



Judiciary II - Criminal Law Committee

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09500HB3614ham001

LRB095 08978 CMK 33143 a

1 AMENDMENT TO HOUSE BILL 3614

2 AMENDMENT NO. _____. Amend House Bill 3614 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Humane Care for Animals Act is amended by
5 changing Sections 3.04 and 4.01 and by adding Section 17 as
6 follows:

7 (510 ILCS 70/3.04)

8 Sec. 3.04. Arrests and seizures; penalties.

9 (a) Any law enforcement officer making an arrest for an
10 offense involving one or more companion animals under Section
11 3.01, 3.02, or 3.03 of this Act may lawfully take possession of
12 some or all of the companion animals in the possession of the
13 person arrested. The officer, after taking possession of the
14 companion animals, must file with the court before whom the
15 complaint is made against any person so arrested an affidavit
16 stating the name of the person charged in the complaint, a

1 description of the condition of the companion animal or
2 companion animals taken, and the time and place the companion
3 animal or companion animals were taken, together with the name
4 of the person from whom the companion animal or companion
5 animals were taken and name of the person who claims to own the
6 companion animal or companion animals if different from the
7 person from whom the companion animal or companion animals were
8 seized. He or she must at the same time deliver an inventory of
9 the companion animal or companion animals taken to the court of
10 competent jurisdiction. The officer must place the companion
11 animal or companion animals in the custody of an animal control
12 or animal shelter and the agency must retain custody of the
13 companion animal or companion animals subject to an order of
14 the court adjudicating the charges on the merits and before
15 which the person complained against is required to appear for
16 trial. The State's Attorney may, within 14 days after the
17 seizure, file a "petition for forfeiture prior to trial" before
18 the court having criminal jurisdiction over the alleged
19 charges, asking for permanent forfeiture of the companion
20 animals seized. The petition shall be filed with the court,
21 with copies served on the impounding agency, the owner, and
22 anyone claiming an interest in the animals. In a "petition for
23 forfeiture prior to trial", the burden is on the prosecution to
24 prove by a preponderance of the evidence that the person
25 arrested violated Section 3.01, 3.02, 3.03, or 4.01 of this Act
26 or Section 26-5 of the Criminal Code of 1961.

1 (b) An owner whose companion animal or companion animals
2 are removed by a law enforcement officer under this Section
3 must be given written notice of the circumstances of the
4 removal and of any legal remedies available to him or her. The
5 notice must be posted at the place of seizure, or delivered to
6 a person residing at the place of seizure or, if the address of
7 the owner is different from the address of the person from whom
8 the companion animal or companion animals were seized,
9 delivered by registered mail to his or her last known address.

10 (c) In addition to any other penalty provided by law, upon
11 conviction for violating Sections 3, 3.01, 3.02, or 3.03 the
12 court may order the convicted person to forfeit to an animal
13 control or animal shelter the animal or animals that are the
14 basis of the conviction. Upon an order of forfeiture, the
15 convicted person is deemed to have permanently relinquished all
16 rights to the animal or animals that are the basis of the
17 conviction. The forfeited animal or animals shall be adopted or
18 humanely euthanized. In no event may the convicted person or
19 anyone residing in his or her household be permitted to adopt
20 the forfeited animal or animals. The court, additionally, may
21 order that the convicted person and persons dwelling in the
22 same household as the convicted person who conspired, aided, or
23 abetted in the unlawful act that was the basis of the
24 conviction, or who knew or should have known of the unlawful
25 act, may not own, harbor, or have custody or control of any
26 other animals for a period of time that the court deems

1 reasonable.

2 (Source: P.A. 92-454, eff. 1-1-02; 92-650, eff. 7-11-02.)

3 (510 ILCS 70/4.01) (from Ch. 8, par. 704.01)

4 Sec. 4.01. Animals in entertainment. This Section does not
5 apply when the only animals involved are dogs. (Section 26-5 of
6 the Criminal Code of 1961, rather than this Section, applies
7 when the only animals involved are dogs.)

8 (a) No person may own, capture, breed, train, or lease any
9 animal which he or she knows or should know is intended for use
10 in any show, exhibition, program, or other activity featuring
11 or otherwise involving a fight between such animal and any
12 other animal or human, or the intentional killing of any animal
13 for the purpose of sport, wagering, or entertainment.

14 (b) No person shall promote, conduct, carry on, advertise,
15 collect money for or in any other manner assist or aid in the
16 presentation for purposes of sport, wagering, or
17 entertainment, any show, exhibition, program, or other
18 activity involving a fight between 2 or more animals or any
19 animal and human, or the intentional killing of any animal.

20 (c) No person shall sell or offer for sale, ship,
21 transport, or otherwise move, or deliver or receive any animal
22 which he or she knows or should know has been captured, bred,
23 or trained, or will be used, to fight another animal or human
24 or be intentionally killed, for the purpose of sport, wagering,
25 or entertainment.

1 (d) No person shall manufacture for sale, shipment,
2 transportation or delivery any device or equipment which that
3 person knows or should know is intended for use in any show,
4 exhibition, program, or other activity featuring or otherwise
5 involving a fight between 2 or more animals, or any human and
6 animal, or the intentional killing of any animal for purposes
7 of sport, wagering or entertainment.

8 (e) No person shall own, possess, sell or offer for sale,
9 ship, transport, or otherwise move any equipment or device
10 which such person knows or should know is intended for use in
11 connection with any show, exhibition, program, or activity
12 featuring or otherwise involving a fight between 2 or more
13 animals, or any animal and human, or the intentional killing of
14 any animal for purposes of sport, wagering or entertainment.

15 (f) No person shall make available any site, structure, or
16 facility, whether enclosed or not, which he or she knows or
17 should know is intended to be used for the purpose of
18 conducting any show, exhibition, program, or other activity
19 involving a fight between 2 or more animals, or any animal and
20 human, or the intentional killing of any animal.

21 (g) No person shall attend or otherwise patronize any show,
22 exhibition, program, or other activity featuring or otherwise
23 involving a fight between 2 or more animals, or any animal and
24 human, or the intentional killing of any animal for the
25 purposes of sport, wagering or entertainment.

26 (h) (Blank).

1 (i) Any animals or equipment involved in a violation of
2 this Section shall be immediately seized and impounded under
3 Section 12 by the Department when located at any show,
4 exhibition, program, or other activity featuring or otherwise
5 involving an animal fight for the purposes of sport, wagering,
6 or entertainment.

7 (j) Any vehicle or conveyance other than a common carrier
8 that is used in violation of this Section shall be seized,
9 held, and offered for sale at public auction by the sheriff's
10 department of the proper jurisdiction, and the proceeds from
11 the sale shall be remitted to the general fund of the county
12 where the violation took place.

13 (k) Any veterinarian in this State who is presented with an
14 animal for treatment of injuries or wounds resulting from
15 fighting where there is a reasonable possibility that the
16 animal was engaged in or utilized for a fighting event for the
17 purposes of sport, wagering, or entertainment shall file a
18 report with the Department and cooperate by furnishing the
19 owners' names, dates, and descriptions of the animal or animals
20 involved. Any veterinarian who in good faith complies with the
21 requirements of this subsection has immunity from any
22 liability, civil, criminal, or otherwise, that may result from
23 his or her actions. For the purposes of any proceedings, civil
24 or criminal, the good faith of the veterinarian shall be
25 rebuttably presumed.

26 (l) No person shall solicit a minor to violate this

1 Section.

2 (m) The penalties for violations of this Section shall be
3 as follows:

4 (1) A person convicted of violating subsection (a),
5 (b), or (c) of this Section or any rule, regulation, or
6 order of the Department pursuant thereto is guilty of a
7 Class 4 felony ~~A misdemeanor~~ for the first offense. A
8 second or subsequent offense involving the violation of
9 subsection (a), (b), or (c) of this Section or any rule,
10 regulation, or order of the Department pursuant thereto is
11 a Class 3 4 felony.

12 (2) A person convicted of violating subsection (d),
13 (e), or (f) of this Section or any rule, regulation, or
14 order of the Department pursuant thereto is guilty of a
15 Class A misdemeanor for the first offense. A second or
16 subsequent violation is a Class 4 felony.

17 (3) A person convicted of violating subsection (g) of
18 this Section or any rule, regulation, or order of the
19 Department pursuant thereto is guilty of a Class C
20 misdemeanor.

21 (4) A person convicted of violating subsection (l) of
22 this Section is guilty of a Class A misdemeanor.

23 (Source: P.A. 92-425, eff. 1-1-02; 92-454, eff. 1-1-02; 92-650,
24 eff. 7-11-02; 92-651, eff. 7-11-02; revised 11-21-02.)

25 (510 ILCS 70/17 new)

1 Sec. 17. Penalties.

2 (a) Any person convicted of any act of abuse or neglect or
3 of violating any other provision of this Act, for which a
4 penalty is not otherwise provided, or any rule, regulation, or
5 order of the Department pursuant thereto, is guilty of a Class
6 B misdemeanor. A second or subsequent violation is a Class 4
7 felony with every day that a violation continues constituting a
8 separate offense.

9 (b) The Department may enjoin a person from a continuing
10 violation of this Act.

11 (510 ILCS 70/16 rep.)

12 Section 10. The Humane Care for Animals Act is amended by
13 repealing Section 16.

14 Section 99. Effective date. This Act takes effect upon
15 becoming law.".