

HOUSE BILL No. 4147

February 7, 1991, Introduced by Reps. Law, Perry Bullard, Willis Bullard and Bandstra 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 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.

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

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

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

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

24 (F) MANUFACTURES FOR SALE, SHIPMENT, TRANSPORTATION, OR
25 DELIVERY ANY DEVICE OR EQUIPMENT WHICH THAT PERSON KNOWS IS
26 INTENDED FOR USE IN A SHOW, EXHIBITION, PROGRAM, OR OTHER
27 ACTIVITY INVOLVING A FIGHT BETWEEN 2 OR MORE ANIMALS OR THE

1 INTENTIONAL KILLING OF AN ANIMAL FOR PURPOSES OF SPORT, WAGERING,
2 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 IS INTENDED FOR USE IN CONNECTION WITH A SHOW, EXHI-
6 BITION, PROGRAM, OR OTHER ACTIVITY INVOLVING A FIGHT BETWEEN 2 OR
7 MORE ANIMALS OR THE INTENTIONAL KILLING OF AN ANIMAL FOR PURPOSES
8 OF SPORT, WAGERING, OR ENTERTAINMENT.

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

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

12 (B) A FINE OF NOT MORE THAN \$25,000.00 FOR THE FIRST VIOLA-
13 TION, AND A FINE OF NOT MORE THAN \$100,000.00 FOR A SECOND OR
14 SUBSEQUENT VIOLATION.

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

17 (3) ~~(2)~~ A person who is present at a building, shed, room,
18 yard, ground, or premises where preparations are being made for
19 an exhibition described in subsection (1), KNOWING THAT AN EXHI-
20 BITION IS ABOUT TO TAKE PLACE, or a person who is present at
21 ~~the~~ AN exhibition DESCRIBED IN SUBSECTION (1), knowing that
22 ~~an~~ THE exhibition is taking place, ~~or about to take place,~~ is
23 guilty of a MISDEMEANOR, PUNISHABLE BY IMPRISONMENT FOR NOT MORE
24 THAN 90 DAYS, OR A FINE OF NOT MORE THAN \$500.00, OR BOTH. A
25 PERSON WHO IS CONVICTED OF A SECOND OR SUBSEQUENT VIOLATION UNDER
26 THIS SUBSECTION IS GUILTY OF A felony, punishable ~~by~~

1 ~~imprisonment for not more than 4 years, or a fine of not more~~
2 ~~than \$2,000.00, or both~~ AS PROVIDED IN SUBSECTION (5).

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

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

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

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

16 (C) COMMUNITY SERVICE WORK, AS DESIGNATED BY THE COURT,
17 WITHOUT COMPENSATION, FOR A PERIOD OF NOT MORE THAN 800 HOURS.

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

24 (7) ~~(5)~~ If the owner of a dog trained or used for fighting
25 or a dog that is the offspring or descendant of a dog trained or
26 used for fighting incites the dog to attack a person and thereby
27 causes the death of that person, the owner is guilty of a felony

1 and shall be punished by imprisonment for life or by imprisonment
2 for a maximum term of any term of years greater than 15 years.

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

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

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

17 (B) A fine of not more than ~~\$2,000.00, or both~~
18 \$25,000.00.

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

21 (10) ~~(8)~~ If a person other than the owner of a dog trained
22 or used for fighting or a dog that is the offspring or descendant
23 of a dog trained or used for fighting incites ~~a~~ THE dog to
24 attack a person as described in subsection ~~(7)~~ (9), the owner
25 is guilty of a felony and shall be punished in the same manner as
26 if he or she had incited the dog to attack as provided in
27 subsection ~~(7)~~ (9).

1 (11) ~~(9)~~ 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 attacks a person without provocation and causes the
 4 death of that person, the owner of the dog is guilty of ~~a felony~~
 5 ~~and shall be punished by imprisonment for a maximum term of not~~
 6 ~~more than 15 years~~ INVOLUNTARY MANSLAUGHTER, PUNISHABLE UNDER
 7 SECTION 321.

8 (12) ~~(10)~~ If a dog trained or used for fighting or a dog
 9 that is the offspring or descendant of a dog trained or used for
 10 fighting attacks a person without provocation, but the attack
 11 does not cause the death of the person, the owner is guilty of a
 12 ~~misdemeanor~~ FELONY punishable by ~~imprisonment~~ 1 OR MORE OF
 13 THE FOLLOWING:

14 (A) IMPRISONMENT for not more than ~~1~~ 4 years. ~~or a~~

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

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

18 (13) ~~(11)~~ Subsections ~~(5) to (10)~~ (7) TO (12) do not
 19 apply if the person attacked was committing or attempting to
 20 commit an unlawful act on the property of the owner of the dog.

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

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

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

3 (C) COMMUNITY SERVICE WORK, AS DESIGNATED BY THE COURT,
4 WITHOUT COMPENSATION, FOR A PERIOD OF NOT MORE THAN 250 HOURS.

5 (15) ~~(13)~~ If a dog trained or used for fighting or a dog
6 that is the offspring or descendant of a dog trained or used for
7 fighting is not securely enclosed or restrained on the owner's
8 property, the owner is guilty of a misdemeanor punishable by
9 ~~imprisonment~~ 1 OR MORE OF THE FOLLOWING:

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

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

12 (C) COMMUNITY SERVICE WORK, AS DESIGNATED BY THE COURT,
13 WITHOUT COMPENSATION, FOR A PERIOD OF NOT MORE THAN 250 HOURS.

14 (16) ~~(14)~~ Subsections ~~(5) to (13)~~ (7) TO (15) do not
15 apply to any of the following:

16 (a) A dog trained or used for fighting, or the offspring or
17 descendant of a dog trained or used for fighting, that is used by
18 a law enforcement agency of the state or a county, city, village,
19 or township.

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

22 (c) A corporation licensed under the private security guard
23 act of 1968, Act No. 330 of the Public Acts of 1968, being sec-
24 tions 338.1051 to 338.1085 of the Michigan Compiled Laws, when
25 the dog trained or used for fighting, or the offspring or descen-
26 dant of a dog trained or used for fighting, is used under the
27 provisions of Act No. 330 of the Public Acts of 1968.

1 (17) ~~(+15)~~ A dog that has been used to fight in violation
2 of this section or that is involved in a violation of subsections
3 ~~(5) to (+3)~~ (7) TO (15) shall be confiscated as contraband by a
4 law enforcement officer and shall not be returned to the owner,
5 trainer, or possessor of the dog. The dog shall be taken to a
6 local humane society or other animal welfare agency. If a dog
7 owner, trainer, or possessor is convicted under subsection (1) or
8 ~~(3)~~ (4) or subsections ~~(5) to (+3)~~ (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.

11 (18) ~~(+16)~~ Upon receiving a dog confiscated under this sec-
12 tion, or at any time thereafter, an appointed veterinarian or
13 officer of the humane society or other animal welfare agency may
14 humanely euthanize the dog if in his or her opinion the dog is
15 injured or diseased past recovery or the dog's continued exis-
16 tence is inhumane so that euthanasia is necessary to relieve pain
17 and suffering.

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

1 humane society or other animal welfare agency shall humanely
 2 euthanize the dog. Expenses incurred in connection with the
 3 housing, care, upkeep, or euthanasia of the dog by a humane soci-
 4 ety or other animal welfare agency, or by a person, firm, part-
 5 nership, corporation, or other entity, shall be taxed against the
 6 owner of the dog.

7 (20) ~~(18)~~ Subject to subsections ~~(15) to~~ (17) TO (19),
 8 all animals, equipment, devices, and money involved in a viola-
 9 tion of subsection (1), ~~(2), or~~ (3), OR (4) shall be forfeited
 10 to the state.

11 (21) ~~(19)~~ This section does not apply to conduct that is
 12 permitted by and is in compliance with the ~~game law of 1929, Act~~
 13 ~~No. 286 of the Public Acts of 1929, as amended, being sections~~
 14 ~~311.1 to 315.5~~ WILDLIFE CONSERVATION ACT, ACT NO. 256 OF THE
 15 PUBLIC ACTS OF 1988, BEING SECTIONS 300.251 TO 300.270 of the
 16 Michigan Compiled Laws; Act No. 191 of the Public Acts of 1929,
 17 as amended, being sections 317.71 to 317.84 of the Michigan
 18 Compiled Laws; or Act No. 134 of the Public Acts of 1957, as
 19 amended, being sections 317.301 to 317.313 of the Michigan
 20 Compiled Laws.