



HOUSE BILL No. 4679

April 29, 1993, Introduced by Reps. Bullard, Barns, McManus and DeMars and referred to the Committee on Judiciary.

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) 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 SUBSECTION (2):

1 (a) ~~Owns~~ KNOWINGLY OWNS, possesses, STEALS, keeps, ~~or~~
2 uses, TRAINS, BUYS, SELLS, OFFERS TO BUY OR SELL, EXCHANGES,
3 IMPORTS, EXPORTS, OR BREEDS a bull, bear, dog, BIRD, or other
4 animal for ~~the purpose of~~ fighting, ~~or~~ baiting, TRAINING FOR
5 FIGHTING, or USE as a target to be shot at as a test of skill in
6 marksmanship. THIS SUBDIVISION DOES NOT PROHIBIT THE OWNERSHIP,
7 POSSESSION, KEEPING, USING, TRAINING, BUYING, SELLING, OFFERING
8 TO BUY OR SELL, EXCHANGING, IMPORTING, EXPORTING, OR BREEDING OF
9 BULLS OR BIRDS FOR AGRICULTURAL OR AGRICULTURAL EXHIBITION
10 PURPOSES.

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

14 (c) Rents or otherwise obtains the use of a building, shed,
15 room, yard, ground, or premises for ~~the purpose of~~ fighting,
16 TRAINING FOR FIGHTING, baiting, or shooting ~~an~~ A BULL, BEAR,
17 DOG, BIRD, OR OTHER animal as described in subdivision (a).

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

22 (E) PROMOTES, ORGANIZES, CONDUCTS, CARRIES ON, ADVERTISES,
23 COLLECTS MONEY FOR, OR IN ANY OTHER MANNER ASSISTS OR AIDS IN THE
24 PRESENTATION FOR SPORT, WAGERING, OR ENTERTAINMENT ANY SHOW,
25 EXHIBITION, PROGRAM, OR OTHER ACTIVITY INVOLVING A FIGHT BETWEEN
26 2 OR MORE ANIMALS OR THE INTENTIONAL KILLING OF AN ANIMAL.

1 (F) MANUFACTURES FOR SALE, SHIPMENT, TRANSPORTATION, OR
2 DELIVERY ANY DEVICE OR EQUIPMENT THE PERSON KNOWS IS INTENDED FOR
3 USE IN A SHOW, EXHIBITION, PROGRAM, OR OTHER ACTIVITY INVOLVING A
4 FIGHT BETWEEN 2 OR MORE ANIMALS OR THE INTENTIONAL KILLING OF AN
5 ANIMAL FOR SPORT, WAGERING, OR ENTERTAINMENT.

6 (G) OWNS, POSSESSES, SELLS OR OFFERS FOR SALE, SHIPS, TRANS-
7 PORTS, OR OTHERWISE MOVES ANY EQUIPMENT OR DEVICE THE PERSON
8 KNOWS IS INTENDED FOR USE IN CONNECTION WITH A SHOW, EXHIBITION,
9 PROGRAM, OR OTHER ACTIVITY INVOLVING A FIGHT BETWEEN 2 OR MORE
10 ANIMALS OR THE INTENTIONAL KILLING OF AN ANIMAL FOR SPORT, WAGER-
11 ING, OR ENTERTAINMENT.

12 (2) A FELONY PRESCRIBED IN SUBSECTION (1) IS PUNISHABLE BY 1
13 OR MORE OF THE FOLLOWING:

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

15 (B) A FINE OF NOT LESS THAN \$5,000.00 OR MORE THAN
16 \$25,000.00 FOR THE FIRST VIOLATION, AND A FINE OF NOT LESS THAN
17 \$10,000.00 OR MORE THAN \$100,000.00 FOR A SECOND OR SUBSEQUENT
18 VIOLATION.

19 (C) COMMUNITY SERVICE WORK, AS DESIGNATED BY THE COURT,
20 WITHOUT COMPENSATION FOR A PERIOD OF NOT LESS THAN 240 HOURS OR
21 MORE THAN 1,500 HOURS.

22 (D) RELINQUISHMENT OF ANIMAL OWNERSHIP PRIVILEGES.

23 (E) PAYMENT OF THE COSTS OF PROSECUTION, AND THE COSTS OF
24 HOUSING AND VETERINARY MEDICAL CARE FOR ANY ANIMALS CONFISCATED
25 PURSUANT TO THIS ACT THAT IS THE SUBJECT MATTER OF PROSECUTION.

26 (3) ~~(2)~~ A PERSON WHO IS CONVICTED OF A SECOND OR
27 SUBSEQUENT VIOLATION UNDER THIS SUBSECTION IS GUILTY OF A FELONY,

1 PUNISHABLE AS PROVIDED IN SUBSECTION (5). A person who ~~is~~ DOES
2 ANY OF THE FOLLOWING IS GUILTY OF A MISDEMEANOR, PUNISHABLE BY
3 ANY COMBINATION OF IMPRISONMENT FOR NOT MORE THAN 90 DAYS, A FINE
4 OF NOT LESS THAN \$2,000.00, COMMUNITY SERVICE WORK FOR NOT LESS
5 THAN 120 HOURS, OR RELINQUISHMENT OF ANIMAL OWNERSHIP RIGHTS.

6 (A) IS present at a building, shed, room, yard, ground, or
7 premises where preparations are being made for an exhibition
8 described in subsection (1), KNOWING THAT AN EXHIBITION IS ABOUT
9 TO TAKE PLACE, or a person who is present at ~~the~~ AN exhibition
10 DESCRIBED IN SUBSECTION (1), knowing that ~~an~~ THE exhibition is
11 taking place. ~~or about to take place, is guilty of a felony,~~
12 ~~punishable by imprisonment for not more than 4 years, or a fine~~
13 ~~of not more than \$2,000.00, or both.~~

14 (B) OWNS, POSSESSES, LEASES, TRAINS, SELLS, BUYS, OFFERS TO
15 BUY OR SELL, OR EXCHANGES A BEAR FOR A MATCH OR CONTEST BETWEEN 1
16 OR MORE PERSONS AND A BEAR FOR THE PURPOSE OF FIGHTING OR ENGAG-
17 ING IN A PHYSICAL ALTERCATION.

18 (C) ADMITS, WHETHER FOR OR WITHOUT REMUNERATION, ANOTHER
19 PERSON TO ANY PREMISES USED FOR A MATCH OR CONTEST BETWEEN 1 OR
20 MORE PERSONS AND A BEAR FOR THE PURPOSE OF FIGHTING OR ENGAGING
21 IN A PHYSICAL ALTERCATION.

22 (D) PROMOTES, ENGAGES IN, OR IS EMPLOYED BY ANY PERSON WHO
23 CONDUCTS A MATCH OR CONTEST BETWEEN 1 OR MORE PERSONS AND A BEAR
24 FOR FIGHTING OR ENGAGING IN A PHYSICAL ALTERCATION.

25 (4) ~~(3)~~ A person who ~~knowingly~~ breeds, sells, buys,
26 exchanges, imports, or exports a dog KNOWING that THE DOG has
27 been trained or used for fighting as described in subsection (1),

1 or ~~knowingly~~ breeds, sells, buys, exchanges, imports, or
2 exports the offspring of a dog KNOWING that ~~has~~ 1 OR BOTH OF
3 THE OFFSPRINGS' PARENTS HAVE been trained or used for fighting as
4 described in subsection (1), is guilty of a felony, punishable
5 ~~by imprisonment for not more than 4 years or a fine of not more~~
6 ~~than \$2,000.00, or both~~ AS PROVIDED IN SUBSECTION (5).

7 (5) A FELONY PRESCRIBED IN SUBSECTION (3) OR (4) IS PUNISH-
8 ABLE BY 1 OR MORE OF THE FOLLOWING:

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

10 (B) A FINE OF NOT MORE THAN \$25,000.00.

11 (C) COMMUNITY SERVICE WORK, AS DESIGNATED BY THE COURT,
12 WITHOUT COMPENSATION, FOR NOT MORE THAN 800 HOURS.

13 (6) ~~(4)~~ As part of the sentence for a violation of subsec-
14 tion (1), ~~(2), or~~ (3), OR (4), the court shall order the person
15 convicted not to own or keep ~~a~~ ANY dog ~~of any kind~~ for a
16 period of 5 years after the date of sentencing. Failure to
17 comply with the order of the court pursuant to this subsection is
18 punishable as contempt of court.

19 (7) ~~(5)~~ If the owner of a dog trained or used for fighting
20 or a dog that is the offspring or descendant of a dog trained or
21 used for fighting incites the dog to attack a person and
22 ~~thereby~~ BY THAT ATTACK causes the death of that person, the
23 owner is guilty of a felony ~~and shall be punished~~ PUNISHABLE by
24 imprisonment for life or ~~by imprisonment for a maximum term~~
25 ~~of~~ any term of years ~~greater~~ BUT NOT LESS than 15 years.

26 (8) ~~(6)~~ If a person other than the owner of a dog trained
27 or used for fighting or a dog that is the offspring or descendant

1 of a dog trained or used for fighting incites the dog to attack a
2 person as described in subsection ~~(5)~~ (7), the owner is guilty
3 of a felony and shall be punished in the same manner as if he or
4 she ~~had~~ incited the dog to attack as provided in subsection
5 ~~(5)~~ (7).

6 (9) ~~(7)~~ If the owner of a dog trained or used for fighting
7 or a dog that is the offspring or descendant of a dog trained or
8 used for fighting incites the dog to attack a person, but the
9 attack does not result in the death of the person, the owner is
10 guilty of a felony, punishable by ~~imprisonment~~ 1 OR MORE OF THE
11 FOLLOWING:

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

13 (B) A fine of not more than ~~\$2,000.00, or both~~
14 \$25,000.00.

15 (C) COMMUNITY SERVICE WORK, AS DESIGNATED BY THE COURT,
16 WITHOUT COMPENSATION, FOR NOT MORE THAN 500 HOURS.

17 (10) ~~(8)~~ 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 ~~a~~ THE dog to
20 attack a person as described in subsection ~~(7)~~ (9), the owner
21 is guilty of a felony and shall be punished in the same manner as
22 if he or she ~~had~~ incited the dog to attack as provided in sub-
23 section ~~(7)~~ (9).

24 (11) ~~(9)~~ If a dog trained or used for fighting or a dog
25 that is the offspring or descendant of a dog trained or used for
26 fighting attacks a person without provocation and causes the
27 death of that person, the owner of the dog is guilty of ~~a felony~~

1 ~~and shall be punished by imprisonment for a maximum term of not~~
 2 ~~more than 15 years~~ INVOLUNTARY MANSLAUGHTER, PUNISHABLE UNDER
 3 SECTION 321.

4 (12) ~~(+10)~~ 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 attacks a person without provocation, but the attack
 7 does not cause the death of the person, the owner is guilty of a
 8 ~~misdemeanor~~ FELONY punishable by ~~imprisonment~~ 1 OR MORE OF
 9 THE FOLLOWING:

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

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

12 (C) COMMUNITY SERVICE WORK, AS DESIGNATED BY THE COURT,
 13 WITHOUT COMPENSATION, FOR NOT MORE THAN 500 HOURS.

14 (13) ~~(+11)~~ Subsections ~~(5) to (10)~~ (7) TO (12) do not
 15 apply if the person attacked was committing or attempting to
 16 commit an unlawful act on the property of the owner of the dog.

17 (14) ~~(+12)~~ If a dog trained or used for fighting or a dog
 18 that is the offspring or a descendant of a dog trained or used
 19 for fighting goes beyond the property limits of its owner without
 20 being securely restrained, the owner is guilty of a misdemeanor
 21 punishable by ~~imprisonment~~ 1 OR MORE OF THE FOLLOWING:

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

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

25 (C) COMMUNITY SERVICE WORK, AS DESIGNATED BY THE COURT,
 26 WITHOUT COMPENSATION, FOR NOT MORE THAN 250 HOURS.

1 (15) ~~(+3)~~ If a dog trained or used for fighting or ~~a dog~~
 2 ~~that is~~ the offspring or descendant of a dog trained or used for
 3 fighting is not securely enclosed or restrained on the owner's
 4 property, the owner is guilty of a misdemeanor punishable by
 5 ~~imprisonment~~ 1 OR MORE OF THE FOLLOWING:

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

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

8 (C) COMMUNITY SERVICE WORK, AS DESIGNATED BY THE COURT,
 9 WITHOUT COMPENSATION, FOR NOT MORE THAN 250 HOURS.

10 (16) ~~(+4)~~ Subsections ~~(5) to (+3)~~ (7) TO (15) 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~~ PURSUANT TO Act No. 330 of the Public Acts of
 24 1968.

25 (17) ~~(+5)~~ A dog that has been used to fight in violation
 26 of this section or that is involved in a violation of subsections
 27 ~~(5) to (+3)~~ (7) TO (15) shall be confiscated as contraband by a

1 law enforcement officer and shall not be returned to the owner,
2 trainer, or possessor of the dog. The dog shall be taken to a
3 ~~local humane society~~ DOG POUND or ~~other~~ animal ~~welfare~~
4 ~~agency~~ SHELTER REGISTERED WITH THE DEPARTMENT OF AGRICULTURE
5 UNDER ACT NO. 287 OF THE PUBLIC ACTS OF 1969, BEING SECTIONS
6 287.331 TO 287.340 OF THE MICHIGAN COMPILED LAWS. If a dog
7 owner, trainer, or possessor is convicted under subsection (1) or
8 ~~(3)~~ (4) or subsections ~~(5) to (13)~~ (7) TO (15), the court
9 shall award the dog involved in the violation to the local humane
10 society or other animal welfare agency THAT HAS JURISDICTION OVER
11 THE DOG POUND OR ANIMAL SHELTER.

12 (18) ~~(16)~~ Upon receiving a dog confiscated under this sec-
13 tion, or at any time ~~thereafter~~ AFTER RECEIVING THE DOG, ~~an~~
14 ~~appointed~~ A veterinarian ~~or officer of the humane society~~
15 REPRESENTING THE DOG POUND or ~~other~~ animal ~~welfare agency~~
16 SHELTER may humanely euthanize the dog if in his or her opinion
17 the dog is injured or diseased past recovery, or IF the dog's
18 continued existence is inhumane so that euthanasia is necessary
19 to relieve pain and suffering.

20 (19) ~~(17)~~ A humane society or other animal welfare agency
21 THAT HAS JURISDICTION OVER A DOG POUND OR ANIMAL SHELTER that
22 receives a dog pursuant to this section shall apply to the dis-
23 trict court or municipal court for a hearing to determine whether
24 the dog shall be humanely euthanized because of its lack of any
25 useful purpose and the public safety threat it poses due to its
26 training as a fighting dog. The court shall set a hearing date
27 not more than 30 days after the filing of the application and

1 shall give notice of the hearing to the owner of the dog. Upon a
 2 finding by the court that the dog lacks any useful purpose and
 3 poses a threat to public safety because of its training, the
 4 ~~humane society~~ DOG POUND or ~~other~~ animal ~~welfare agency~~
 5 SHELTER shall humanely euthanize the dog. Expenses incurred in
 6 connection with the housing, care, upkeep, or euthanasia of the
 7 dog by a humane society or other animal welfare agency, or by a
 8 person, firm, partnership, corporation, or other entity, shall be
 9 ~~taxed~~ ASSESSED against the owner of the dog.

10 (20) ~~(+18)~~ Subject to subsections ~~(+15)~~ to (17) TO (19),
 11 ~~all animals~~ ANY ANIMAL, equipment, ~~devices~~ DEVICE, ~~and~~ OR
 12 money involved in a violation of subsection (1), ~~(2), or~~ (3),
 13 OR (4) shall be forfeited to the state.

14 (21) ~~(+19)~~ This section does not apply to conduct that is
 15 permitted by and is in compliance with ~~the game law of 1929, Act~~
 16 ~~No. 286 of the Public Acts of 1929, as amended, being sections~~
 17 ~~311.1 to 315.5~~ ANY OF THE FOLLOWING:

18 (A) THE WILDLIFE CONSERVATION ACT, ACT NO. 256 OF THE PUBLIC
 19 ACTS OF 1988, BEING SECTIONS 300.251 TO 300.270 of the Michigan
 20 Compiled Laws. —

21 (B) THE HUNTING AND FISHING LICENSE ACT, ACT NO. 86 OF THE
 22 PUBLIC ACTS OF 1980, BEING SECTIONS 316.101 TO 316.902 OF THE
 23 MICHIGAN COMPILED LAWS.

24 (C) Act No. 191 of the Public Acts of 1929, as amended,
 25 being sections 317.71 to 317.84 of the Michigan Compiled Laws. —
 26 ~~or~~

1 (D) Act No. 134 of the Public Acts of 1957, as amended,
2 being sections 317.301 to 317.313 of the Michigan Compiled Laws.