

ANIMAL FIGHTING PROHIBITION ENFORCEMENT ACT OF

2007

MARCH 1, 2007.—Committed to the Committee of the Whole House on the State of

the Union and ordered to be printed

Mr. CONYERS, from the Committee on the Judiciary,

submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 137]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 137) to amend title 18, United States Code, to strengthen prohibitions against animal fighting, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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THE AMENDMENT

The amendment (stated in terms of the page and line numbers of the introduced bill) is as follows:

Page 4, beginning in line 13, strike “or animals, such as waterfowl, bird, raccoon, or fox hunting”.

PURPOSE AND SUMMARY

H.R. 137, the “Animal Fighting Prohibition Enforcement Act of 2007,” strengthens the Federal prohibitions against animal fighting ventures. Under current law, animal fighting violations are misdemeanors under title 7 of the U.S. Code. H.R. 137 makes the buying, selling, or transporting of animals in interstate commerce for participation in animal fighting ventures felonies to be charged under title 18, with maximum prison sentences of 3 years, increased from 1 year under current law.

BACKGROUND AND NEED FOR THE LEGISLATION

Prohibitions against knowingly selling, buying, transporting, delivering, or receiving an animal in interstate or foreign commerce for the purposes of participation in an animal fighting venture were added to the Animal Welfare Act in 1976, with misdemeanor penalties of up to \$5,000 in fines and up to 1 year in prison. Since then, Federal authorities have pursued fewer than a half dozen animal fighting cases, despite receiving numerous tips from informants and requests to assist with state and local prosecutions. The animal fighting industry continues to thrive within the United States, despite 50 State laws that ban dogfighting and 48 State laws that ban cockfighting. Numerous nationally circulated animal fighting magazines still promote these cruel practices, and advertise fighting animals and the accouterments of animal fighting. There are also several active websites for animal fighting enthusiasts, and paid lobbyists advocating animal fighters’ interests.

In 2002, Congress amended these prohibitions to extend them more fully to live birds. Previously, none of the prohibitions had applied to live birds if the destination was a State in which their use in fighting was not a violation of that State’s law.

While the 2002 amendments also increased penalties slightly, from a potential fine of \$5,000 to one of \$15,000, they were left at the misdemeanor level. By increasing penalties to the felony level, H.R. 137 will give prosecutors greater incentive to pursue cases against unlawful animal fighting ventures, and strengthen deterrence against them.

HEARINGS

The Subcommittee on Crime, Terrorism, and Homeland Security held a hearing on H.R. 137 on February 6, 2007. Testimony was received from two witnesses: Wayne Pacelle, President & CEO, The Humane Society of the United States, and Jerry Leber, President, United Gamefowl Breeders Association.

COMMITTEE CONSIDERATION

On February 6, 2007, the Subcommittee on Crime, Terrorism, and Homeland Security met in open session and ordered H.R. 137

favorably reported, without amendment, by voice vote, a quorum being present. On February 7, 2007, the Committee met in open session and ordered the bill favorably reported by voice vote, with an amendment by Mr. King to make more general the exception for using animals in hunting, by voice vote, a quorum being present.

VOTE OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that there were no recorded votes during consideration of H.R. 137.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 137, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 16, 2007.

Hon. JOHN CONYERS, Jr.,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 137, the Animal Fighting Prohibition Enforcement Act of 2007.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Mark Grabowicz (for Federal costs), and Page Piper/Bach (for the private-sector impact).

Sincerely,

PETER R. ORSZAG,
Director.

Enclosure.

H.R. 137—Animal Fighting Prohibition Enforcement Act of 2007

H.R. 137 would make buying, selling, or transporting animals for participation in animal fighting ventures (defined as any event which involves a fight between at least two animals and is conducted for purposes of sport, wagering, or entertainment) a Federal

crime. The bill also would prohibit any person from using certain forms of communication in interstate commerce to promote an animal fighting venture. Because those prosecuted and convicted under this legislation could be subject to criminal fines, the government might collect additional fines if the bill is enacted. Collections of such fines are recorded in the budget as revenues, which are deposited in the Crime Victims Fund and later spent. However, because of the small number of cases likely to be involved, CBO expects that any impact on revenues and direct spending would be insignificant.

In addition, CBO expects that any increase in Federal costs for law enforcement, court proceedings, or prison operations also would be insignificant and subject to the availability of appropriated funds.

H.R. 137 contain no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments. H.R. 137 would impose private-sector mandates, as defined in UMRA, but CBO expects the cost of complying with those mandates would be small and well below the annual threshold for private-sector mandates (\$131 million in 2007, adjusted annually for inflation).

The CBO staff contacts for this estimate are Mark Grabowicz (for Federal costs), and Paige Piper/Bach (for the private-sector impact). This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the purpose of the bill, H.R. 137, is to curtail the interstate transport of animals and related instruments for purposes of engaging in an animal fighting contest.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article I, section 8 of the Constitution.

ADVISORY ON EARMARKS

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 137 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

SECTION-BY-SECTION ANALYSIS

The following discussion describes the bill as reported by the Committee.

Sec. 1. Short title

This section sets forth the short title of the bill as the “Animal Fighting Prohibition Enforcement Act of 2007.”

Sec. 2. Enforcement of animal fighting prohibitions

This section makes it a felony under chapter 3 of title 18, United States Code, for any individual to knowingly exhibit, buy, sell, deliver, or transport a bird, dog, or other animal in interstate commerce or foreign commerce for participation in animal fighting ventures.

Additionally, this section makes it a felony for an individual to use the Postal Service or other interstate instrumentality for promoting an animal fighting venture or for selling, buying, or delivering in interstate or foreign commerce a knife, gaff, or other sharp instrument attached or intended to be attached to the leg of a bird for use in an animal fighting venture.

This section expressly provides that this legislation will not supersede or otherwise invalidate any State, local, or municipal legislation or ordinance relating to animal fighting ventures. As a special rule with respect to fighting ventures involving live birds in a State where they would not otherwise be in violation of the law, this legislation provides that the prohibition against the knowing sponsorship or exhibition of a bird in a fighting venture applies only if the person knew that any bird in the fighting venture was knowingly bought, sold, delivered, transported, or received in interstate or foreign commerce for the purpose of participation in the fighting venture.

The section provides that any person who violates it shall be fined under title 18 or imprisoned for not more than three (3) years, or both, for each violation.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 18, UNITED STATES CODE

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PART I—CRIMES

* * * * *

CHAPTER 3—ANIMALS, BIRDS, FISH, AND PLANTS

Sec.

41. Hunting, fishing, trapping; disturbance or injury on wildlife refuges.

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49. *Animal fighting prohibition.*

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§ 49. Animal fighting prohibition

(a) *SPONSORING OR EXHIBITING AN ANIMAL IN AN ANIMAL FIGHTING VENTURE.*—

(1) *IN GENERAL.*—*Except as provided in paragraph (2), it shall be unlawful for any person to knowingly sponsor or ex-*

hibit an animal in an animal fighting venture, if any animal in the venture was moved in interstate or foreign commerce.

(2) *SPECIAL RULE FOR CERTAIN STATES.*—With respect to fighting ventures involving live birds in a State where it would not be in violation of the law, it shall be unlawful under this subsection for a person to sponsor or exhibit a bird in the fighting venture only if the person knew that any bird in the fighting venture was knowingly bought, sold, delivered, transported, or received in interstate or foreign commerce for the purpose of participation in the fighting venture.

(b) *BUYING, SELLING, DELIVERING, OR TRANSPORTING ANIMALS FOR PARTICIPATION IN ANIMAL FIGHTING VENTURE.*—It shall be unlawful for any person to knowingly sell, buy, transport, or deliver, or receive for purposes of transportation, in interstate or foreign commerce, any dog or other animal for purposes of having the dog or other animal participate in an animal fighting venture.

(c) *USE OF POSTAL SERVICE OR OTHER INTERSTATE INSTRUMENTALITY FOR PROMOTING ANIMAL FIGHTING VENTURE.*—It shall be unlawful for any person to knowingly use the mail service of the United States Postal Service or any instrumentality of interstate commerce for commercial speech promoting an animal fighting venture except as performed outside the limits of the States of the United States.

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

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

(f) *PENALTIES.*—Any person who violates subsection (a), (b), (c), or (e) shall be fined under this title or imprisoned for not more than 3 years, or both, for each such violation.

(g) *DEFINITIONS.*—For purposes of this section—

(1) the term “animal fighting venture” means any event which involves a fight between at least two animals and is conducted for purposes of sport, wagering, or entertainment except that the term “animal fighting venture” shall not be deemed to include any activity the primary purpose of which involves the use of one or more animals in hunting another animal;

(2) the term “instrumentality of interstate commerce” means any written, wire, radio, television or other form of communication in, or using a facility of, interstate commerce;

(3) the term “State” means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States; and

(4) the term “animal” means any live bird, or any live dog or other mammal, except man.

(h) *CONFLICT WITH STATE LAW.*—The provisions of this section do not supersede or otherwise invalidate any such State, local, or municipal legislation or ordinance relating to animal fighting ventures except in case of a direct and irreconcilable conflict between any re-

quirements thereunder and this section or any rule, regulation, or standard hereunder.

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SECTION 26 OF THE ANIMAL WELFARE ACT

ANIMAL FIGHTING

SEC. 26. (a) * * *

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[(e) PENALTIES.—Any person who violates subsection (a), (b), or (c) shall be fined not more than \$15,000 or imprisoned for not more than 1 year, or both, for each such violation.]

DISSENTING VIEWS

On February 7, 2007, the House Committee of the Judiciary passed by voice vote H.R. 137, the “Animal Fighting Prohibition Enforcement Act of 2007.” I believe the Committee erred in their judgment and subsequent approval of H.R. 137.

H.R. 137 seeks to make it a three-year federal felony to transport a chicken across state lines for the purpose of exhibiting it in a fight. Currently, 48 states already have laws on the books to address this issue.

H.R. 137 is being driven by animal rights activists. Issues involving animals belong before the Committee on Agriculture, not the Committee on the Judiciary. Yet, animal rights activists have crafted this legislation to take jurisdiction of animal welfare concerns from the Agriculture Committee, which has jurisdiction over Title 7, and put it in Title 18, which is under jurisdiction of the Judiciary Committee. This maneuver gives animal rights activists the ability to ruin animal agriculture in the United States through poorly drafted laws that purport to be for animal welfare. In reality, these laws seek to over regulate animal agriculture in the United States, bit by bit. This will ultimately hurt animal agriculture in the United States and put family farms out of business. The Agriculture Committee, not the Judiciary Committee has the resident expertise in animal welfare. The Agriculture Committee is competent to ensure that our federal laws prohibit all animal cruelty.

More importantly, I believe that it diminishes human life if we make it a felony to transport animals for fighting, but it is not a felony to take a girl across a state line for an abortion. It is a strong conviction of mine to fight for the sanctity of life, and while I believe that it is important that we are humane in how we treat animals, I do not believe that we should put their welfare ahead of unborn humans.

I oppose making animal fighting a three year felony because it degrades the value of human life. Until we provide a higher standard of protection for human life, I will oppose making interstate transportation of animals for purposes of animal fighting a felony. In the U.S., we are faced with the alarming practice of people taking a minor girl across state lines for an abortion to avoid their own state’s laws that require the minor’s parents to be notified. Federal legislation, CIANA—the Child Interstate Abortion Notification Act, would make this abhorrent activity, which exploits a young woman and kills her child, a misdemeanor. This legislation has still not become law yet, but it is a step forward in the right direction toward protecting innocent human life.

I believe that we should not value animal life over human life. It makes no sense that killing a person is a misdemeanor if transporting animals to a fight is a felony.

My home state Iowa is an agricultural state. We understand the importance of animal husbandry and being good stewards of our animals. However, we also understand that animals are less important than humans. Animal rights activists seek to place heifers and hogs on the same level as people. I disagree.

I strongly opposed this legislation because animals should not be put before humans and animal welfare concerns belong before the Agriculture Committee.

For these reasons I disagree with the action of the Committee today which is why I voted No in the voice vote to report H.R. 137 from Committee.

STEVE KING.

