

SB

514

(9)

COMMITTEE REPORT

HOUSE

4/3/80

FURTHER:

Date: _____

Mr. Speaker:

The Committee on JUDICIARY has had CSSB 514

"An Act amending the criminal provisions relating to cruelty to animals and establishing the crime of promoting and exhibition of fighting animals; and providing for an effective date."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for CSSB 514 same title
 new title
- and recommends Do Pass
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

**MEMBERS SIGNING
DO PASS**

**MEMBERS HAVING
OTHER RECOMMENDATIONS:**

P. O'Connell

Brickhill

Malcolm Anderson

Terry Hunter

Malone

Chairman

CHAIRMAN



Alaska State Legislature

House of Representatives

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

TO: Legislative Affairs Agency

FROM: Margaret W. Berck, Staff

DATE: May 14, 1980

Please provide the Committee with a CS for SB 514 in final version form that incorporates the Committee's intent as expressed in the attached mark-up.

Original sponsor: Resources Committee
by Request

Offered: 3/31/80
Referred: Rules

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2

CS FOR SENATE BILL NO. 514

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

ELEVENTH LEGISLATURE - SECOND SESSION

5

A BILL .

6

For an Act entitled: "An Act amending the criminal provisions relating to
7 cruelty to animals and establishing the crime of
8 promoting an exhibition of fighting animals; and
9 providing for an effective date."

10

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

11

* Section 1. AS 11.61.140 is repealed and re-enacted to read:

12

Sec. 11.61.140. CRUELTY TO ANIMALS. (a) A person commits the

13

crime of cruelty to animals if he intentionally inflicts severe and

14

prolonged physical pain or suffering on an animal; *OR (2) recklessly
neglects AN ANIMAL AND AS A RESULT OF THAT neglect CAUSES SEVERE PAIN OR*

15

(b) It is a defense to a prosecution under this section that the
suffering to AN animal.

16

conduct of the defendant

17

(1) conformed to accepted veterinary practice;

18

(2) was part of scientific research governed by accepted

19

standards; or

20

(3) was necessarily incident to lawful hunting or trapping

21

activities.

22

(c) In this section, "animal" means a vertebrate living creature

23

not a human being, but does not include fish.

24

(d) Cruelty to animals is a class A misdemeanor.

25

* Sec. 2. AS 11.61 is amended by adding a new section to read:

26

Sec. 11.61.145. PROMOTING AN EXHIBITION OF FIGHTING ANIMALS. (a)

27

A person commits the crime of promoting an exhibition of fighting ani-
28 mals if he

29

(1) owns, possesses, keeps, or trains an animal with intent

1 that it be engaged in an exhibition of fighting animals;

2 (2) instigates, promotes or has a pecuniary interest in an
3 exhibition of fighting animals; or

4 (3) attends an exhibition of fighting animals.

5 (b) The animals, equipment, vehicles, money and other items used
6 by a person in a violation of (a)(1) or (2) of this section shall be
7 forfeited to the state if the person is convicted of an offense under
8 this section.

9 (c) In this section, "animal" means a vertebrate living creature
10 not a human being, but does not include fish.

11 (d) Promoting an exhibition of fighting animals

12 (1) under (a)(1) or (2) of this section is a class C felony;

13 (2) under (a)(3) of this section is a violation for the first
14 offense and a class B misdemeanor for the second and each subsequent
15 offense.

16 * Sec. 3. This Act takes effect immediately in accordance with AS 01.10.-
17 070(c).

*Proof read
by Birch
& Vealey
5-14-80*

THIS BILL RESOLUTION CITATION

has been prepared by the staff of the Legislative Affairs Agency in response to the request and at the direction of the sponsoring member or committee. The staff has attempted to place the document in proper legal and clerical form, subject to any special limitations or instructions of the requestor.

If we may be of further assistance in this matter, please contact the Director of Legal Services or the Director of Research Services, as appropriate.

Delivered to requestor 5-14-80

DEPARTMENT OF LAW

CRIMINAL DIVISION

POUCH KC - STATE CAPITOL
JUNEAU, ALASKA 99811

March 18, 1980

The Honorable Robert H. Ziegler, Sr.
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Re: SB 514

Dear Senator Ziegler:

At a recent hearing before the Senate Judiciary Committee you requested the Department of Law to draft a proposed committee substitute for SB 514, an act amending the penalty provisions for cruelty to animals.

To address the committee's concerns, it was necessary to separate the conduct of cruelty to animals from the conduct of promoting an exhibition of fighting animals. Two separate crimes therefore appear in the enclosed proposed committee substitute. The proposed committee substitute makes the following two changes regarding the penalty structure of the bill:

1. The penalty for Promoting an Exhibition of Fighting Animals is made a class C felony. This differs from the current classification of this conduct as a class A misdemeanor and the classification in the original version of the bill as a class B felony.
2. While a person who attends an exhibition of fighting animals is guilty of the offense of Promoting an Exhibition of Fighting Animals, the penalty for this conduct is a violation, punishable by a maximum \$300 fine for the first offense and a class B misdemeanor for second and subsequent offenses. This penalty structure differs from the current

classification of the conduct as a class
A misdemeanor and the original version of
the bill which classified the conduct as
a class B felony.

In addition to these two changes, a separate provision
has been added to AS 11.61.145 which authorizes forfeiture
of items that are used to facilitate the crime of Promoting
an Exhibition of Fighting Animals. This provision was added
pursuant to a requested by the Department of Public Safety
that was forwarded to your committee.

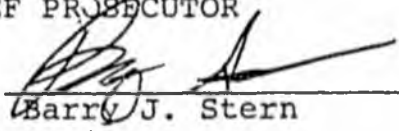
If we can be of further assistance to you on this
matter, please let us know at your earliest convenience.

Very truly yours,

AVRUM M. GROSS
ATTORNEY GENERAL

DANIEL W. HICKEY
CHIEF PROSECUTOR

By:


Barry J. Stern

Assistant Attorney General

BJS:gm

BILL ANALYSIS

ASSIGNMENT DATE _____

UNASSIGNED _____

DEPARTMENT Public Safety	SPONSOR (PRINCIPAL) Sen. Sumner	BILL NO. SB 514
DEPARTMENT POSITION Support		
DIVISION DIRECTOR Col. Fred Woldstad	DATE 3/11/80	COMMISSIONER William R. Nix <i>WJN</i>
		DATE 3/11/80
GOVERNOR'S OFFICE USE		
<input type="checkbox"/> POSITION NOTED <input type="checkbox"/> POSITION APPROVED <input type="checkbox"/> POSITION DISAPPROVED		
BY: _____ DATE: _____		
SUMMARY		
(1) RELATED BILLS (SIMILAR OR CONFLICTING)		
(2) OTHER AGENCIES AFFECTED BY BILL		
(2) a. ORGANIZATIONAL SUPPORT FOR BILL	/	(2) b. ORGANIZATIONAL OPPOSITION TO BILL
(3) PROGRAM EFFECTS OF BILL		
(4) FISCAL IMPACT: <input checked="" type="checkbox"/> NONE <input type="checkbox"/> FISCAL ANALYSIS ATTACHED		
(5) AMENDMENTS PROPOSED:		

(6) COMMENTS:
 In addition to the penalty provided, on conviction of an act defined in (a)(2) or (a)(3) of this section, there should be a forfeiture clause. "Upon conviction or upon judgement of the court having jurisdiction, dogs, equipment, vehicles, money, and paraphenalia used in or possessed for training, staging, or promoting cruelty to animals under (a)(2), (a)(3) of this section shall be forfeited to the State".

Original sponsor: Resources Committee
by Request

Offered: 3/31/80
Referred: Rules

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 514

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act amending the criminal provisions relating to
7 cruelty to animals and establishing the crime of
8 promoting an exhibition of fighting animals; and
9 providing for an effective date."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

11 * Section 1. AS 11.61.140 is repealed and re-enacted to read:

12 Sec. 11.61.140. CRUELTY TO ANIMALS. (a) A person commits the
13 crime of cruelty to animals if he intentionally inflicts severe and
14 prolonged physical pain or suffering on an animal, or 2.

15 (b) It is a defense to a prosecution under this section that the
16 conduct of the defendant

17 (1) conformed to accepted veterinary practice;

18 (2) was part of scientific research governed by accepted
19 standards; or

20 (3) was necessarily incident to lawful hunting or trapping
21 activities.

22 (c) In this section, "animal" means a vertebrate living creature
23 not a human being, but does not include fish.

24 (d) Cruelty to animals is a class A misdemeanor.

25 * Sec. 2. AS 11.61 is amended by adding a new section to read:

26 Sec. 11.61.145. PROMOTING AN EXHIBITION OF FIGHTING ANIMALS. (a)
27 A person commits the crime of promoting an exhibition of fighting ani-
28 mals if he

29 (1) owns, possesses, keeps, or trains an animal with intent

*on 2/1/80
repealed
and replaced
with result
of severe
suffering
on an animal*

1 that it be engaged in an exhibition of fighting animals;

2 (2) instigates, promotes or has a pecuniary interest in an
3 exhibition of fighting animals; or

4 (3) attends an exhibition of fighting animals.

5 (b) The animals, equipment, vehicles, money and other items used
6 by a person in a violation of (a)(1) or (2) of this section shall be
7 forfeited to the state if the person is convicted of an offense under
8 this section.

9 (c) In this section, "animal" means a vertebrate living creature
10 not a human being, but does not include fish.

11 (d) Promoting an exhibition of fighting animals

12 (1) under (a)(1) or (2) of this section is a class C felony;

13 (2) under (a)(3) of this section is a violation for the first
14 offense and a class B misdemeanor for the second and each subsequent
15 offense.

16 * Sec. 3. This Act takes effect immediately in accordance with AS 01.10.-
17 070(c).

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 24, 1980

SUBJECT: CSSB 514, relating to cruelty to animals
and defining the crime of promoting fighting
animals

TO: Senator Robert H. Ziegler, Sr.
Chairman, Senate Judiciary Committee
Attn: Guy Van Doren, A.A.

FROM: John B. Chenoweth
Legislative Counsel

I would like to eliminate the two references to "except as authorized by law" at lines 12 and 27 of page 1. While the phrase appears in current law, the criminal code revision commentary does not indicate the exceptions the phrase was intended to cover, and I cannot think of any, either. If there are applicable exceptions, the bill would be better drafted if those could be specifically cited as references, if necessary, rather than providing indefinite exceptions as in the present statute and as proposed in this draft.

As our conversation concluded, Guy, the forfeiture of animals and property clause, AS 11.61.145(b) is limited to post-conviction situations.

JBC:ljb

Enclosure

CRUELTY TO ANIMALS

NEW CRIMINAL CODE

Sec. 11.61.140. CRUELTY TO ANIMALS. (a) A person commits the crime of cruelty to animals if, except as authorized by law, he

(1) intentionally inflicts severe and prolonged physical pain or suffering on an animal;

(2) owns, possesses, keeps, or trains an animal with intent that it be engaged in an exhibition of fighting animals; or

(3) instigates, promotes, attends or has a pecuniary interest in an exhibition of fighting animals.

(b) It is a defense to a prosecution under this section that the conduct of the defendant

(1) conformed to accepted veterinary practice;

(2) was part of scientific research governed by accepted standards; or

(3) was necessarily incident to lawful hunting or trapping activities.

(c) As used in this section, "animal" means a vertebrate living creature not a human being, but does not include fish.

(d) Cruelty to animals is a class A misdemeanor.

PRIOR CRIMINAL CODE

Sec. 11.40.480. CRUELTY TO ANIMALS. A person who cruelly beats or tortures or otherwise maltreats or neglects

an animal, whether it belongs to himself or to another, upon conviction, is punishable by imprisonment in a jail for not less than 10 days nor more than 30 days, or by a fine of not less than \$5 nor more than \$50.

See also former AS 11.40.490, Penalties for cruelty to domestic animals; AS 11.40.500, Abandoning disabled animals to die; AS 11.40.510, Use of live birds as targets; AS 11.40.520, Fighting or baiting animals or creatures and related offenses; AS 11.40.530, Maintaining kennel or pet shop in unsanitary or inhumane manner.

COMMENTARY

From Senate Journal, 98-99:

The Code classifies as an A misdemeanor the intentional infliction of "severe and prolonged physical pain or suffering on an animal." "Animal" is defined in subsection (c) to exclude human beings, fish and nonvertebrates. If the animal is simply killed without the consent of the owner and without the defendant inflicting severe pain, the conduct will constitute criminal mischief under AS 11.46.482-486.

Subsection (b) provides that it is a defense that the conduct conformed to accepted veterinary practice or was part of scientific research governed by accepted standards. The additional granting of the defense when the conduct is necessarily incident to lawful hunting or trapping activities avoids unnecessary overlap and potential conflict with rules and regulations established by the Board of Fish and Game.

Subsections (a)(2) & (3) substantially restate existing AS 11.40.520. Under subsection (3), as under existing law, persons who attend exhibitions of fighting animals are held to be equally culpable as persons who organize such conduct.

See also TD V, 90-91.

CROSS REFERENCES

Definition of "law", "defense", "possess" -
AS 11.81.900(b)

Definition of "intentionally" - AS 11.81.900(a)



Official Business

Alaska State Legislature

Senate

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

March 26, 1980

To All Members of the
Senate Judiciary Committee

Gentlemen:

Guy or Landa will be attending to the bicycling of the committee substitute for SB 514, relating to cruelty to animals, etc. You will note that I have signed "Dc Pass" and I will conform the committee report to your several recommendations.

A brief explanation:

Section 1 provides that if you are cruel to animals and are convicted of that crime, you have committed a Class A misdemeanor (maximums, \$5,000 and one year).

Section 2 is a little bit more complex. If you keep a beast with the intent that it will one day fight, if you hustle, for financial reasons, an exhibition of "fighters", or if you attend such an exhibition, for the first two propositions a conviction is a Class C felony (maximums, \$50,000 and five years). For the third proposition (attending), the first trip is a violation (maximum, \$300), but any subsequent conviction would be a Class B misdemeanor (maximums, \$1,000 and ninety days).

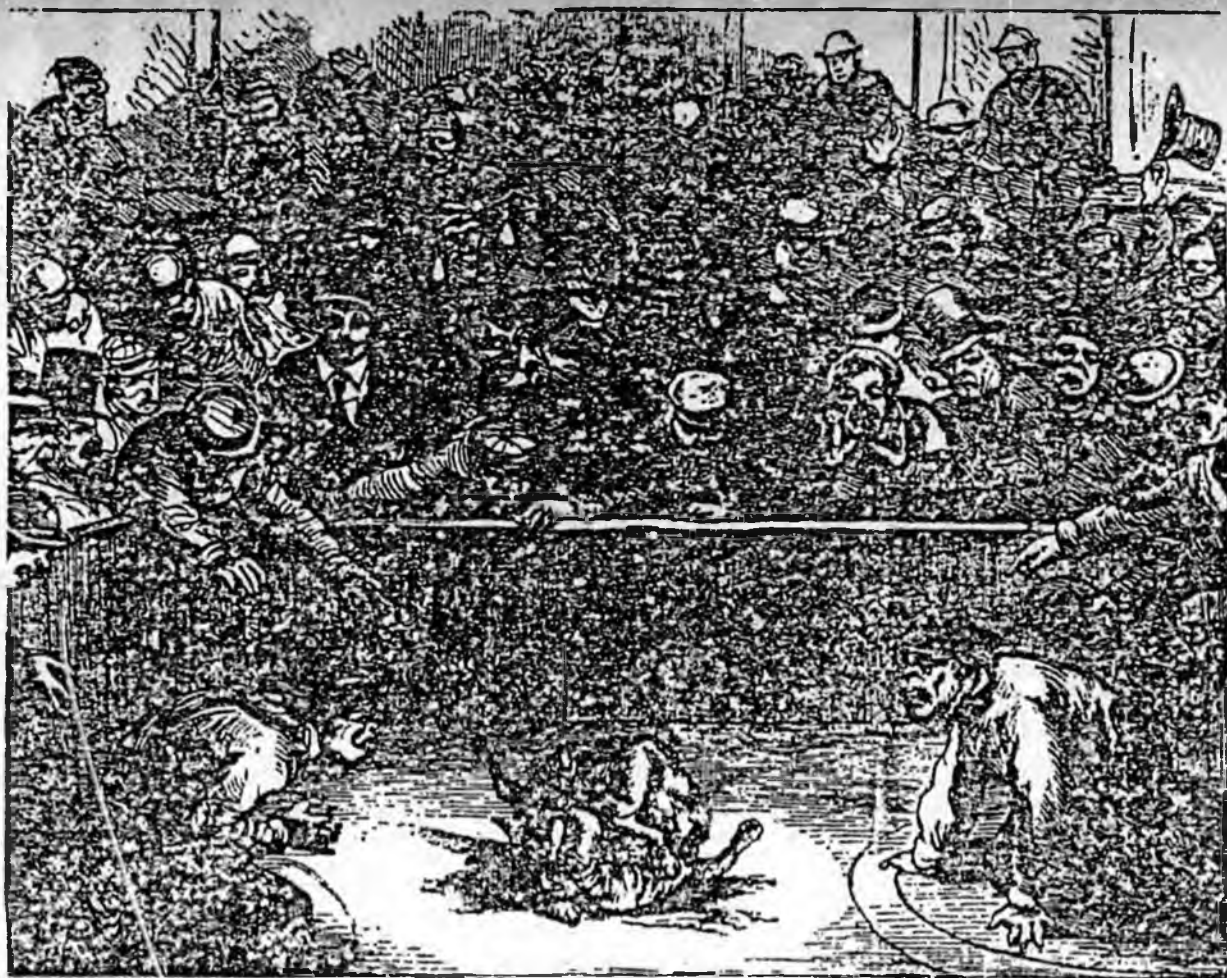
In addition, when the offense involves violation of .145 (1) (a) or (b) everything involved in the production shall be forfeited to the state.

It is still a tough bill, but one which makes more sense than the original.

I will carry the bill.

RHZ:lk

3 -



This drawing appeared in the Jan. 5, 1869 issue of the periodical, "Our Dumb Animals." Dogfighting has become a major gambling activity in Alaska in the last year.

*****SPECIAL BULLETIN*****

Take A Stand Against Dog-Fighting!!!

The Alaska SPCA has had reports of dog-fighting and its attendant high stake gambling for over three years. Please join in our efforts to bring a stop to this barbaric, blood-thirsty cruelty--called "sport" by those who participate.

The Alaska SPCA has sent packets to all Alaska Legislators containing information on dog-fighting and petitions signed by many residents requesting that dog-fighting be made a felony offense.

WATCH Channel 11, Monday, March 17, 9:00 PM

The Lou Grant Show will expose the brutal and illegal business of dog-fighting. We strongly urge you to watch this television program--then write to your legislators and Governor Hammond and make your feelings known!! (Pouch V, Juneau, Alaska 99811)

Alaska SPCA State Headquarters: 279-9853

TERMS OF IMPRISONMENT AND AUTHORIZED FINES IN REVISED CRIMINAL CODE

FIRST FELONY CONVICTION	SECOND FELONY CONVICTION	THIRD FELONY CONVICTION
----------------------------	-----------------------------	----------------------------

"A" Felony	0-20 3-[6]*-20	5-[10]-20	7 1/2-[15]-20
"B" Felony	0-10	0-[4]-10	3-[6]-10
"C" Felony	0-5	0-[2]-5	0-[3]-5

MAXIMUM FINES - PERSONS

Murder or kidnapping - \$75,000
 A, B, or C Felony - \$50,000
 A misdemeanor - \$ 5,000
 B misdemeanor - \$ 1,000
 Violation - \$ 300

MAXIMUM FINES - ORGANIZATIONS

All offenses - \$100,000 or
 3 X pecuniary gain
 - whichever is greater

2-1

KEY

Number in bracket is presumptive sentence.
 Number to left is lowest mitigated sentence. Number to right is highest aggravated sentence.

* Six year presumptive term applies if first A felony conviction, other than manslaughter, and defendant used or possessed a firearm during the offense or caused serious physical injury.

MAXIMUM TERMS OF IMPRISONMENT FOR MISDEMEANORS

A misdemeanor - 1 year
 B misdemeanor - 90 days

CLASSIFICATION OF OFFENSES IN REVISED CRIMINAL CODE

UNCLASSIFIED FELONIES

Murder in the First Degree

AS 11.41.100

20-99 years

Murder in the Second Degree

AS 11.41.110

5-99 years

Kidnapping

AS 11.41.300

5-99 years

CLASSIFIED FELONIES

2-2

A	B	C
Attempted Murder or Kidnapping AS 11.31.100(d) (1)	Attempted A felony: AS 11.31.100(d) (2)	Attempted B felony AS 11.31.100(d) (3)
Solicitation of Murder or Kidnapping AS 11.31.110(c) (1)	Solicitation of A felony AS 11.31.110(c) (2)	Solicitation of B felony AS 11.31.110(c) (3)
Manslaughter AS 11.41.120	Assault II AS 11.41.210	Criminally Negligent Homicide AS 11.41.130
Assault I AS 11.41.200	Sexual Assault II AS 11.41.420	Custodial Interference I AS 11.41.320
Sexual Assault I AS 11.41.410	Unlawful Exploitation of a Minor AS 11.41.455	Sexual Assault III AS 11.41.430

CLASSIFIED FELONIES

A	B	C
Robbery I AS 11.41.500	Robbery II AS 11.41.510	Sexual Abuse of a Minor AS 11.41.440
Arson I AS 11.46.400	Extortion AS 11.41.520	Incest AS 11.41.450
Escape I AS 11.56.300	Theft I AS 11.46.120	Coercion AS 11.41.530
Criminal Possession of Explosives with Intent to Commit Murder or Kidnapping AS 11.61.240(b)(1)	Issuing a Bad Check, \$25,000 or more AS 11.46.280(d)(1)	Theft II AS 11.46.130
	Burglary I AS 11.46.300	Concealment of Merchandise, \$500 or more AS 11.46.220(c)(1)
	Arson II AS 11.46.410	Removal of Identification Marks, \$500 or more AS 11.46.260(b)(1)
	Criminal Mischief I AS 11.46.480	Unlawful Possession (of Altered Property), \$500 or more AS 11.46.270(b)(1)
	Forgery I AS 11.46.500	Issuing a Bad Check, \$500 or more AS 11.46.280(d)(2)
	Scheme to Defraud AS 11.46.600	Fraudulent Use of a Credit Card, \$500 or more AS 11.46.285(b)(1)
	Defrauding Creditors, \$25,000 or more AS 11.46.730(c)(1)	

2-3

CLASSIFIED FELONIES

B

Bribery
AS 11.56.100

Receiving a Bribe
AS 11.56.110

Perjury
AS 11.56.200

Escape II
AS 11.56.310

Interference with
Official Proceedings
AS 11.56.510

Receiving a Bribe by a
Witness or Juror
AS 11.56.520

Criminal Possession of
Explosives with Intent
to Commit A felony
AS 11.61.240(b) (2)

Promoting Prostitution I
AS 11.66.110

C

Obtaining a Credit Card by
Fraudulent Means
AS 11.46.290(a) (1), (2)

Burglary II
AS 11.46.310

Criminal Mischief II
AS 11.46.482

Forgery II
AS 11.46.505

Criminal Possession of Forgery
Device
AS 11.46.520

Criminal Simulation \$500 or
more
AS 11.46.530(b) (1)

Offering a False Instrument
for Recording
AS 11.46.550

Falsifying Business Records
AS 11.46.630

Commercial Bribe Receiving
AS 11.46.660

Commercial Bribery
AS 11.46.670