

HOUSE BILL No. 5923

June 21, 1990, Introduced by Reps. Joe Young, Sr., Harrison, DeMars, Stallworth, Joe Young, Jr., Varga, Law, Barns and Pitoniak 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~~ CO-PARTNERSHIP, PUBLIC OR PRI-
6 VATE CORPORATION, OR UNINCORPORATED OR VOLUNTARY ASSOCIATION THAT
7 KNOWINGLY does any of the following is guilty of a felony,
8 punishable by imprisonment for not more than 4 years, or a fine
9 of not more than \$5,000.00, or both:

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

5 (b) Is a party to or causes the fighting, baiting, or shoot-
6 ing of a bull, bear, dog, FOWL OF ANY KIND, or other animal as
7 described in subdivision (a).

8 (c) Rents or otherwise obtains the use of a building, shed,
9 room, yard, ground, or premises for the purpose of fighting,
10 baiting, or shooting an animal as described in 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 (2) A person who PAYS ADMISSION TO OR is present at a build-
15 ing, shed, room, yard, ground, or premises where preparations are
16 being made for an exhibition described in subsection (1), or a
17 person who is present at the exhibition, knowing that an exhibi-
18 tion is taking place or about to take place, is guilty of a
19 felony, punishable by imprisonment for not more than 4 years, or
20 a fine of not more than \$2,000.00, or both.

21 (3) A person ~~who~~ CO-PARTNERSHIP, PUBLIC OR PRIVATE CORPO-
22 RATION, OR UNINCORPORATED OR VOLUNTARY ASSOCIATION THAT knowingly
23 ~~breeds, sells, buys, exchanges, imports, or exports a dog~~ DOES
24 OR CONSPIRES WITH ANOTHER TO BREED, SELL, BUY, EXCHANGE, IMPORT,
25 OR EXPORT AN ANIMAL that has been trained or used for fighting as
26 described in subsection (1), or knowingly ~~breeds, sells, buys,~~
27 ~~exchanges, imports, or exports~~ DOES OR CONSPIRES WITH ANOTHER TO

1 BREED, SELL, BUY, EXCHANGE, IMPORT, OR EXPORT the offspring of ~~a~~
2 ~~dog~~ AN ANIMAL that has been trained or used for fighting as
3 described in subsection (1), is guilty of a felony, punishable by
4 imprisonment for not more than 4 years or a fine of not more than
5 \$2,000.00, or both.

6 (4) As part of the sentence for a violation of subsection
7 (1), (2), or (3), the court shall order the person convicted not
8 to own or keep ~~a dog~~ AN ANIMAL of any kind for a period of 5
9 years after the date of sentencing. Failure to comply with the
10 order of the court pursuant to this subsection is punishable as
11 contempt of court.

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

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

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

1 of ~~a dog~~ AN ANIMAL trained or used for fighting incites the
2 ~~dog~~ ANIMAL to attack a person, but the attack does not result
3 in the death of the person, the owner is guilty of a felony pun-
4 ishable by imprisonment for not more than 4 years or a fine of
5 not more than \$2,000.00, or both.

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

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

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

1 (11) Subsections (5) to (10) do not apply if the person
2 attacked was committing or attempting to commit an unlawful act
3 on the property of the owner of the ~~dog~~ ANIMAL.

4 (12) If ~~a dog~~ AN ANIMAL trained or used for fighting or ~~a~~
5 ~~dog~~ AN ANIMAL that is the offspring or a descendant of ~~a dog~~
6 AN ANIMAL trained or used for fighting goes beyond the property
7 limits of its owner without being securely restrained, the owner
8 is guilty of a misdemeanor punishable by imprisonment for not
9 more than 90 days or a fine of not less than \$50.00 ~~nor~~ OR more
10 than \$500.00, or both.

11 (13) If ~~a dog~~ AN ANIMAL trained or used for fighting or ~~a~~
12 ~~dog~~ AN ANIMAL that is the offspring or descendant of ~~a dog~~ AN
13 ANIMAL trained or used for fighting is not securely enclosed or
14 restrained on the owner's property, the owner is guilty of a mis-
15 demeanor punishable by imprisonment for not more than 90 days or
16 a fine of not more than \$500.00, or both.

17 (14) Subsections (5) to (13) do not apply to any of the
18 following:

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

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

25 (c) A corporation licensed under the private security guard
26 act of 1968, Act No. 330 of the Public Acts of 1968, being
27 sections 338.1051 to 338.1085 of the Michigan Compiled Laws, when

1 the ~~dog~~ ANIMAL trained or used for fighting, or the offspring
2 or descendant of ~~a dog~~ AN ANIMAL trained or used for fighting,
3 is used under the provisions of Act No. 330 of the Public Acts of
4 1968.

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

15 (16) Upon receiving ~~a dog~~ AN ANIMAL confiscated under this
16 section, 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~~ ANIMAL if in his or her opinion the
19 ~~dog~~ ANIMAL is injured or diseased past recovery or the ~~dog's~~
20 ANIMAL'S continued existence is inhumane so that euthanasia is
21 necessary to relieve pain and suffering.

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

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

12 (18) Subject to subsections (15) to (17), all animals,
13 equipment, devices, and money involved in a violation of subsec-
14 tion (1), (2), or (3) shall be forfeited to the state.

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