



HOUSE BILL No. 4655

March 21, 1995, Introduced by Reps. Law, Jamian, Rocca, Bullard, Dobronski and DeMars and referred to the Committee on Judiciary and Civil Rights.

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 A VER-
6 TEBRATE OTHER THAN A HUMAN.

7 (2) ~~-(1)-~~ A person ~~who does~~ SHALL NOT KNOWINGLY DO any of
8 the following: ~~is guilty of a felony, punishable by imprisonment~~

1 ~~for not more than 4 years, or a fine of not more than \$5,000.00,~~
2 ~~or both.~~

3 (a) ~~Owns, possesses, keeps, or uses a bull, bear, dog, or~~
4 ~~other~~ OWN, POSSESS, USE, OFFER TO BUY OR SELL, IMPORT, OR EXPORT
5 AN animal for ~~the purpose of~~ fighting or baiting, or as a
6 target to be shot at as a test of skill in marksmanship.

7 (b) ~~Is~~ BE a party to or ~~causes~~ CAUSE the fighting, bait-
8 ing, or shooting of ~~a bull, bear, dog, or other~~ AN animal as
9 described in subdivision (a).

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

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

18 (E) ORGANIZE, PROMOTE, OR COLLECT MONEY FOR THE FIGHTING,
19 BAITING, OR SHOOTING OF AN ANIMAL AS DESCRIBED IN
20 SUBDIVISIONS (A) TO (D).

21 (F) ~~(2) A person who is~~ BE present at a building, shed,
22 room, yard, ground, or premises where preparations are being made
23 for an exhibition described in ~~subsection (1), or a person who~~
24 ~~is~~ SUBDIVISIONS (A) TO (D), OR BE present at the exhibition,
25 knowing that an exhibition is taking place or about to take
26 place. ~~, is guilty of a felony, punishable by imprisonment for~~

1 ~~not more than 4 years, or a fine of not more than \$2,000.00, or~~
2 ~~both.~~

3 (G) ~~(3) A person who knowingly breeds, sells, buys,~~
4 ~~exchanges, imports, or exports a dog that~~ BREED, SELL, BUY,
5 EXCHANGE, IMPORT, OR EXPORT AN ANIMAL THE PERSON KNOWS has been
6 trained or used for fighting as described in ~~subsection (1)~~
7 SUBDIVISIONS (A) TO (D), or ~~knowingly breeds, sells, buys,~~
8 ~~exchanges, imports, or exports~~ BREED, SELL, BUY, EXCHANGE,
9 IMPORT, OR EXPORT the offspring of ~~a dog that~~ AN ANIMAL THE
10 PERSON KNOWS has been trained or used for fighting as described
11 in ~~subsection (1), is guilty of a felony, punishable by impris-~~
12 ~~onment for not more than 4 years or a fine of not more than~~
13 ~~\$2,000.00, or both~~ SUBDIVISIONS (A) TO (D). THIS SUBDIVISION
14 DOES NOT PROHIBIT OWNING, BREEDING, SELLING, BUYING, EXCHANGING,
15 IMPORTING, OR EXPORTING FOWL FOR AGRICULTURAL OR AGRICULTURAL
16 EXPOSITION PURPOSES.

17 (H) OWN, POSSESS, USE, OFFER TO BUY OR SELL, TRANSPORT, OR
18 DELIVER ANY DEVICE OR EQUIPMENT INTENDED FOR USE IN THE FIGHTING,
19 BAITING, OR SHOOTING OF AN ANIMAL AS DESCRIBED IN
20 SUBDIVISIONS (A) TO (D).

21 (3) A PERSON WHO VIOLATES SUBSECTION (2)(A) TO (E) IS GUILTY
22 OF A FELONY PUNISHABLE BY 1 OR MORE OF THE FOLLOWING:

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

24 (B) A FINE OF NOT LESS THAN \$5,000.00 OR MORE THAN
25 \$50,000.00.

26 (C) NOT LESS THAN 500 OR MORE THAN 1,000 HOURS OF COMMUNITY
27 SERVICE.

1 (4) A PERSON WHO VIOLATES SUBSECTION (2)(F) TO (H) IS GUILTY
2 OF A FELONY PUNISHABLE BY 1 OR MORE OF THE FOLLOWING:

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

4 (B) A FINE OF NOT LESS THAN \$1,000.00 OR MORE THAN
5 \$5,000.00.

6 (C) NOT LESS THAN 250 OR MORE THAN 500 HOURS OF COMMUNITY
7 SERVICE.

8 (5) THE COURT MAY ORDER A PERSON CONVICTED OF VIOLATING THIS
9 SECTION TO PAY THE COSTS OF PROSECUTION.

10 (6) THE COURT MAY ORDER A PERSON CONVICTED OF VIOLATING THIS
11 SECTION TO PAY THE COSTS FOR HOUSING AND CARING FOR THE ANIMAL,
12 INCLUDING, BUT NOT LIMITED TO, PROVIDING VETERINARY MEDICAL
13 TREATMENT.

14 (7) ~~(4)~~ As part of the sentence for a violation of subsec-
15 tion ~~(1)~~, (2), ~~or (3)~~, the court shall order the person con-
16 victed not to own or ~~keep a dog of any kind~~ POSSESS AN ANIMAL
17 OF THE SAME SPECIES INVOLVED IN THE VIOLATION OF THIS SECTION for
18 ~~a period of~~ 5 years after the date of sentencing. Failure to
19 comply with the order of the court pursuant to this subsection is
20 punishable as contempt of court.

21 (8) ~~(5)~~ If the owner of ~~a dog~~ AN ANIMAL trained or used
22 for fighting or ~~a dog~~ AN ANIMAL that is the FIRST OR SECOND
23 GENERATION offspring ~~or descendant~~ of ~~a dog~~ AN ANIMAL trained
24 or used for fighting incites the ~~dog~~ ANIMAL to attack a person
25 and thereby causes the death of that person, the owner is guilty
26 of a felony and shall be punished by imprisonment for life or by

1 imprisonment for a maximum term of any term of years greater than
2 15 years.

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

11 (10) ~~(7)~~ If the owner of ~~a dog~~ AN ANIMAL trained or used
12 for fighting or ~~a dog~~ AN ANIMAL that is the FIRST OR SECOND
13 GENERATION offspring ~~or descendant~~ of ~~a dog~~ AN ANIMAL trained
14 or used for fighting incites the ~~dog~~ ANIMAL 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 for not
17 more than 4 years or a fine of not more than \$2,000.00, or both.

18 (11) ~~(8)~~ If a person other than the owner of ~~a dog~~ AN
19 ANIMAL trained or used for fighting or ~~a dog~~ AN ANIMAL that is
20 the FIRST OR SECOND GENERATION offspring ~~or descendant~~ of ~~a~~
21 ~~dog~~ AN ANIMAL trained or used for fighting incites ~~a dog~~ THE
22 ANIMAL to attack a person as described in subsection ~~(7)~~ (10),
23 the owner is guilty of a felony and shall be punished in the same
24 manner as if he or she had incited the ~~dog~~ ANIMAL to attack as
25 provided in subsection ~~(7)~~ (10).

26 (12) ~~(9)~~ If ~~a dog~~ AN ANIMAL trained or used for fighting
27 or ~~a dog~~ AN ANIMAL that is the FIRST OR SECOND GENERATION

1 offspring ~~or descendant~~ of ~~a dog~~ AN ANIMAL trained or used
2 for fighting attacks a person without provocation and causes the
3 death of that person, the owner of the ~~dog~~ ANIMAL is guilty of
4 a felony and shall be punished by imprisonment for a maximum term
5 of not more than 15 years.

6 (13) ~~(+10)~~ If ~~a dog~~ AN ANIMAL trained or used for
7 fighting or ~~a dog~~ AN ANIMAL that is the FIRST OR SECOND
8 GENERATION offspring ~~or descendant~~ of ~~a dog~~ AN ANIMAL trained
9 or used for fighting attacks a person without provocation, but
10 the attack does not cause the death of the person, the owner is
11 guilty of a misdemeanor punishable by imprisonment for not more
12 than 1 ~~years~~ YEAR or a fine of not more than \$1,000.00, or
13 both.

14 (14) ~~(+11)~~ Subsections ~~(5)~~ (8) to ~~(+10)~~ (13) 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 ANIMAL.

18 (15) ~~(+12)~~ If ~~a dog~~ AN ANIMAL trained or used for
19 fighting or ~~a dog~~ AN ANIMAL that is the FIRST OR SECOND
20 GENERATION offspring ~~or a descendant~~ of a dog trained or used
21 for fighting goes beyond the property limits of its owner without
22 being securely restrained, the owner is guilty of a misdemeanor
23 punishable by imprisonment for not more than 90 days or a fine of
24 not less than \$50.00 nor more than \$500.00, or both.

25 (16) ~~(+13)~~ If ~~a dog~~ AN ANIMAL trained or used for
26 fighting or ~~a dog~~ AN ANIMAL that is the FIRST OR SECOND
27 GENERATION offspring ~~or descendant~~ of a dog trained or used for

1 fighting is not securely enclosed or restrained on the owner's
 2 property, the owner is guilty of a misdemeanor punishable by
 3 imprisonment for not more than 90 days or a fine of not more than
 4 \$500.00, or both.

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

7 (a) A dog trained or used for fighting, or the FIRST OR
 8 SECOND GENERATION offspring ~~or descendant~~ of a dog trained or
 9 used for fighting, that is used by a law enforcement agency of
 10 the state or a county, city, village, or township.

11 (b) A certified leader dog recognized and trained by ~~the~~ A
 12 national ~~leader dogs associations~~ GUIDE DOG ASSOCIATION for the
 13 blind ~~and~~ OR handicapped.

14 (c) A corporation licensed under the private security guard
 15 act of 1968, Act No. 330 of the Public Acts of 1968, being sec-
 16 tions 338.1051 to 338.1085 of the Michigan Compiled Laws, when
 17 ~~the~~ A dog trained or used for fighting, or the FIRST OR SECOND
 18 GENERATION offspring ~~or descendant~~ of a dog trained or used for
 19 fighting, is used under the provisions of Act No. 330 of the
 20 Public Acts of 1968.

21 (18) ~~(15)~~ ~~A dog~~ AN ANIMAL that has been used to fight in
 22 violation of this section or that is involved in a violation of
 23 subsections ~~(5) to (13)~~ (8) TO (16) shall be confiscated as
 24 contraband by a law enforcement officer and shall not be returned
 25 to the owner, trainer, or possessor of the ~~dog~~ ANIMAL. The
 26 ~~dog~~ ANIMAL shall be taken to a ~~local~~ humane society SHELTER
 27 or ~~other~~ LOCAL GOVERNMENTAL animal ~~welfare agency~~ CONTROL

1 SHELTER. If ~~a dog~~ AN ANIMAL owner, trainer, or possessor is
 2 convicted under subsection ~~(1) or (3)~~ (2) or subsections ~~(5)~~
 3 ~~to (13)~~ (8) TO (16), the court shall award the ~~dog~~ ANIMAL
 4 involved in the violation to the ~~local~~ humane society SHELTER
 5 or ~~other~~ LOCAL GOVERNMENTAL animal ~~welfare agency~~ CONTROL
 6 SHELTER.

7 (19) ~~(16)~~ Upon receiving ~~a dog~~ AN ANIMAL confiscated
 8 under this section, or at any time thereafter, an appointed
 9 veterinarian, ~~or officer of~~ the humane society SHELTER, or
 10 ~~other~~ LOCAL GOVERNMENTAL animal ~~welfare agency~~ CONTROL
 11 SHELTER may humanely euthanize the ~~dog~~ ANIMAL if in ~~his or~~
 12 ~~her~~ THE opinion OF THAT VETERINARIAN, HUMANE SOCIETY SHELTER, OR
 13 LOCAL GOVERNMENTAL ANIMAL CONTROL SHELTER, the ~~dog~~ ANIMAL is
 14 injured or diseased past recovery or the ~~dog's~~ ANIMAL'S contin-
 15 ued existence is inhumane so that euthanasia is necessary to
 16 relieve pain and suffering.

17 (20) ~~(17)~~ A humane society SHELTER or ~~other~~ LOCAL
 18 GOVERNMENTAL animal ~~welfare agency~~ CONTROL SHELTER that
 19 receives ~~a dog~~ AN ANIMAL pursuant to this section shall apply
 20 to the district court or municipal court for a hearing to deter-
 21 mine whether the ~~dog~~ ANIMAL shall be humanely euthanized
 22 because of its lack of any useful purpose and the public safety
 23 threat it poses due to its training as a fighting ~~dog~~ ANIMAL.
 24 The court shall set a hearing date not more than 30 days after
 25 the filing of the application and shall give notice of the hear-
 26 ing to the owner of the ~~dog~~ ANIMAL. Upon a finding by the
 27 court that the ~~dog~~ ANIMAL lacks any useful purpose and poses a

1 threat to public safety because of its training, the humane
 2 society SHELTER or ~~other~~ LOCAL GOVERNMENTAL animal ~~welfare~~
 3 ~~agency~~ CONTROL SHELTER shall humanely euthanize the ~~dog~~
 4 ANIMAL. Expenses incurred in connection with the housing, care,
 5 upkeep, or euthanasia of the ~~dog~~ ANIMAL by a humane society
 6 SHELTER or ~~other~~ LOCAL GOVERNMENTAL animal ~~welfare agency~~
 7 CONTROL SHELTER, or by a person, firm, partnership, corporation,
 8 or other entity, shall be taxed against the owner of the ~~dog~~
 9 ANIMAL.

10. (21) ~~(18)~~ Subject to subsections ~~(15) to (17)~~ (18) TO
 11 (20), all animals BEING USED OR TO BE USED IN FIGHTING, equip-
 12 ment, devices and money involved in a violation of subsection
 13 ~~(1)~~, (2) ~~, or (3)~~ shall be forfeited to the state. ALL FIRE-
 14 ARMS AND MOTOR VEHICLES INVOLVED IN A VIOLATION OF SUBSECTION (2)
 15 ARE SUBJECT TO FORFEITURE UNDER CHAPTER 47 OF THE REVISED JUDICA-
 16 TURE ACT OF 1961, ACT NO. 236 OF THE PUBLIC ACTS OF 1961, BEING
 17 SECTIONS 600.4701 TO 600.4709 OF THE MICHIGAN COMPILED LAWS.

18 (22) ~~(19)~~ This section does not apply to conduct that is
 19 permitted by and is in compliance with ~~the game law of 1929, Act~~
 20 ~~No. 280 of the Public Acts of 1929, as amended, being sections~~
 21 ~~311.1 to 315.5 of the Michigan Compiled Laws, Act No. 191 of the~~
 22 ~~Public Acts of 1929, as amended, being sections 317.71 to 317.84~~
 23 ~~of the Michigan Compiled Laws, or Act No. 134 of the Public Acts~~
 24 ~~of 1957, as amended, being sections 317.301 to 317.313 of the~~
 25 ~~Michigan Compiled Laws.~~ ANY OF THE FOLLOWING:

1 (A) THE WILDLIFE CONSERVATION ACT, ACT NO. 256 OF THE PUBLIC
2 ACTS OF 1988, BEING SECTIONS 300.251 TO 300.270 OF THE MICHIGAN
3 COMPILED LAWS.

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

7 (C) ACT NO. 191 OF THE PUBLIC ACTS OF 1929, BEING SECTIONS
8 317.71 TO 317.84 OF THE MICHIGAN COMPILED LAWS.

9 (23) THIS SECTION DOES NOT PROHIBIT A PERSON FROM BEING
10 CHARGED WITH, CONVICTED OF, OR PUNISHED FOR ANY OTHER VIOLATION
11 OF LAW THAT IS COMMITTED BY THAT PERSON WHILE VIOLATING THIS
12 SECTION.

13 Section 2. This amendatory act shall not take effect unless
14 Senate Bill No. _____ or House Bill No. 4656 (request
15 no. 03746'95 a *) of the 88th Legislature is enacted into law.