



HOUSE BILL No. 4346

February 8, 1995, Introduced by Reps. Randall and Gnodtke and referred to the Committee on Agriculture and Forestry.

A bill to amend section 49 of Act No. 328 of the Public Acts of 1931, entitled as amended "The Michigan penal code," as amended by Act No. 381 of the Public Acts of 1988, being section 750.49 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 49 of Act No. 328 of the Public Acts of
2 1931, as amended by Act No. 381 of the Public Acts of 1988, being
3 section 750.49 of the Michigan Compiled Laws, is amended to read
4 as follows:

5 Sec. 49. (1) AS USED IN THIS SECTION, "ANIMAL" MEANS ANY
6 ANIMAL OTHER THAN A HUMAN BEING.

7 (2) A person who does any of the following is guilty of a
8 felony, punishable by imprisonment for not more than 4 years, or
9 a fine of not more than \$5,000.00, or both:

1 (a) Owns, possesses, keeps, or uses ~~a bull, bear, dog, or~~
2 ~~other~~ AN animal for the purpose of fighting or baiting, or as a
3 target to be shot at as a test of skill in marksmanship.

4 (b) Is a party to or causes the fighting, baiting, or shoot-
5 ing of ~~a bull, bear, dog, or other~~ AN animal. ~~as described in~~
6 ~~subdivision (a).~~

7 (c) Rents or otherwise obtains the use of a building, shed,
8 room, yard, ground, or premises for the purpose of fighting,
9 baiting, or shooting an animal. ~~as described in~~
10 ~~subdivision (a).~~

11 (d) Knowingly permits the use of a building, shed, room,
12 yard, ground, or premises belonging to him or her or under his or
13 her control for any of the purposes described in this section.

14 (3) ~~(2)~~ A person who is present at a building, shed, room,
15 yard, ground, or premises where preparations are being made for
16 an exhibition described in subsection ~~(1)~~ (2), or a person who
17 is present at the exhibition, knowing that an exhibition is
18 taking place or about to take place, is guilty of a felony, pun-
19 ishable by imprisonment for not more than ~~4~~ 2 years, or a fine
20 of not more than \$2,000.00, or both.

21 (4) ~~(3)~~ A person who knowingly breeds, sells, buys,
22 exchanges, imports, or exports a dog that has been trained or
23 used for fighting as described in subsection ~~(1)~~ (2), or know-
24 ingly breeds, sells, buys, exchanges, imports, or exports the
25 offspring of a dog that has been trained or used for fighting as
26 described in subsection ~~(1)~~ (2), is guilty of a felony,

1 punishable by imprisonment for not more than 4 years or a fine of
2 not more than \$2,000.00, or both.

3 (5) ~~(4)~~ As part of the sentence for a violation of subsec-
4 tion ~~(1)~~, (2), (3), or ~~(3)~~ (4), the court shall order the
5 person convicted not to own or keep ~~a dog of any kind~~ AN ANIMAL
6 OF THE SAME SPECIES AS THAT WHICH WAS USED IN VIOLATION OF
7 SUBSECTION (2), (3), OR (4) for a period of 5 years after the
8 date of sentencing. Failure to comply with the order of the
9 court pursuant to this subsection is punishable as contempt of
10 court.

11 (6) ~~(5)~~ If the owner of a dog trained or used for fighting
12 or a dog that is the offspring or descendant of a dog trained or
13 used for fighting incites the dog to attack a person and thereby
14 causes the death of that person, the owner is guilty of a felony
15 and shall be punished by imprisonment for life or by imprisonment
16 for a maximum term of any term of years greater than 15 years.

17 (7) ~~(6)~~ If a person other than the owner of a dog trained
18 or used for fighting or a dog that is the offspring or descendant
19 of a dog trained or used for fighting incites the dog to attack a
20 person as described in subsection ~~(5)~~ (6), the owner is guilty
21 of a felony and shall be punished in the same manner as if he or
22 she had incited the dog to attack as provided in subsection ~~(5)~~
23 (6).

24 (8) ~~(7)~~ If the owner of a dog trained or used for fighting
25 or a dog that is the offspring or descendant of a dog trained or
26 used for fighting incites the dog to attack a person, but the
27 attack does not result in the death of the person, the owner is

1 guilty of a felony punishable by imprisonment for not more than 4
2 years or a fine of not more than \$2,000.00, or both.

3 (9) ~~(8)~~ If a person other than the owner of a dog trained
4 or used for fighting or a dog that is the offspring or descendant
5 of a dog trained or used for fighting incites a dog to attack a
6 person as described in subsection ~~(7)~~ (8), the owner is guilty
7 of a felony and shall be punished in the same manner as if he or
8 she had incited the dog to attack as provided in subsection ~~(7)~~
9 (8).

10 (10) ~~(9)~~ If a dog trained or used for fighting or a dog
11 that is the offspring or descendant of a dog trained or used for
12 fighting attacks a person without provocation and causes the
13 death of that person, the owner of the dog is guilty of a felony
14 and shall be punished by imprisonment for a maximum term of not
15 more than 15 years.

16 (11) ~~(10)~~ If a dog trained or used for fighting or a dog
17 that is the offspring or descendant of a dog trained or used for
18 fighting attacks a person without provocation, but the attack
19 does not cause the death of the person, the owner is guilty of a
20 misdemeanor punishable by imprisonment for not more than 1
21 ~~years~~ YEAR or a fine of not more than \$1,000.00, or both.

22 (12) ~~(11)~~ Subsections ~~(5)~~ (6) to ~~(10)~~ (11) do not
23 apply if the person attacked was committing or attempting to
24 commit an unlawful act on the property of the owner of the dog.

25 (13) ~~(12)~~ If a dog trained or used for fighting or a dog
26 that is the offspring or a descendant of a dog trained or used
27 for fighting goes beyond the property limits of its owner without

1 being securely restrained, the owner is guilty of a misdemeanor
2 punishable by imprisonment for not more than 90 days or a fine of
3 not less than \$50.00 ~~nor~~ OR more than \$500.00, or both.

4 (14) ~~(13)~~ If a dog trained or used for fighting or a dog
5 that is the offspring or descendant of a dog trained or used for
6 fighting is not securely enclosed or restrained on the owner's
7 property, the owner is guilty of a misdemeanor punishable by
8 imprisonment for not more than 90 days or a fine of not more than
9 \$500.00, or both.

10 (15) ~~(14)~~ Subsections ~~(5)~~ (6) to ~~(13)~~ (14) do not
11 apply to any of the following:

12 (a) A dog trained or used for fighting, or the offspring or
13 descendant of a dog trained or used for fighting, that is used by
14 a law enforcement agency of the state or a county, city, village,
15 or township.

16 (b) A certified leader dog recognized and trained by the
17 national leader dogs associations for the blind and handicapped.

18 (c) A corporation licensed under the private security guard
19 act of 1968, Act No. 330 of the Public Acts of 1968, being sec-
20 tions 338.1051 to 338.1085 of the Michigan Compiled Laws, when
21 the dog trained or used for fighting, or the offspring or descen-
22 dant of a dog trained or used for fighting, is used under the
23 provisions of Act No. 330 of the Public Acts of 1968.

24 (16) ~~(15)~~ A dog that has been used to fight in violation
25 of this section or that is involved in a violation of subsections
26 ~~(5)~~ (6) to ~~(13)~~ (14) shall be confiscated as contraband by a
27 law enforcement officer and shall not be returned to the owner,

1 trainer, or possessor of the dog. The dog shall be taken to a
2 local humane society or other animal welfare agency. If a dog
3 owner, trainer, or possessor is convicted under subsection ~~(1)~~
4 (2) or ~~(3)~~ (4) or subsections ~~(5)~~ (6) to ~~(13)~~ (14), the
5 court shall award the dog involved in the violation to the local
6 humane society or other animal welfare agency.

7 (17) ~~(16)~~ Upon receiving a dog confiscated under this sec-
8 tion, or at any time thereafter, an appointed veterinarian or
9 officer of the humane society or other animal welfare agency may
10 humanely euthanize the dog if in his or her opinion the dog is
11 injured or diseased past recovery or the dog's continued exis-
12 tence is inhumane so that euthanasia is necessary to relieve pain
13 and suffering.

14 (18) ~~(17)~~ A humane society or other animal welfare agency
15 that receives a dog pursuant to this section shall apply to the
16 district court or municipal court for a hearing to determine
17 whether the dog shall be humanely euthanized because of its lack
18 of any useful purpose and the public safety threat it poses due
19 to its training as a fighting dog. The court shall set a hearing
20 date not more than 30 days after the filing of the application
21 and shall give notice of the hearing to the owner of the dog.
22 Upon a finding by the court that the dog lacks any useful purpose
23 and poses a threat to public safety because of its training, the
24 humane society or other animal welfare agency shall humanely
25 euthanize the dog. Expenses incurred in connection with the
26 housing, care, upkeep, or euthanasia of the dog by a humane
27 society or other animal welfare agency, or by a person, firm,

1 partnership, corporation, or other entity, shall be taxed against
2 the owner of the dog.

3 (19) ~~(18)~~ Subject to subsections ~~(15)~~ (16) to ~~(17)~~
4 (18), all animals, equipment, devices, and money involved in a
5 violation of subsection ~~(1)~~, (2), (3), or ~~(3)~~ (4) shall be
6 forfeited to the state.

7 (20) ~~(19)~~ This section does not apply to conduct that is
8 permitted by and is in compliance with the ~~game law of 1929, Act~~
9 ~~No. 286 of the Public Acts of 1929, as amended, being sections~~
10 ~~311.1 to 315.5~~ WILDLIFE CONSERVATION ACT, ACT NO. 256 OF THE
11 PUBLIC ACTS OF 1988, BEING SECTIONS 300.251 TO 300.270 of the
12 Michigan Compiled Laws; Act No. 191 of the Public Acts of 1929,
13 ~~as amended,~~ being sections 317.71 to 317.84 of the Michigan
14 Compiled Laws; or Act No. 134 of the Public Acts of 1957, ~~as~~
15 ~~amended,~~ being sections 317.301 to 317.313 of the Michigan
16 Compiled Laws.