

SENATE BILL REPORT

SHB 1919

As Reported by Senate Committee On:
Law & Justice, March 21, 2019

Title: An act relating to preventing and responding to animal abuse.

Brief Description: Preventing and responding to animal abuse.

Sponsors: House Committee on Public Safety (originally sponsored by Representatives Mosbrucker, Appleton, Smith, Ybarra, Dye, Ormsby and Stanford).

Brief History: Passed House: 3/01/19, 94-0.

Committee Activity: Law & Justice: 3/14/19, 3/21/19 [DPA].

Brief Summary of Amended Bill

- Adds knowingly stealing an animal intending to use it for fighting as an act constituting the crime of animal fighting.
- Adds owning and using animal fighting paraphernalia for the purpose of engaging in animal fighting as an act constituting the crime of animal fighting
- Defines animal fighting paraphernalia.
- Increases the penalty for animal fighting from a class C to a class B felony when the person who commits the offense mutilates an animal to further the offense.
- Adds taking possession of an animal that was involved in animal fighting and abandoning it knowingly, recklessly, or with criminal negligence, resulting in bodily harm or the risk of bodily harm to the animal, as an additional circumstance to the crime of animal cruelty in the second degree.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass as amended.

Signed by Senators Pedersen, Chair; Dhingra, Vice Chair; Padden, Ranking Member; Kuderer and Salomon.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Staff: Melissa Burke-Cain (786-7755)

Background: Animal Fighting. Animal fighting is a staged match between two animals for the purpose of entertainment, wagering or sport. Dog fighting has been illegal in all fifty states since 1976. According to the Animal Legal Defense Fund, the three most common types of animal fighting in the United States are dogfighting, cockfighting, and hog-dog fighting. Animal fighting was a popular and legal activity in the United States from colonial times through the late 1800s. During the early 20th century, opposition to animal cruelty grew, including opposition to animal fighting. By the 1960s, most states outlawed dog fighting. Some states adopted laws prohibiting cockfighting more recently. Louisiana was the last state to outlaw cockfighting in 2008. Washington enacted its first broad animal cruelty law in 1901. The federal Animal Welfare Act prohibits buying or selling animals for animal fighting. A conviction under this federal law is punishable by up to three years' incarceration and a \$250,000 fine for each violation.

Despite the laws prohibiting animal fighting, it continues as an underground activity making it difficult to estimate how widespread this criminal activity is in Washington. In June 2018, the Washington State Gambling Commission, working with assistance from multiple police agencies, served a search warrant at a Port Orchard location based on complaints that cockfighting occurred there. The enforcement officers collected evidence of animal fighting including paraphernalia and more than 300 fighting roosters and detaining 27 persons involved with the activity. The joint law enforcement effort included officers from the State Patrol, Kitsap, King, and Pierce county sheriffs' offices, Kitsap County Humane Society, and other agencies.

Principles of Liability. Washington's animal cruelty statutes apply the principles of liability and defines the kinds of criminal culpability.

Intent. A person acts with intent or intentionally when acting with the objective or purpose to accomplish a result constituting a crime.

Knowledge. A person knows or acts knowingly or with knowledge when:

- they are aware of facts, circumstances, or results described in statute as an offense; or
- they have information that would lead a reasonable person in the same situation to believe that facts exist that the statute describes as an offense.

Recklessness. A person is reckless or acts recklessly when knowingly disregarding a substantial risk that a wrongful act may occur, and the risk grossly deviates from the conduct of a reasonable person in the same situation.

Criminal Negligence. A person is criminally negligent or acts with criminal negligence when they fail to be aware of a substantial risk that a wrongful act may occur, and the failure to be aware of the risk is a gross deviation from the standard of care that a reasonable person would exercise in the same situation.

Penalties. Unless a specific statute provides a different maximum sentence for a classified felony, a class B felony is punishable by up to ten years in a state prison, or a fine up to \$20,000, or both. A class C felony is punishable by up to five years in a state prison, or a fine

up to \$10,000, or both. A gross misdemeanor is punishable by up to 354 days in jail or a fine up to \$5,000, or both.

Summary of Amended Bill: A person commits the class C felony of animal fighting when knowingly stealing an animal with the intent to use the animal for fighting, training, or baiting for fighting. A person also commits the crime of animal fighting by knowingly owning, possessing, buying, selling, transferring, or manufacturing animal fighting paraphernalia for the purpose of engaging in, promoting, or facilitating animal fighting, or for baiting a live animal for the purpose of animal fighting.

Animal fighting paraphernalia includes equipment, products, implements, or materials of any kind a person uses, or intends to use in training, conditioning, or furthering animal fighting. The paraphernalia includes, for example, cat mills, fighting pits, spring poles, non-prescribed veterinary medicines, and sharp implements designed to be attached in place of the natural spur of a cock or game fowl.

A person who intentionally mutilates an animal in furtherance of an animal fighting offense is guilty of a class B felony. A person commits the gross misdemeanor of second-degree animal cruelty by taking control, custody, or possession of an animal previously involved in animal fighting and knowingly, recklessly, or with criminal negligence abandons the animal causing the animal bodily harm or putting the animal at substantial risk of suffering bodily harm. A person abandons an animal involved in animal fighting by knowingly or recklessly deserting the animal, or causing the animal's owner to desert it, without providing for the animal's care.

EFFECT OF LAW & JUSTICE COMMITTEE AMENDMENT(S):

- Removes breaking sticks and treadmills from the definition of animal fighting paraphernalia.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Substitute House Bill: *The committee recommended a different version of the bill than what was heard.* PRO: The concern about animal fighting came from a constituent based on a wave of missing animals in Yakima, complaints that an underground dog fighting ring was active in the area, and complaints of illegal gambling. The laws are not strict enough for law enforcement to take action, but animals are being used as bait and then abandoned to suffer. There is research showing that in 71 percent of domestic violence cases, the offender has a history of animal abuse. A very recent concern was raised about the provision on animal fighting paraphernalia, but that could be addressed. The animal fighting paraphernalia provision is similar to the possession of burglar tools. The crime requires possession with intent to commit the crime. The

Gambling Commission finds that illegal gambling and animal fighting go hand-in-hand. Animal fighting rings are difficult to infiltrate because they are often a close knit group. Animal fighting is difficult to prosecute because gambling might not be actually happening, but the staging, paraphernalia are on the site. The proposal ensures that the animal paraphernalia must be in possession for the purpose of animal fighting; that should ensure that legitimate uses of animal equipment is not criminalized. It is difficult to catch an animal fighting ring in the act. The perpetrators separate the animals from the paraphernalia to skirt the law. Animal fight locations are very mobile and can be disbanded quickly and moved to a different place. This is a very brutal activity that can be found all across the state. Animals are being horribly abused and are being found abandoned in terrible condition. Animal fighting is often associated with other criminal activity such as illicit drug use.

CON: We are owners of American pit bull terriers. Our breed gets an unfair reputation for being dangerous. Some cities even ban the breed in an attempt to ban dog fighting. For a period of time, pit bull terriers were banned in Yakima. American pit bull terriers can participate in strength and speed competitions, but these activities are nothing like animal fighting. We do use some of the tools identified as animal fighting paraphernalia to train our American pit bull terriers for competition. For example, one of the speed competitions timed racing on a treadmill. We use treadmills to train our dogs. We are concerned that some of the training equipment we use for non-fighting purposes would not be distinguished by law enforcement from animal fighting paraphernalia. I am concerned that I could be accused of violating the law if this bill is enacted. American pit bull terriers are not just fighting dogs and we should not be grouped with a dog fighting category. The bill as written is too vague. It puts law abiding people in jeopardy.

Persons Testifying: PRO: Representative Gina Mosbrucker, Prime Sponsor; Brian Considine, Legal and Legislative Manager, Gambling Commission; Dan Paul, The Humane Society of the United States; Jill Ketzenberg, citizen.

CON: Dane McTear, American Dog Breeders Association; Scott Wheeler, American Dog Breeders Association and Evergreen State APBT Club.

Persons Signed In To Testify But Not Testifying: No one.