



Senate Fiscal Agency
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Senate Bills 356 and 358 (as enacted)
House Bill 5789 (as enacted)
Sponsor: Senator Rick Jones (S.B. 356)
Senator Steven Bieda (S.B. 358)
Representative Andrea LaFontaine (H.B. 5789)
Senate Committee: Judiciary
House Committee: Judiciary

PUBLIC ACTS 350 & 351 of 2012
PUBLIC ACT 352 of 2012

Date Completed: 8-27-13

RATIONALE

Animal fighting is illegal in all states and has been proscribed in Michigan since at least the 1870s. Despite being subject to criminal sanctions, animal fighting rings, particularly involving dogs, continue to operate in Michigan and throughout the country. Often, dog fighting operations involve many other crimes, such as gambling and tax evasion, and the fights draw people who engage in other illicit activities such as drug and weapons crimes. It was suggested that, due to the multifaceted nature of animal fighting, the crime be included in the racketeering provisions of Michigan Penal Code, that proceeds of the crime be subject to seizure and forfeiture, and that certain property used for animal fighting should be deemed a public nuisance.

prohibited by Section 49 of the Michigan Penal Code as a nuisance.

The bills took effect on December 13, 2012.

Section 49 of the Michigan Penal Code prohibits various activities relating to the use of an animal for fighting or baiting, or as a shooting target. Those activities are subject to felony penalties, while other violations of the section are misdemeanors. Subject to requirements for turning an animal over to a humane society or animal welfare agency, all animals being used or to be used in fighting, baiting, and target shooting, and equipment, devices, and money involved in those violations, must be forfeited to the State.

CONTENT

Senate Bill 356 amended Chapter 47 (Forfeiture or Seizure of Certain Property) of the Revised Judicature Act (RJA) to include a violation of Section 49 of the Michigan Penal Code in the list of crimes for which property may be seized and forfeited.

Senate Bill 358 amended the Michigan Penal Code to include a violation of Section 49 as a predicate offense of racketeering.

House Bill 5789 amended Chapter 38 (Public Nuisances) of the RJA to designate a place used for conduct

Senate Bill 356

Under Chapter 47 of the RJA, the following property is subject to seizure by, and forfeiture to, a local unit of government or the State:

- All personal property that is the proceeds of a crime, the substituted proceeds of a crime, or an instrumentality of a crime.
- All real property that is the proceeds of a crime or the substituted proceeds of a crime, except real property that is the primary residence of the spouse or a dependent child of the owner, unless the spouse or child had prior knowledge of the crime and consented to it.

In addition, in the case of a crime that is a violation of Chapter 83-A of the Michigan Penal Code (the Michigan Anti-Terrorism Act), all property described above and all real or personal property that performed one of the following functions is subject to seizure and forfeiture:

- Contributed directly and materially to the commission of the crime.
- Was used to conceal the crime.
- Was used to escape from the scene of the crime.
- Was used to conceal the identity of one or more of the individuals who committed the crime.

Under the bill, the forfeiture provisions that apply to a violation of Chapter 83-A also apply to a violation of Section 49 of the Penal Code.

Senate Bill 358

The Penal Code prohibits a person from engaging in certain activities through a "pattern of racketeering activity" (at least two incidents of racketeering that have interrelated characteristics and amount to or pose a threat of continuing criminal activity). "Racketeering" means committing, attempting to commit, conspiring to commit, or aiding or abetting, soliciting, coercing, or intimidating a person to commit an offense for financial gain, involving any of the violations specified in the Code. The bill includes a violation of Section 49 concerning animal fighting.

House Bill 5789

Under Chapter 38 of the RJA, a building, vehicle, boat, aircraft, or place is a nuisance if it is used for certain illegal activities. The bill includes a building, vehicle, boat, aircraft, or place used for conduct prohibited by Section 49 of the Penal Code.

(Chapter 38 allows the Attorney General, a county prosecuting attorney, or the resident of a county to maintain an action in the name of the State to abate a nuisance and to enjoin any person from using nuisance property for any of the purposes specified in Chapter 38. If the existence of a nuisance is established, an order of abatement must be entered, and property may be seized and forfeited. The proceeds of the sale of the personal property must be applied to the

costs of the action and abatement, and any balance must be paid to people entitled to it as directed by the court. Upon the payment of costs, the filing of a bond, and the payment of a penal sum, a building may be returned to an owner if the owner immediately abates the nuisance and prevents it from being established or kept there within one year from the date of the judgment.)

MCL 600.4702 (S.B. 356)
750.159g (S.B. 358)
600.3801 (H.B. 5789)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

While animal fighting has been illegal in Michigan for well over a century, and the practice carries significant criminal penalties, the law did not address the economics of animal fighting. Animal fighting operations, particularly dog fighting rings, are a big business and the criminal penalties in Section 49 of the Penal Code may not be sufficient to deter the practice or punish the offenders. Animal fighting typically involves gambling and tax evasion schemes. Thousands of dollars can be exchanged on a single fight between dogs. Also, animal fights often draw interest from individuals involved in other illegal activities, such as drug and weapons trafficking. Since these operations are by nature a criminal enterprise and not just individual illicit acts, it is appropriate to include animal fighting as a predicate offense in the Penal Code's racketeering provisions. Doing so will subject organizers to enhanced penalties and give the violations a higher profile, which might result in more focused enforcement of the prohibition against animal fighting.

In addition, subjecting the proceeds of animal fighting violations to the State's general seizure and forfeiture laws, and including property associated with animal fighting in the public nuisance provisions, will give law enforcement more tools to combat animal fighting and prevent dog fighting rings from regrouping and continuing their operations.

Investigating and prosecuting dog fighting rings usually involve many hours of cooperative work and effort between law enforcement agencies in different jurisdictions. This can be a very expensive undertaking. Subjecting organizers and violators to property seizure and forfeiture also may help provide resources to Michigan law enforcement operations that have been hard hit by the budgetary strains of recent years.

Supporting Argument

Animal fighting operations are brutal and cruel. Dogs are bred and trained to fight and kill, and often are subjected to steroids or other drugs to make them more ferocious. Fights are usually bloody and can last a long time, as dogs are weakened under the powerful jaws of other canines. People who abuse animals in this way may be more likely to commit violence against people. Subjecting offenders to greater criminal penalties and economic sanctions should reduce the level and likelihood of violence committed against animals and humans in Michigan communities.

Supporting Argument

In some areas of the State, there is an increasing problem of stray dogs roaming the streets. Some of these strays may have escaped or been released from dog fighting operations. Indeed, a member of the Michigan Senate was attacked by a stray pit bull that likely had been part of a dog fighting operation. By increasing law enforcement options for combating animal fighting operations, the bills should lead to a reduction in the stray dog problem in Detroit and elsewhere in Michigan.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

Senate Bill 356

The bill will have an indeterminate fiscal impact on State and local government. There are no data to indicate how many offenders will be convicted of an animal fighting offense.

Senate Bill 358

The bill will have an indeterminate fiscal impact on State and local government. There are no data to indicate how many

offenders will be convicted of an animal fighting offense. To the extent that violations of MCL 750.49 increase the number of racketeering convictions, the State may incur additional costs related to incarceration. Additional penal fine revenue will benefit public libraries.

House Bill 5789

By allowing for property hosting animal fighting to be declared a nuisance, the bill may result in added administrative costs for local courts due to processes associated with seizure of personal property. However, these costs could be partly or wholly offset due to the sale of seized property and/or the payment of fines by the owner of the property. To the extent that revenue from the sale of personal property exceeds local administrative costs, additional revenue will be distributed to the State's General Fund.

Fiscal Analyst: Bruce Baker
Dan O'Connor

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.