

# HOUSE BILL No. 4909

June 8, 1989, Introduced by Reps. Law, Nye, Honigman, Perry Bullard, Hertel, Martin, Fitzgerald and Bankes and referred to the Committee on Judiciary.

A bill to amend section 49 of Act No. 328 of the Public Acts of 1931, entitled

"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) A person who does any of the following is  
6 guilty of a felony, punishable ~~by imprisonment for not more than~~  
7 ~~4 years, or a fine of not more than \$5,000.00, or both~~ AS  
8 PROVIDED IN SUBSECTIONS (2) AND (3):

1 (a) Owns, possesses, keeps, ~~or~~ uses, TRAINS, BUYS, SELLS,  
2 OFFERS TO BUY OR SELL, EXCHANGES, IMPORTS, EXPORTS, OR BREEDS a  
3 bull, bear, dog, or other animal for the purpose of fighting,  
4 ~~or~~ baiting, TRAINING FOR FIGHTING, or USE as a target to be  
5 shot at as a test of skill in marksmanship.

6 (b) Is a party to or causes the fighting, TRAINING FOR  
7 FIGHTING, baiting, or shooting of a bull, bear, dog, or other  
8 animal as described in subdivision (a).

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

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

17 (E) PROMOTES, CONDUCTS, CARRIES ON, ADVERTISES, COLLECTS  
18 MONEY FOR, OR IN ANY OTHER MANNER ASSISTS OR AIDS IN THE PRESEN-  
19 TATION FOR PURPOSES OF SPORT, WAGERING, OR ENTERTAINMENT ANY  
20 SHOW, EXHIBITION, PROGRAM, OR OTHER ACTIVITY INVOLVING A FIGHT  
21 BETWEEN 2 OR MORE ANIMALS OR THE INTENTIONAL KILLING OF AN  
22 ANIMAL.

23 (F) MANUFACTURES FOR SALE, SHIPMENT, TRANSPORTATION, OR  
24 DELIVERY ANY DEVICE OR EQUIPMENT WHICH THAT PERSON KNOWS OR  
25 SHOULD KNOW IS INTENDED FOR USE IN A SHOW, EXHIBITION, PROGRAM,  
26 OR OTHER ACTIVITY FEATURING OR OTHERWISE INVOLVING A FIGHT

1 BETWEEN 2 OR MORE ANIMALS OR THE INTENTIONAL KILLING OF AN ANIMAL  
2 FOR PURPOSES OF SPORT, WAGERING, OR ENTERTAINMENT.

3 (G) OWNS, POSSESSES, SELLS OR OFFERS FOR SALE, SHIPS, TRANS-  
4 PORTS, OR OTHERWISE MOVES ANY EQUIPMENT OR DEVICE WHICH THAT  
5 PERSON KNOWS OR SHOULD KNOW IS INTENDED FOR USE IN CONNECTION  
6 WITH A SHOW, EXHIBITION, PROGRAM, OR ACTIVITY FEATURING OR OTHER-  
7 WISE INVOLVING A FIGHT BETWEEN 2 OR MORE ANIMALS OR THE INTEN-  
8 TIONAL KILLING OF AN ANIMAL FOR PURPOSES OF SPORT, WAGERING, OR  
9 ENTERTAINMENT.

10 (2) A PERSON CONVICTED UNDER SUBSECTION (1) IS PUNISHABLE BY  
11 1 OR MORE OF THE FOLLOWING:

12 (A) IMPRISONMENT FOR NOT MORE THAN 4 YEARS.

13 (B) A FINE OF NOT MORE THAN \$100,000.00.

14 (C) COMMUNITY SERVICE WORK, AS DESIGNATED BY THE COURT,  
15 WITHOUT COMPENSATION FOR A PERIOD OF NOT LESS THAN 1,500 HOURS.

16 (3) AS PART OF THE SENTENCE FOR A VIOLATION OF SUBSECTION  
17 (1), THE COURT SHALL ORDER THE PERSON CONVICTED TO PAY THE COSTS  
18 OF PROSECUTION. FOR PURPOSES OF THIS SUBSECTION, THE "COSTS OF  
19 PROSECUTION" MEANS THE EXPENSES SPECIFICALLY INCURRED BY A CRIMI-  
20 NAL LAW ENFORCEMENT AGENCY IN THE COURSE OF THE CRIMINAL INVESTI-  
21 GATION THAT RESULTED IN THAT PERSON'S PROSECUTION AND  
22 CONVICTION. AN ORDER TO PAY THE COSTS OF PROSECUTION MAY BE  
23 ENFORCED BY THE PROSECUTING ATTORNEY IN THE SAME MANNER AS A  
24 JUDGMENT IN A CIVIL ACTION.

25 (4) ~~-(2)-~~ A person who is present at a building, shed, room,  
26 yard, ground, or premises where preparations are being made for  
27 an exhibition described in subsection (1), or a person who is

1 present at the exhibition, knowing that an exhibition is taking  
2 place or about to take place, is guilty of a felony, punishable  
3 ~~by imprisonment for not more than 4 years, or a fine of not more~~  
4 ~~than \$2,000.00, or both~~ AS PROVIDED IN SUBSECTION (6).

5 (5) ~~(3)~~ A person who knowingly breeds, sells, buys,  
6 exchanges, imports, or exports a dog that has been trained or  
7 used for ~~fighting~~ ANY ACTIVITY as described in subsection (1),  
8 or knowingly breeds, sells, buys, exchanges, imports, or exports  
9 the offspring of a dog that has been trained or used for  
10 ~~fighting~~ ANY ACTIVITY as described in subsection (1), is guilty  
11 of a felony, punishable ~~by imprisonment for not more than 4~~  
12 ~~years or a fine of not more than \$2,000.00, or both~~ AS PROVIDED  
13 IN SUBSECTION (6).

14 (6) A PERSON CONVICTED UNDER SUBSECTION (4) OR (5) IS PUN-  
15 ISHABLE BY 1 OR MORE OF THE FOLLOWING:

16 (A) IMPRISONMENT FOR NOT MORE THAN 4 YEARS.

17 (B) A FINE OF NOT MORE THAN \$50,000.00.

18 (C) COMMUNITY SERVICE WORK, AS DESIGNATED BY THE COURT,  
19 WITHOUT COMPENSATION, FOR A PERIOD OF NOT LESS THAN 800 HOURS.

20 (7) ~~(4)~~ As part of the sentence for a violation of subsec-  
21 tion (1), ~~(2), or (3)~~ (4), OR (5), the court shall order the  
22 person convicted not to own or keep a dog of any kind for a  
23 period of 5 years after the date of sentencing. Failure to  
24 comply with the order of the court pursuant to this subsection is  
25 punishable as contempt of court.

26 (8) ~~(5)~~ If the owner of a dog trained or used for fighting  
27 ~~or a dog that is the offspring or descendant of a dog trained or~~

1 ~~used for fighting~~ incites the dog to attack a person and thereby  
 2 causes the death of that person, the owner is guilty of a felony  
 3 and shall be punished by imprisonment for life or by imprisonment  
 4 for a maximum term of any term of years greater than 15 years.

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

12 (10) ~~(7)~~ If the owner of a dog trained or used for  
 13 fighting ~~or a dog that is the offspring or descendant of a dog~~  
 14 ~~trained or used for fighting~~ incites the dog to attack a person,  
 15 but the attack does not result in the death of the person, the  
 16 owner is guilty of a felony, punishable by ~~imprisonment~~ 1 OR  
 17 MORE OF THE FOLLOWING:

18 (A) IMPRISONMENT for not more than 4 years. ~~or a~~

19 (B) A fine of not more than ~~\$2,000.00, or both~~  
 20 \$50,000.00.

21 (C) COMMUNITY SERVICE WORK, AS DESIGNATED BY THE COURT,  
 22 WITHOUT COMPENSATION, FOR A PERIOD OF NOT LESS THAN 500 HOURS.

23 (11) ~~(8)~~ If a person other than the owner of a dog trained  
 24 or used for fighting ~~or a dog that is the offspring or descen-~~  
 25 ~~dant of a dog trained or used for fighting~~ incites ~~a~~ THE dog  
 26 to attack a person as described in subsection ~~(7)~~ (10), the  
 27 owner is guilty of a felony and shall be punished in the same

1 manner as if he or she had incited the dog to attack as provided  
2 in subsection ~~(7)~~ (10).

3 (12) ~~(9)~~ If a dog trained or used for fighting ~~or a dog~~  
4 ~~that is the offspring or descendant of a dog trained or used for~~  
5 ~~fighting~~ attacks a person without provocation and causes the  
6 death of that person, the owner of the dog is guilty of ~~a felony~~  
7 ~~and shall be punished by imprisonment for a maximum term of not~~  
8 ~~more than 15 years~~ INVOLUNTARY MANSLAUGHTER, PUNISHABLE UNDER  
9 SECTION 321 OF THE MICHIGAN PENAL CODE, ACT NO. 328 OF THE PUBLIC  
10 ACTS OF 1931, BEING SECTION 750.321 OF THE MICHIGAN COMPILED  
11 LAWS.

12 (13) ~~(+)~~ If a dog trained or used for fighting ~~or a dog~~  
13 ~~that is the offspring or descendant of a dog trained or used for~~  
14 ~~fighting~~ attacks a person without provocation, but the attack  
15 does not cause the death of the person, the owner is guilty of a  
16 ~~misdemeanor~~ FELONY punishable by ~~imprisonment~~ 1 OR MORE OF  
17 THE FOLLOWING:

18 (A) IMPRISONMENT for not more than ~~+~~ 4 years. ~~or a~~

19 (B) A fine of not more than ~~\$1,000.00, or both~~ \$2,000.00.

20 (C) COMMUNITY SERVICE WORK, AS DESIGNATED BY THE COURT,  
21 WITHOUT COMPENSATION, FOR A PERIOD OF NOT LESS THAN 500 HOURS.

22 (14) ~~(+)~~ Subsections ~~(5) to (10)~~ (8) TO (13) 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 (15) ~~(+2)~~ 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

1 without being securely restrained, the owner is guilty of a  
2 misdemeanor punishable by ~~imprisonment~~ 1 OR MORE OF THE  
3 FOLLOWING:

4 (A) IMPRISONMENT for not more than 90 days. ~~or a~~

5 (B) A fine of not ~~less than \$50.00 nor~~ more than \$500.00.  
6 ~~, or both.~~

7 (C) COMMUNITY SERVICE WORK, AS DESIGNATED BY THE COURT,  
8 WITHOUT COMPENSATION, FOR A PERIOD OF NOT LESS THAN 250 HOURS.

9 (16) ~~(13)~~ If a dog trained or used for fighting ~~or a dog~~  
10 ~~that is the offspring or descendant of a dog trained or used for~~  
11 ~~fighting~~ is not securely enclosed or restrained on the owner's  
12 property, the owner is guilty of a misdemeanor punishable by  
13 ~~imprisonment~~ 1 OR MORE OF THE FOLLOWING:

14 (A) IMPRISONMENT for not more than 90 days. ~~or a~~

15 (B) A fine of not more than \$500.00. ~~, or both.~~

16 (C) COMMUNITY SERVICE WORK, AS DESIGNATED BY THE COURT,  
17 WITHOUT COMPENSATION, FOR A PERIOD OF NOT LESS THAN 250 HOURS.

18 (17) ~~(14)~~ Subsections ~~(5) to (13)~~ (8) TO (16) do not  
19 apply to any of the following:

20 (a) A dog trained or used for fighting, or the offspring or  
21 descendant of a dog trained or used for fighting, that is used by  
22 a law enforcement agency of the state or a county, city, village,  
23 or township.

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

26 (c) A corporation licensed under the private security guard  
27 act of 1968, Act No. 330 of the Public Acts of 1968, being

1 sections 338.1051 to 338.1085 of the Michigan Compiled Laws, when  
2 the dog trained or used for fighting, or the offspring or descen-  
3 dant of a dog trained or used for fighting, is used under the  
4 provisions of Act No. 330 of the Public Acts of 1968.

5       (18) ~~(+5)~~ A dog that has been used to fight in violation  
6 of this section or that is involved in a violation of subsections  
7 ~~(5) to (+3)~~ (8) TO (16) shall be confiscated as contraband by a  
8 law enforcement officer and shall not be returned to the owner,  
9 trainer, or possessor of the dog. The dog shall be taken to a  
10 local humane society or other animal welfare agency. If a dog  
11 owner, trainer, or possessor is convicted under subsection (1) or  
12 ~~(3)~~ (5) or subsections ~~(5) to (+3)~~ (8) TO (16), the court  
13 shall award the dog involved in the violation to the local humane  
14 society or other animal welfare agency.

15       (19) ~~(+6)~~ Upon receiving a dog confiscated under this sec-  
16 tion, or at any time thereafter, an appointed veterinarian or  
17 officer of the humane society or other animal welfare agency may  
18 humanely euthanize the dog if in his or her opinion the dog is  
19 injured or diseased past recovery or the dog's continued exis-  
20 tence is inhumane so that euthanasia is necessary to relieve pain  
21 and suffering.

22       (20) ~~(+7)~~ A humane society or other animal welfare agency  
23 that receives a dog pursuant to this section shall apply to the  
24 district court or municipal court for a hearing to determine  
25 whether the dog shall be humanely euthanized because of its lack  
26 of any useful purpose and the public safety threat it poses due  
27 to its training as a fighting dog. The court shall set a hearing



1 date not more than 30 days after the filing of the application  
 2 and shall give notice of the hearing to the owner of the dog.  
 3 Upon a finding by the court that the dog lacks any useful purpose  
 4 and poses a threat to public safety because of its training, the  
 5 humane society or other animal welfare agency shall humanely  
 6 euthanize the dog. Expenses incurred in connection with the  
 7 housing, care, upkeep, or euthanasia of the dog by a humane soci-  
 8 ety or other animal welfare agency, or by a person, firm, part-  
 9 nership, corporation, or other entity, shall be taxed against the  
 10 owner of the dog.

11 (21) ~~(19)~~ Subject to subsections ~~(15) to (17)~~ (18) TO  
 12 (20), all animals, equipment, devices, and money involved in a  
 13 violation of subsection (1), ~~(2), or (3)~~ (4), OR (5) shall be  
 14 forfeited to the state.

15 (22) ~~(19)~~ This section does not apply to conduct that is  
 16 permitted by and is in compliance with the ~~game law of 1929, Act~~  
 17 ~~No. 286 of the Public Acts of 1929, as amended, being sections~~  
 18 ~~311.1 to 315.5~~ WILDLIFE CONSERVATION ACT, ACT NO. 256 OF THE  
 19 PUBLIC ACTS OF 1988, BEING SECTIONS 300.251 TO 300.270 of the  
 20 Michigan Compiled Laws; Act No. 191 of the Public Acts of 1929,  
 21 as amended, being sections 317.71 to 317.84 of the Michigan  
 22 Compiled Laws; or Act No. 134 of the Public Acts of 1957, as  
 23 amended, being sections 317.301 to 317.313 of the Michigan  
 24 Compiled Laws.