

SENATE BILL REPORT

SB 6114

As Reported By Senate Committee On:
Judiciary, January 29, 2004

Title: An act relating to criminal offenses involving animals or natural resources.

Brief Description: Prohibiting terrorist acts against animal and natural resource facilities.

Sponsors: Senators Stevens, Winsley, Oke, Schmidt, Honeyford, Mulliken, Parlette, Finkbeiner, Deccio, Swecker, Zarelli, Morton, Hewitt, Sheahan, Horn, Rasmussen, Roach and Benton.

Brief History:

Committee Activity: Judiciary: 1/15/04, 1/29/04 [DPS, DNPS].
Ways & Means: 2/6/04.

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 6114 be substituted therefor, and the substitute bill do pass.

Signed by Senators McCaslin, Chair; Esser, Vice Chair; Brandland, Hargrove, Haugen and Roach.

Minority Report: Do not pass substitute.

Signed by Senators Kline and Thibaudeau.

Staff: Aldo Melchiori (786-7439)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Steve Jones (786-7440)

Background: The Federal Bureau of Investigation (FBI) estimates that special interest terrorist groups have committed more than 600 criminal acts in the United States since 1996, resulting in damages in excess of \$43 million. Special interest terrorist groups seek to resolve specific issues, rather than effect widespread political change. The FBI defines eco-terrorism as the use or threatened use of violence of a criminal nature against innocent victims or property by an environmentally-oriented, subnational group for environmental-political reasons, or aimed at an audience beyond the target, often of a symbolic nature.

It is a federal offense to travel interstate, use the mail, or use any facility in interstate or foreign commerce for the purpose of causing physical disruption to the functioning of an animal enterprise by intentionally damaging or causing loss of property used by an animal enterprise. Punishment for the offense is dependant upon the severity of the damage caused by the act.

Two bills were introduced during the 108th Congress regarding eco-terrorism, although neither has yet passed. HR 2942 would establish a national clearinghouse for information regarding eco-terrorist acts and would authorize federal assistance. HR 3307 would further criminalize intentional damage to property with the intent of influencing the public with regard to conduct the offender considers harmful to the environment. A number of states have passed or are considering eco-terrorism legislation.

Summary of Substitute Bill: An "animal rights or ecological terrorist organization" is defined as any association, organization, entity, coalition, or combination of two or more persons with the purpose of intimidating, coercing, or causing fear with the intent to obstruct, impede, or deter any person from participating in an activity involving animals, activity involving natural resources, animal facility, research facility, horticultural educational or research facility, or the lawful activity of mining, foresting, harvesting, gathering, or processing natural resources.

It is unlawful to: (1) deprive an owner of an animal or natural resource from lawfully participating in an activity involving animals or an activity involving natural resources under specified circumstances, (2) obstruct or impede the use of an animal facility or the use of a natural resource without effective consent under specified circumstances, or (3) participate in or support animal or ecological terrorism by performing specified acts. The prohibition does not apply to government agencies and their employees, employees of financial institutions, secured parties, employees of an animal control authority acting within the scope of employment, or participants in otherwise legal employee or employment organization labor-related disputes. If the damage to property does not exceed \$1,500, the offender is guilty of a gross misdemeanor (up to one year in jail and/or a \$5,000 fine). If the damage to property exceeds \$1,500, the offender is guilty of an unranked class C felony (up to one year in jail and/or a \$10,000 fine). Any violation that results in the intentional or negligent infliction of bodily harm to any individual is punished as a class B felony ranked at level 6 on the sentencing grid (12+ to 14 months imprisonment and/or a \$20,000 fine for a first offense). A sentence outside the standard range is authorized if any of the offenses result in the death of a human being or the death or destruction of an animal.

A single eco-terrorism offense, including an anticipatory or completed offense, or a lawfully obtained and admissible confession is defined as criminal profiteering. The offender is subject to the provisions of the criminal profiteering act upon proof by a preponderance of the evidence that he or she engaged in the act. An injured person, the Attorney General, or a prosecuting attorney can bring a suit for criminal profiteering. All of the criminal profiteering penalties apply including treble actual damages, civil penalties of up to \$250,000, attorneys fees and costs, restraining orders, and civil forfeiture.

A registry of animal and ecological terrorists is created. Upon conviction for an act contained in the chapter, the offender must register with the Attorney General on a proscribed form and notify the Attorney General if the information changes. The Attorney General creates a website containing the information. The offender's information remains on the website for not less than three years. After that time, the offender may apply to the Attorney General for removal of the information after a hearing.

Substitute Bill Compared to Original Bill: The original bill was not considered.

Appropriation: None.

Fiscal Note: Requested on January 12, 2004.

Effective Date: The bill takes effect on July 1, 2004.

Testimony For (Judiciary): These acts go far beyond the damages contemplated by current criminal statutes. The costs include increased security needs, loss of years of breeding records, years of work, and peace of mind. The release of domestic animals results in intermingling with the wild population and can result in disease transfers. Eco-terrorist websites are encouraging violent action.

Testimony Against (Judiciary): The definition of terrorist organizations is too broad. Animal rights organizations that do not support violent action may be targeted by this legislation. These acts are already prohibited by current law. Protected speech may be chilled.

Testified (Judiciary): PRO: Senator Stevens, prime sponsor; Kate Roesler, Roesler Fur Farm; Fred Walser, Sultan Police Department; Aurther Kelly, American Mink Council; CON: Lindsay Dofelwier Saibara, NW Animal Rights Network; Jerry Sheehan, ACLU; Alan Mountjon-Venning.

Testimony For (Ways & Means): Recent acts of eco-terrorism include an arson fire at the University of Washington and the release of 2,000 mink at a mink farm. These acts go far beyond the damages contemplated by current criminal statutes. The costs include increased security needs, loss of years of breeding records, years of work, and peace of mind. The release of domestic animals results in intermingling with the wild population and can result in disease transfers. Eco-terrorist websites are encouraging violent action. Owners of exotic pets fear for their safety and the safety of their animals. Prosecutors need more tools as these types of crimes become more common. The fiscal impact of the bill could be reduced by eliminating the registry of terrorists.

Testimony Against (Ways & Means): The definition of terrorist organizations is too broad and may criminalize behavior that is peaceful protest or legitimate political dissent. "Terrorism" has become a buzzword that is used to justify inappropriate laws. Nonviolent civil disobedience must be respected. Animal rights organizations that do not support violent action may be targeted by this legislation. These acts are already prohibited by existing laws on arson, criminal trespass, malicious mischief, etc. Protected speech and legitimate political protest will be chilled by the broad definitions and harsh civil and criminal penalties in the bill.

Testified (Ways & Means): PRO: Senator Val Stevens, prime sponsor; Kate Roesler, Roesler Fur Farm; Fred Walser, Sultan Police Department; Aurther Kelly, American Mink Council; Dan Wood, Washington Farm Bureau; Jeanne Hall, Phoenix Exotic Wildlife Assoc. CON: Lindsay Dofelwier Saibara, NW Animal Rights Network; Jerry Sheehan, ACLU; Alan Mountjoy-Venning, Friends Committee on Washington State Public Policy; Wendy Lagerquist.