

SB

514

BILL ANALYSIS

ASSIGNMENT DATE _____

UNASSIGNED _____

DEPARTMENT	SPONSOR (PRINCIPAL)	BILL NO.
Public Safety	Sen. Sumner	SB 514
DEPARTMENT POSITION		
Support		
DIVISION DIRECTOR	DATE	COMMISSIONER
Col. Fred Woldstad	3/11/80	William R. Nix <i>by N</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".

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

The Honorable Robert H. Ziegler, Sr.
Page 2

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.

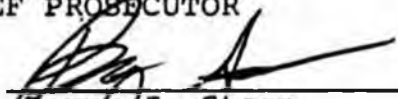
If we can be of further assistance to you on this
matter, please let us know at your earliest convenience.

Very truly yours,

AVRUM M. GROSS
ATTORNEY GENERAL

DANIEL W. HICKEY
CHIEF PROSECUTOR

By:


Barry J. Stern

Assistant Attorney General

BJS:gm

AS 11.61.140

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 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)



JUNEAU, ALASKA

Alaska State Legislature
House

FCC.

Pls. & Curtis

MESSAGE TO THE SENATE

DATE May 19, 1980

MR. PRESIDENT:

The House has passed CSSB 514 (amending the criminal provisions relating to cruelty to animals and establishing the crime of promoting an exhibition of fighting animals; eff date) with the following amendment:

HCS CSSB 514amH
(amending the criminal provisions relating to cruelty to animals and establishing the crimes of promoting an exhibition of fighting animals, and for the destruction of animals by the use of a decompression chamber; eff date)

and it is transmitted herewith for consideration.

Irene Carter

Chief Clerk of the House

Original sponsor: Resources Committee
by Request

Offered: 5/15/80
Referred: Rules

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 514 am H

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 crimes of pro-
8 moting an exhibition of fighting animals, and for the
9 destruction of animals by the use of a decompression
10 chamber; and providing for an effective date."

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

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 AS 11.61.140 is repealed and re-enacted to read:

13 Sec. 11.61.140. CRUELTY TO ANIMALS. (a) A person commits the
14 crime of cruelty to animals if he

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

17 (2) recklessly neglects an animal and, as a result of that
18 neglect, the person causes severe pain or suffering to the animal; or

19 *why into* (3) kills an animal by the use of a decompression chamber. ?
planes?

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

22 (1) conformed to accepted veterinary practice;

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

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

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

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

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

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

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

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

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

9 (3) attends an exhibition of fighting animals.

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

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

16 (d) Promoting an exhibition of fighting animals

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

18 (2) under (a)(3) of this section is a violation for the first
19 offense and a class B misdemeanor for the second and each subsequent
20 offense.

21 * Sec. 3. AS 03.60 is amended by adding a new section to read:

22 Sec. 03.60.005. USE OF DECOMPRESSION CHAMBER PROHIBITED.

23 It is unlawful for a veterinarian or other person to destroy an animal
24 by the use of a decompression chamber.

25 * Sec. 4. This Act takes effect immediately in accordance with AS 01.10.-
26 070(c).

STATE OF ALASKA
THE LEGISLATURE

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

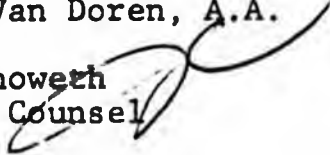
LEGISLATIVE AFFAIRS AGENCY

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

Original sponsor: Resources Committee
by Request

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.

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.

*\$ 5,000 and
1 year*

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

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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.

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11 (c) Promoting an exhibition of fighting animals

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

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14 offense and a class B misdemeanor for the second and each subsequent
15 offense.

MAXIMUMS \$50,000
↑ * 5 YRS.

↓ \$1,000 ; 90 days

16 * Sec. 3. This Act takes effect immediately in accordance with AS 01.10.-

17 070(c).



THE ALASKA SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, INC.

ANIMAL CONTROL SHELTER
3600 E. TUDOR ROAD
ANCHORAGE, ALASKA 99507
PHONE: 279-0578

SPCA STATE HEADQUARTERS
P.O. BOX 776
ANCHORAGE, ALASKA 99510
PHONE: 279-9853

April 22, 1980

Sen. Robert H. Ziegler, Sr.
Pouch V
Juneau, Alaska 99811

Dear Sen. Ziegler,

Thank you for your support of the dog fighting bill and passage of SB 514.

We now urge you to please, please, help to get the bill out of the House Judiciary Committee and on to the House floor for a vote.

We have enclosed a brochure that may be of interest to you and as you may note in reading it, SB 514 is comparable to the effective California law.

Again thank you for your fine support.

Sincerely,

Jenine Brown
Alaska S.P.C.A.

April 30, 1980

I shot my bolt when I pushed the bill through the Senate. Charles Parr, Chairman of the House Judiciary Committee, and I don't always see eye to eye. I suggest you have members of your society who live in the Fairbanks area get in touch with Representative Parr; he probably wouldn't pay too much attention to my request.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-65-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

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Enclosure

AS 11.61.140

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STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

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CRIMINAL DIVISION

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The Honorable Robert H. Ziegler, Sr.

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ATTORNEY GENERAL

DANIEL W. HICKEY
CHIEF PROSECUTOR

By:


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BJS:gm