section or any rule, regulation, or
7 standard hereunder.”.

8 (b) CLERICAL AMENDMENT.—The table of contents
9 for chapter 3 of title 18, is amended by inserting after
10 the item relating to section 48 the following:

“49. Animal fighting prohibition”.

11 (c) REPEAL OF CRIMINAL PENALTY IN THE ANIMAL
12 WELFARE ACT.—Section 26 of the Animal Welfare Act
13 (7 U.S.C. 2156) is amended by striking subsection (e).

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