

ONE HUNDRED FIRST LEGISLATURE - SECOND SESSION - 2010
COMMITTEE STATEMENT
LB252

Hearing Date: Wednesday February 11, 2009
Committee On: Judiciary
Introducer: Cornett
One Liner: Prohibit possession of animal fighting paraphernalia

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye:	7	Senators Ashford, Coash, Council, Lathrop, Lautenbaugh, McGill, Rogert
Nay:		
Absent:	1	Senator Christensen
Present Not Voting:		

Proponents:

Sen. Abbie Cornett
Matt Lierman
Mark Langan
Robert Downey
Don Wesely

Representing:

Introducer
Sarpy County Attorney's Office
NE Humane Society
Capital Humane Society
Humane Society of the United States (HSUS)

Opponents:

Representing:

Neutral:

Katie Zulkoski

Representing:

NE Veterinary Medical Assoc.

Summary of purpose and/or changes:

LB 252 would amend Nebraska Statutes 28-101, 28-1006, 28-1007 and 28-1019 to prohibit and provide a penalty for the possession of animal fighting paraphernalia.

A section by section implementation of this bill is as follows:

Section 1. Adds sections 2 and 3 of this act to the Nebraska Criminal Code.

Section 2. Prohibits a person from knowingly and intentionally owning or possessing animal fighting paraphernalia with the intent to commit a violation of 28-1005.

Animal fighting paraphernalia has the following meaning:

materials of any kind that are used, intended for use, or designed for use, in the training, preparation, conditioning, or furtherance of the pitting of an animal against another as defined in section 28-1004.

Examples of animal fighting paraphernalia include, but are not limited to, the following:

- A breaking stick, which means a device designed for insertion behind the molars of a dog for the purpose of breaking the dog's grip on another animal or object;

- A treadmill, or an exercise device consisting of an endless belt on which the animal walks or runs without changing place;
- A fighting pit, which means a walled area designed to contain an animal fight;
- A spring pole, which means a biting surface attached to a stretchable device, suspended at a height sufficient to prevent a dog from reaching the biting surface while touching the ground; or
- Unprescribed veterinary medicine that is a controlled substance as defined in section 28-401;

Any person violating subsection (1) of this section is guilty of a Class IV felony. (5yr/\$10,000/Both)

Section 3. Provides that the Court hearing the case shall consider the following factors among others, when deciding whether an object can be deemed "animal fighting paraphernalia":

- Expert testimony concerning the use of the object;
- statements made by the owner of the item or person in possession of the item regarding its use;
- Prior convictions of the owner or person in possession of the item under state and federal law pertaining to animals;
- Proximity of the object in time and space to a animal fight or section 28-1005 violation;
- Direct or circumstantial evidence of the "intent" of an owner or person in possession of the object as to its use when they deliver the object to a person whom they know or should know will use the object for animal fighting.
- The existence and scope of other legitimate uses of the object in the community; and
- Any other logically relevant factor.

Section 4. (Amends 28-1006) Provides that section 2 of this act, which outlines what is animal fighting paraphernalia shall be investigated by law enforcement and seized under 28-1006. This section would also provide for an animal or animals to be seized if a violation of this act is suspected.

Section 5. (Amends 28-1007) Includes this act in the authority granted to the Game and Parks Commission to prohibit conduct authorized or permitted under the Game Law, or to prohibit the training of animals for any purpose not prohibited by law.

Section 6. (Amends 28-1019) Provides that if a person is convicted of a Class IV felony under this act, they will be prohibited from owning, possessing, or residing with an animal for at least five years as currently provided for under 28-1019 (1)(a) of the Nebraska Statutes.

This section also adopted the exception to the prohibition for owning, possessing, residing with an animal for five years if a licensed physician confirms in writing that animal ownership is essential to the health of such person (i.e., service dog).

Explanation of amendments:

AM 1761 makes the following changes to LB 252:

- Strikes section 3 of the bill as introduced;
- Provides that animal fighting paraphernalia does not include equipment, products, or materials of any kind used by a veterinarian licensed to practice veterinary medicine and surgery in this state; and
- Changes the penalty in section 2, subsection (c) from a Class IV felony to a Class I misdemeanor.

Brad Ashford, Chairperson