Calendar No. 555

106TH CONGRESS, 2d Session | SENATE | REPORT 106–297

ANIMAL WELFARE ACT AMENDMENTS

Mr. LUGAR, from the Committee on Agriculture, Nutrition, and Forestry, submitted the following

REPORT

[To accompany S. 345]

The Committee on Agriculture, Nutrition, and Forestry, to which was referred the bill (S. 345) to amend the Animal Welfare Act to remove the limitation that permits interstate movement of live birds, for the purpose of fighting, to States in which animal fighting is lawful, having considered the same, reports favorably thereon and recommends that the bill do pass.

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I. PURPOSE, NEED AND BACKGROUND

This legislation will close a loophole in the Animal Welfare Act (AWA) that allows for the interstate transport of gamecocks for fighting purposes from states where cockfighting is illegal to states where cockfighting is legal. This change will bring consistency to the law, treating birds as other animals are treated by preventing interstate transport for fighting purposes, closing a significant loophole in the law.

This legislative change will also help law officers enforce cockfighting bans in the 47 states in which cockfighting has been banned. The three states where cockfighting is legal are: New Mexico, Louisiana, and Oklahoma. This bill would not prohibit cockfighting in those states where it is currently legal.

This loophole in the AWA undermines the ability of state and local law officers to enforce their state bans. Cockfighters elude prosecution in states where the practice is illegal by claiming that they are raising fighting birds for shipment to states where it is

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still lawful. Thus, the AWA loophole compromises the effectiveness of the state laws.

This bill will not affect the ownership or use of live birds for food and for show purposes.

II. Legislative History and Votes in Committee

COMMITTEE VOTE

In compliance with paragraph 7 of rule XXVI of the Standing Rules of the Senate, the following statements are made concerning the votes of the Committee in its consideration of the bill:

The Committee met in open session on Thursday, March 2, 2000, to mark up this bill. The bill was agreed to by voice vote. The Committee then ordered that the bill be favorably reported.

III. Regulatory Impact Statement

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the following evaluation is made concerning the regulatory impact of enacting this legislation:

Under current law, the transport of any animal (except live birds) for fighting purposes is prohibited between states. This legislation bans the interstate movement of live birds for fighting purposes. Thus, under this bill, breeders of birds would not be allowed to ship their birds across state lines if the birds were to be used for fighting. Cockfighting is currently legal in only three states. The Congressional Budget Office has estimated that the cost to breeders of birds from the prohibition on interstate movement would be below the annual threshold for private sector mandates. The Committee does not anticipate an adverse impact on the personal privacy of individuals affected by this legislation or an increase in paperwork or recordkeeping requirements.

IV. Budgetary Impact of the Bill

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the following letter has been received from the Congressional Budget Office regarding the budgetary impact of the bill:

U.S. Congress,
Congressional Budget Office,
Washington, DC, March 27, 2000.

Hon. Richard G. Lugar,
Chairman, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the enclosed cost estimate for S. 345, a bill to amend the Animal Welfare Act to remove the limitation that permits interstate movement of live birds, for the purpose of fighting, to states in which animal fighting is lawful.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Dave Hull (for federal costs) and Jean Wooster (for the private-sector impact).

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 345—A bill to amend the Animal Welfare Act to remove the limitation that permits interstate movement of live birds, for the purpose of fighting, to states in which animal fighting is lawful

CBO estimates that implementing S. 345 would not result in any significant cost to the federal government. Because enactment of S. 345 could affect direct spending and receipts, pay-as-you-go procedures would apply to the bill, however, CBO estimates that any impact on direct spending and receipts would not be significant. S. 345 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

S. 345 would impose a new private-sector mandate as defined by UMRA. CBO estimates that the cost to comply with the mandate would fall below the annual threshold established under UMRA for private-sector mandates ($100 million in 1996, adjusted for inflation).

Under current law, any person is prohibited from transporting or delivering a dog or other animal—with the exception of live birds—between states to participate in an animal fighting venture. S. 345 would amend the Animal Welfare Act to remove that exception and ban the interstate movement of live birds for the purpose of fighting. Such fighting is legal in Louisiana, New Mexico, and Oklahoma and the possession of gamecocks with the intent to fight is legal in 21 states. S. 345 would prohibit the gamefowl breeders in those 21 states from transporting their birds with the intent to fight to the three states where such fighting is legal. The bill would not prohibit the gamefowl breeders from exporting their birds with the intent to fight or from transporting them for reasons other than to fight. According to industry and government sources, the net income derived from the legal sales of live birds for the purpose of fighting is less than $100 million a year. Therefore, the cost to those breeders to comply with the new prohibition, measured as lost income, would be below the annual threshold for private-sector mandates.

Because S. 345 would ban the interstate movement of live birds for the purpose of fighting, the federal government would be able to pursue cases that it otherwise would not be able to prosecute. CBO expects that any increase in federal costs for law enforcement, court proceedings, or prison operations would not be significant, however, because of the small number of cases likely to be involved. Any such additional costs would be subject to the availability of appropriated funds.

Because those prosecuted and convicted under S. 345 could be subject to criminal fines, the federal government might collect addi-

tional fines if the bill is enacted. Collections of such fines are recorded in the budget as governmental receipts (revenues), which are deposited in the Crime Victims Fund and spent in subsequent years. CBO expects that any additional receipts and direct spending that would result from enacting this bill would not be significant.

The CBO staff contacts for this estimate are Dave Hull (for federal costs), and Jean Wooster (for the private-sector impact). This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

V. CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made in the bill, as reported, are shown as follows: existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman.

ANIMAL WELFARE ACT

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SEC. 26. (7 U.S.C. 2156)

(a) It shall be unlawful for any person to knowingly sponsor or exhibit an animal in any animal fighting venture to which any animal was moved in interstate or foreign commerce.

(b) It shall be unlawful for any person to knowingly sell, buy, transport, or deliver to another person or receive from another person for purposes of transportation, in interstate or foreign commerce, any dog or other animal for purposes of having the dog or other animal participate in an animal fighting venture.

(c) It shall be unlawful for any person to knowingly use the mail service of the United States Postal Service or any interstate instrumentality for purposes of promoting or in any other manner furthering an animal fighting venture except as performed outside the limits of the State of the United States.

[(d) Notwithstanding the provisions of subsections (a), (b), or (c) of this section, the activities prohibited by such subsections shall be unlawful with respect to fighting ventures involving live birds only if the fight is to take at place in a State where it would be in violation of the laws thereof.**]**

[(e)**]** *(d)* Any person who violates subsection (a), (b), or (c) shall be fined not more than $5,000 or imprisoned for not more than 1 year, or both, for each such violation.

[(f)**]** *(e)* The secretary or any other authorized by him shall make such investigations as the Secretary deems necessary to determine whether any person has violated or is violating any provision of this section, and the Secretary may obtain the assistance of the Federal Bureau of Investigations, the Department of the Treasury, or other law enforcement agencies of the United States, and State and local governmental agencies, in the conduct of such investigations, under cooperative agreements with such agencies. A warrant to search for and seize any animal which there is probable cause to believe was involved in any violation of this section may be

issued by any judge of the United States or of a State court of record or by a United States magistrate within the district wherein the animal sought is located. Any United States marshal or any person authorized under this section to conduct investigations may apply for and execute any such warrant, and any animal seized under such a warrant shall be held by the United States marshal or other authorized person pending disposition thereof by the court in accordance with this paragraph (f). Necessary care including veterinary treatment shall be provided while the animals are so held in custody. Any animal involved in any violation of this section shall be liable to be proceeded against and forfeited to the United States at any time on complaint filed in any United States district court or other court of the United States for any jurisdiction in which the animal is found and upon a judgment of forfeiture shall be disposed of by sale for lawful purposes or by other humane means, as the court may direct. Costs incurred by the United States for care of animals seized and forfeited under this section shall be recoverable from the owner of the animals if he appears in such forfeiture proceeding or in a separate civil action brought in the jurisdiction in which the owner is found, resides, or transacts business.

[(g)**]** *(f)* For purposes of this section—

(1) the term "animal fighting venture" means any event which involves a fight between at least two animals and is conducted for purposes of sport, wagering, or entertainment except that the term "animal fighting venture" shall not be deemed to include any activity the primary purpose of which involve the use of one or more animals in hunting another animal or animals, such as waterfowl, bird, raccoon, or fox hunting;

(2) the term "interstate or foreign commerce" means—(A) any movement between any place in a State to any place in another State or between places in the same State through another State; or

(B) any movement from a foreign country into any State;

(3) the term "interstate instrumentality" means telegraph, telephone, radio, or television operating in interstate or foreign commerce;

(4) the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States;

(5) the term "animal" means any live bird, or any live dog or other mammal, except man; and

(6) the conduct by any person of any activity prohibited by this section shall not render such person subject to the other sections of this Act as a dealer, exhibitor, otherwise.

[(h)**]** *(g)*(1) The provisions of this Act shall not supersede or other-wise invalidate any such State, local, or municipal legislation or ordinance relating to animal fighting ventures except in case of a direct and irreconcilable conflict between any requirements thereunder and this Act or any rule, regulation, or standard hereunder.

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