

ANIMAL FIGHTING PROHIBITION
ENFORCEMENT ACT OF 2004

OCTOBER 7, 2004.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. SENSENBRENNER, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany H.R. 4264]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill
(H.R. 4264) to amend title 18, United States Code, to strengthen
prohibitions against animal fighting, and for other purposes, hav-
ing considered the same, reports favorably thereon with an amend-
ment and recommends that the bill as amended do pass.

CONTENTS

	Page
The Amendment	1
Purpose and Summary	3
Background and Need for the Legislation	3
Hearings	3
Committee Consideration	3
Vote of the Committee	4
Committee Oversight Findings	4
New Budget Authority and Tax Expenditures	5
Congressional Budget Office Cost Estimate	5
Performance Goals and Objectives	6
Constitutional Authority Statement	6
Section-by-Section Analysis and Discussion	6
Changes in Existing Law Made by the Bill, as Reported	6
Markup Transcript	8

THE AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Animal Fighting Prohibition Enforcement Act of 2004”.

SEC. 2. ENFORCEMENT OF ANIMAL FIGHTING PROHIBITIONS.

(a) **IN GENERAL.**—Chapter 3 of title 18, United States Code, is amended by adding at the end the following:

“§ 49. Animal fighting prohibition

“(a) **SPONSORING OR EXHIBITING AN ANIMAL IN AN ANIMAL FIGHTING VENTURE.**—

“(1) **IN GENERAL.**—Except as provided in paragraph (2), it shall be unlawful for any person to knowingly sponsor or exhibit an animal in an animal fighting venture, if any animal in the venture was moved in interstate or foreign commerce.

“(2) **SPECIAL RULE FOR CERTAIN STATES.**—With respect to fighting ventures involving live birds in a State where it would not be in violation of the law, it shall be unlawful under this subsection for a person to sponsor or exhibit a bird in the fighting venture only if the person knew that any bird in the fighting venture was knowingly bought, sold, delivered, transported, or received in interstate or foreign commerce for the purpose of participation in the fighting venture.

“(b) **BUYING, SELLING, DELIVERING, OR TRANSPORTING ANIMALS FOR PARTICIPATION IN ANIMAL FIGHTING VENTURE.**—It shall be unlawful for any person to knowingly sell, buy, transport, or deliver, or receive 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) **USE OF POSTAL SERVICE OR OTHER INTERSTATE INSTRUMENTALITY FOR PROMOTING ANIMAL FIGHTING VENTURE.**—It shall be unlawful for any person to knowingly use the mail service of the United States Postal Service or any instrumentality of interstate commerce for commercial speech promoting an animal fighting venture except as performed outside the limits of the States of the United States.

“(d) **VIOLATION OF STATE LAW.**—Notwithstanding subsection (c), the activities prohibited by such subsection shall be unlawful with respect to fighting ventures involving live birds only if the fight is to take place in a State where it would be in violation of the laws thereof.

“(e) **SHARP INSTRUMENTS.**—It shall be unlawful for any person to knowingly sell, buy, transport, or deliver in interstate or foreign commerce a knife, a gaff, or any other sharp instrument attached, or designed or intended to be attached, to the leg of a bird for use in an animal fighting venture.

“(f) **PENALTIES.**—Any person who violates subsection (a), (b), (c), or (e) shall be fined under this title or imprisoned for not more than 2 years, or both, for each such violation.

“(g) **DEFINITIONS.**—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 involves the use of one or more animals in hunting another animal or animals, such as waterfowl, bird, raccoon, or fox hunting;

“(2) the term ‘instrumentality of interstate commerce’ means any written, wire, radio, television or other form of communication in, or using a facility of, interstate commerce;

“(3) 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; and

“(4) the term ‘animal’ means any live bird, or any live dog or other mammal, except man.

“(h) **CONFLICT WITH STATE LAW.**—The provisions of this section do not supersede or otherwise 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 section or any rule, regulation, or standard hereunder.”.

(b) **CLERICAL AMENDMENT.**—The table of contents for chapter 3 of title 18, is amended by inserting after the item relating to section 48 the following:

“49. Animal fighting prohibition.”.

(c) **REPEAL OF CRIMINAL PENALTY IN THE ANIMAL WELFARE ACT.**—Section 26 of the Animal Welfare Act (7 U.S.C. 2156) is amended by striking subsection (e).

PURPOSE AND SUMMARY

H.R. 4264 strengthens the prohibitions against animal fighting ventures within the United States. Under current law, animal fighting prohibitions are misdemeanors under Title 7 of the U.S. Code. H.R. 4264 makes the buying, selling, or transporting of animals for participation in animal fighting ventures felonies to be charged under Title 18. It authorizes jail time of up to 2 years for violations of Federal animal fighting law doubling the current misdemeanor penalty of up to 1 year.

BACKGROUND AND NEED FOR THE LEGISLATION

Since the misdemeanor penalty for animal fighting was codified in Federal law in 1976, Federal authorities have pursued fewer than a half dozen animal fighting cases. The USDA has received innumerable tips from informants and requests to assist with state and local prosecutions.¹ In fact, the animal fighting industry continues to thrive within the United States despite 50 state laws that ban dogfighting and 48 state laws that ban cockfighting.² Numerous nationally circulated animal fighting magazines still promote these cruel practices and advertise fighting animals and the accouterments of animal fighting. There are also several active websites for animal fighting enthusiasts, and paid lobbyists advocating animal fighters' interests.

Two years ago, Congress enacted amendments to the Animal Welfare Act which took effect on May 14, 2003. Under those amendments, it was no longer legal to knowingly sell, buy, transport, deliver, or receive a bird or other animal in interstate or foreign commerce for the purposes of participation in an animal fighting venture such as cockfighting or dog fighting. This change closed a loophole that allowed shipment of birds from a state where cockfighting is illegal to a state where it is legal. However, the amendments did not increase penalties.

Since that time, the reluctance to bring cases has continued. H.R. 4264, the "Animal Fighting Prohibition Enforcement Act of 2004," addresses that problem by increasing the penalties. The primary reason for this law is to give prosecutors a greater incentive to pursue these cases.

HEARINGS

No hearings were held in the Committee on the Judiciary on H.R.4264.

COMMITTEE CONSIDERATION

On September 23, 2004, the Subcommittee on Crime, Terrorism, and Homeland Security met in open session and ordered favorably reported the bill H.R.4264, with an amendment, by a voice vote, a quorum being present. On September 30, 2004, the Committee met in open session and ordered favorably reported the bill H.R.4264, with an amendment, by a recorded vote of 18 to 8, a quorum being present.

¹Human Society of the United States, *Fact Sheet in Support of S. 736 & H.R. 1532*, 2003.

²*Id.*

VOTE OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee notes that the following rollcall votes occurred during the Committee's consideration of H.R.4264:

1. The motion to report H.R. 4264 favorably, as amended, was adopted by a vote of 18 yeas to 8 noes.

ROLLCALL NO. 1

	Ayes	Nays	Present
Mr. Hyde			
Mr. Coble	X		
Mr. Smith	X		
Mr. Gallegly	X		
Mr. Goodlatte	X		
Mr. Chabot	X		
Mr. Jenkins		X	
Mr. Cannon			
Mr. Bachus		X	
Mr. Hostettler		X	
Mr. Green	X		
Mr. Keller	X		
Ms. Hart	X		
Mr. Flake		X	
Mr. Pence			
Mr. Forbes	X		
Mr. King		X	
Mr. Carter		X	
Mr. Feeney		X	
Mrs. Blackburn	X		
Mr. Conyers	X		
Mr. Berman			
Mr. Boucher			
Mr. Nadler			
Mr. Scott	X		
Mr. Watt		X	
Ms. Lofgren	X		
Ms. Jackson Lee	X		
Ms. Waters			
Mr. Meehan	X		
Mr. Delahunt	X		
Mr. Wexler			
Ms. Baldwin			
Mr. Weiner			
Mr. Schiff			
Ms. Sánchez	X		
Mr. Sensenbrenner, Chairman	X		
Total	18	8	

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 4264, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 6, 2004.

Hon. F. JAMES SENSENBRENNER, Jr., *Chairman,*
Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4264, the "Animal Fighting Prohibition Enforcement Act of 2004."

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susanne S. Mehlman, who can be reached at 226-2860.

Sincerely,

DOUGLAS HOLTZ-EAKIN.

Enclosure

cc: Honorable John Conyers, Jr.
Ranking Member

H.R. 4264—Animal Fighting Prohibition Enforcement Act of 2004.

H.R. 4264 would make buying, selling, or transporting animals for participation in animal fighting ventures (defined as any event which involves a fight between at least two animals and is conducted for purposes of sport, wagering, or entertainment) a felony crime. Because those prosecuted and convicted under this legislation could be subject to criminal fines, the government might collect additional fines if the bill is enacted. Collections of such fines are recorded in the budget as revenues, which are deposited in the Crime Victims Fund and later spent. However, because of the small number of cases likely to be involved, CBO expects that any impact on revenues and direct spending would be insignificant.

In addition, CBO expects that any increase in federal costs for law enforcement, court proceedings, or prison operations also would be insignificant and subject to the availability of appropriated funds.

H.R. 4262 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on State, local, or tribal governments.

The CBO staff contact for this estimate is Susanne S. Mehlman, who can be reached at 226-2860. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R.4264 will help to discourage interstate transport of animals and instruments for animal fighting.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article I, § 8 of the Constitution.

SECTION-BY-SECTION ANALYSIS AND DISCUSSION

The following discussion describes the bill as reported by the Committee.

Sec. 1. Short title.

This section establishes the short title of the bill as the “Animal Fighting Prohibition Enforcement Act of 2004.”

Section 2. Enforcement of Animal Fighting Prohibitions

This section amends Title 18 to make it a crime for any individual to knowingly sponsor, buy, sell, deliver or transport animals for participation in animal fighting ventures. Any person who violates this section shall be fined under this title or imprisoned for not more than 2 years for each such violation.

Additionally, this section makes it a crime for an individual to use the postal service or other interstate instrumentality for promoting an animal fighting venture or for selling, buying, or delivering in interstate or foreign commerce a knife, gaff, or any other sharp instrument attached or intended to be attached to the leg of a bird for use in an animal fighting venture.

This bill expressly provides that this section will not supersede or otherwise invalidate any State, local or municipal legislation or ordinance relating to animal fighting ventures.

To eliminate any confusion, the legislation repeals the Title 7 provisions providing for a 1-year penalty for the activity described above, which will now be contained in Title 18.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

TITLE 18, UNITED STATES CODE

PART I—CRIMES

* * * * *

CHAPTER 3—ANIMALS, BIRDS, FISH, AND PLANTS

Sec.

41. Hunting, fishing, trapping; disturbance or injury on wildlife refuges.

* * * * *

49. *Animal fighting prohibition.*

* * * * *

§ 49. Animal fighting prohibition

(a) *SPONSORING OR EXHIBITING AN ANIMAL IN AN ANIMAL FIGHTING VENTURE.*—

(1) *IN GENERAL.*—Except as provided in paragraph (2), it shall be unlawful for any person to knowingly sponsor or exhibit an animal in an animal fighting venture, if any animal in the venture was moved in interstate or foreign commerce.

(2) *SPECIAL RULE FOR CERTAIN STATES.*—With respect to fighting ventures involving live birds in a State where it would not be in violation of the law, it shall be unlawful under this subsection for a person to sponsor or exhibit a bird in the fighting venture only if the person knew that any bird in the fighting venture was knowingly bought, sold, delivered, transported, or received in interstate or foreign commerce for the purpose of participation in the fighting venture.

(b) *BUYING, SELLING, DELIVERING, OR TRANSPORTING ANIMALS FOR PARTICIPATION IN ANIMAL FIGHTING VENTURE.*—It shall be unlawful for any person to knowingly sell, buy, transport, or deliver, or receive 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) *USE OF POSTAL SERVICE OR OTHER INTERSTATE INSTRUMENTALITY FOR PROMOTING ANIMAL FIGHTING VENTURE.*—It shall be unlawful for any person to knowingly use the mail service of the United States Postal Service or any instrumentality of interstate commerce for commercial speech promoting an animal fighting venture except as performed outside the limits of the States of the United States.

(d) *VIOLATION OF STATE LAW.*—Notwithstanding subsection (c), the activities prohibited by such subsection shall be unlawful with respect to fighting ventures involving live birds only if the fight is to take place in a State where it would be in violation of the laws thereof.

(e) *SHARP INSTRUMENTS.*—It shall be unlawful for any person to knowingly sell, buy, transport, or deliver in interstate or foreign commerce a knife, a gaff, or any other sharp instrument attached, or designed or intended to be attached, to the leg of a bird for use in an animal fighting venture.

(f) *PENALTIES.*—Any person who violates subsection (a), (b), (c), or (e) shall be fined under this title or imprisoned for not more than 2 years, or both, for each such violation.

(g) *DEFINITIONS.*—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 involves the

use of one or more animals in hunting another animal or animals, such as waterfowl, bird, raccoon, or fox hunting;

(2) the term “instrumentality of interstate commerce” means any written, wire, radio, television or other form of communication in, or using a facility of, interstate commerce;

(3) 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; and

(4) the term “animal” means any live bird, or any live dog or other mammal, except man.

(h) CONFLICT WITH STATE LAW.—The provisions of this section do not supersede or otherwise 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 section or any rule, regulation, or standard hereunder.

* * * * *

SECTION 26 OF THE ANIMAL WELFARE ACT

SEC. 26. (a) * * *

* * * * *

[(e) PENALTIES.—Any person who violates subsection (a), (b), or (c) shall be fined not more than \$15,000 or imprisoned for not more than 1 year, or both, for each such violation.]

* * * * *

MARKUP TRANSCRIPT

BUSINESS MEETING

THURSDAY, SEPTEMBER 30, 2004

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, pursuant to notice, at 10:05 a.m., in Room 2141, Rayburn House Office Building, Hon. F. James Sensenbrenner, Jr. [Chairman of the Committee] presiding.

[Intervening business.]

Chairman SENSENBRENNER. The next item on the agenda is H.R. 4264, the “Animal Fighting Prohibition Enforcement Act of 2004.” The Chair recognizes the gentleman from North Carolina, Mr. Coble, the Chairman of the Subcommittee on Crime, Terrorism, and Homeland Security, for a motion.

Mr. COBLE. I thank the Chairman. Mr. Chairman, the Subcommittee on Crime, Terrorism, and Homeland Security reports favorably the bill, H.R. 4264, with a single amendment in the nature of a substitute. It moves its favorable recommendation to the full House.

This bill, Mr. Chairman, was unanimously approved by the Subcommittee. I am a cosponsor.

Chairman SENSENBRENNER. Without objection, the bill will be considered as read and open for amendment at any point, and the

Subcommittee amendment in the nature of a substitute which the Members have before them will be considered as read, considered as the original text for purposes of amendment, and then open for amendment at any point.

[The amendment in the nature of a substitute follows:]

**SUBCOMMITTEE AMENDMENT IN THE NATURE OF
A SUBSTITUTE TO H.R. 4264**

[Showing the text as ordered reported by the Subcommittee
on Crime, Terrorism, and Homeland Security on September
23, 2004]

Strike all after the enacting clause and insert the
following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Animal Fighting Pro-
3 hibition Enforcement Act of 2004”.

**4 SEC. 2. ENFORCEMENT OF ANIMAL FIGHTING PROHIBI-
5 TIONS.**

6 (a) IN GENERAL.—Chapter 3 of title 18, United
7 States Code, is amended by adding at the end the fol-
8 lowing:

9 “§ 49. Animal fighting prohibition

10 “(a) SPONSORING OR EXHIBITING AN ANIMAL IN AN
11 ANIMAL FIGHTING VENTURE.—

12 “(1) IN GENERAL.—Except as provided in para-
13 graph (2), it shall be unlawful for any person to
14 knowingly sponsor or exhibit an animal in an animal
15 fighting venture, if any animal in the venture was
16 moved in interstate or foreign commerce.



1 “(2) SPECIAL RULE FOR CERTAIN STATES.—

2 With respect to fighting ventures involving live birds
3 in a State where it would not be in violation of the
4 law, it shall be unlawful under this subsection for a
5 person to sponsor or exhibit a bird in the fighting
6 venture only if the person knew that any bird in the
7 fighting venture was knowingly bought, sold, deliv-
8 ered, transported, or received in interstate or foreign
9 commerce for the purpose of participation in the
10 fighting venture.

11 “(b) BUYING, SELLING, DELIVERING, OR TRANS-
12 PORTING ANIMALS FOR PARTICIPATION IN ANIMAL
13 FIGHTING VENTURE.—It shall be unlawful for any person
14 to knowingly sell, buy, transport, or deliver, or receive for
15 purposes of transportation, in interstate or foreign com-
16 merce, any dog or other animal for purposes of having
17 the dog or other animal participate in an animal fighting
18 venture.

19 “(c) USE OF POSTAL SERVICE OR OTHER INTER-
20 STATE INSTRUMENTALITY FOR PROMOTING ANIMAL
21 FIGHTING VENTURE.—It shall be unlawful for any person
22 to knowingly use the mail service of the United States
23 Postal Service or any instrumentality of interstate com-
24 merce for commercial speech promoting an animal fighting



1 venture except as performed outside the limits of the
2 States of the United States.

3 “(d) VIOLATION OF STATE LAW.—Notwithstanding
4 subsection (c), the activities prohibited by such subsection
5 shall be unlawful with respect to fighting ventures involv-
6 ing live birds only if the fight is to take place in a State
7 where it would be in violation of the laws thereof.

8 “(e) SHARP INSTRUMENTS.—It shall be unlawful for
9 any person to knowingly sell, buy, transport, or deliver in
10 interstate or foreign commerce a knife, a gaff, or any
11 other sharp instrument attached, or designed or intended
12 to be attached, to the leg of a bird for use in an animal
13 fighting venture.

14 “(f) PENALTIES.—Any person who violates sub-
15 section (a), (b), (c), or (e) shall be fined under this title
16 or imprisoned for not more than 2 years, or both, for each
17 such violation.

18 “(g) DEFINITIONS.—For purposes of this section—

19 “(1) the term ‘animal fighting venture’ means
20 any event which involves a fight between at least two
21 animals and is conducted for purposes of sport, wa-
22 gering, or entertainment except that the term ‘ani-
23 mal fighting venture’ shall not be deemed to include
24 any activity the primary purpose of which involves
25 the use of one or more animals in hunting another



1 animal or animals, such as waterfowl, bird, raccoon,
2 or fox hunting;

3 “(2) the term ‘instrumentality of interstate
4 commerce’ means any written, wire, radio, television
5 or other form of communication in, or using a facil-
6 ity of, interstate commerce;

7 “(3) the term ‘State’ means any State of the
8 United States, the District of Columbia, the Com-
9 monwealth of Puerto Rico, and any territory or pos-
10 session of the United States; and

11 “(4) the term ‘animal’ means any live bird, or
12 any live dog or other mammal, except man.

13 “(h) CONFLICT WITH STATE LAW.—The provisions
14 of this section do not supersede or otherwise invalidate
15 any such State, local, or municipal legislation or ordinance
16 relating to animal fighting ventures except in case of a
17 direct and irreconcilable conflict between any requirements
18 thereunder and this section or any rule, regulation, or
19 standard hereunder.”.

20 (b) CLERICAL AMENDMENT.—The table of contents
21 for chapter 3 of title 18, is amended by inserting after
22 the item relating to section 38 the following:

“49. Animal fighting prohibition.”.

23 (c) REPEAL OF CRIMINAL PENALTY IN THE ANIMAL
24 WELFARE ACT.—Section 26 of the Animal Welfare Act
25 (7 U.S.C. 2156) is amended by striking subsection (e).



Chairman SENSENBRENNER. The Chair recognizes the gentleman from North Carolina, Mr. Coble, to strike the last word.

Mr. COBLE. I thank the Chairman. Mr. Chairman, on September 23 this Subcommittee held a markup on this bill, the "Animal Fighting Prohibition Enforcement Act of 2004." No substantial changes have been made to the bill as Members on both sides of the aisle have recognized the need for appropriate penalties to curb the vicious practice of animal fighting.

And, Mr. Chairman, I would like to yield for a brief statement to the primary sponsor of the bill, the gentleman from Wisconsin, Mr. Green.

Mr. GREEN. I thank the gentleman for yielding. I will be very brief. I want to thank the Chairman of both the full Committee and the Subcommittee as well as the Ranking Members of the full Committee and the Subcommittee for supporting this legislation. I also want to thank the Humane Society of the U.S. and my colleague Mr. Gallegly for his hard work on this bill. This bill has very broad bipartisan cosponsorship.

Dog fighting and cock fighting are obviously barbaric practices that involve putting animals together in a fight to the death for alleged entertainment and gambling purposes. The animals are typically given drugs to make them hyper aggressive and are forced to continue fighting even after suffering grievous harm.

Our legislation does not change anything for the States that do allow animal fighting, but would create felony penalties for the interstate sale, purchase, transportation or delivery of dogs, birds or other animals for the purpose of participation in an animal fighting venture.

Over 150 local police and sheriffs departments from across the country have called on Congress to enact this legislation, and they want the Federal Government to step up to the plate and join with them in cracking down on illegal dog fighting and cock fighting, which so often involve interstate participants.

The National Chicken Council has also endorsed this legislation because it also considers cock fighting to be an inhumane practice. It is also concerned with the nationwide traffic in game birds, that it creates a continuing hazard for the dissemination of animal diseases. This bill will not only help stop the inhuman practice of dog fighting and cock fighting but will help to ensure the health of our poultry industry.

I thank the Chairman for his consideration and urge approval.

Mr. COBLE. I reclaim my time and yield back.

Mr. SCOTT. Mr. Chairman.

Chairman SENSENBRENNER. Gentleman from Virginia, Mr. Scott.

Mr. SCOTT. Thank you, Mr. Chairman, and I move to strike the last word.

Chairman SENSENBRENNER. The gentleman is recognized for 5 minutes.

Mr. SCOTT. Thank you, Mr. Chairman, for convening this markup on H.R. 4264, the Animal Fighting Prohibition Enforcement Act. For the reasons stated previously, Mr. Chairman, I am a cosponsor of the bill and urge my colleagues to support the bill, and I yield back the balance of my time.

Chairman SENSENBRENNER. Without objection, all Members' opening statements will appear in the record at this point.

Are there amendments?

Mr. GALLEGLY. Mr. Chairman.

Chairman SENSENBRENNER. Gentleman from California, Mr. Gallegly.

Mr. GALLEGLY. Mr. Chairman, I didn't have an amendment. I just wanted to make sure my statement as the sponsor of the bill, cosponsor of the bill, be made a part of the record.

Chairman SENSENBRENNER. Without objection, all Members' opening statements may appear in the record at this point.

[The prepared statement of Mr. Gallegly follows:]

PREPARED STATEMENT OF THE HONORABLE ELTON GALLEGLY, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF CALIFORNIA

Thank you, Mr. Chairman. More than 150 local police and sheriff's departments have requested this legislation and I am pleased that the Committee is considering it.

A few years ago, Congress enacted legislation to tighten federal law and close some loopholes that were allowing animal fighting to thrive nationwide, in spite of bans in virtually every state.

But Congress didn't finish the job. We left in place weak penalties that have proven ineffective. Misdemeanor penalties simply don't provide a meaningful deterrent. Those involved in animal fighting ventures—where thousands of dollars typically change hands in the associated gambling activity—consider misdemeanor penalties a “slap on the wrist” or merely a “cost of doing business.” Moreover, we've heard from U.S. Attorneys that they are reluctant to pursue animal fighting cases with just a misdemeanor penalty.

In recent years, we are seeing a marked rise in the frequency of animal fighting busts in communities across the country. Local police and sheriffs are increasingly concerned about animal fighting, not only because of the animal cruelty involved, but also because of the other crimes that often go hand-in-hand, including illegal gambling, drug traffic, and acts of human violence.

In addition, there are concerns cockfighters spread diseases that jeopardize poultry flocks and even public health. We in California experienced this first-hand, when cockfighters spread exotic Newcastle disease, which was so devastating to many of our poultry producers in 2002 and 2003. That outbreak cost U.S. taxpayers “nearly \$200 million to eradicate, and cost the U.S. poultry industry many millions more in lost export markets,” according to Agriculture Secretary Ann Veneman.

It is time Congress finishes the job and helps state and local law enforcement officials who have requested a strengthening of federal laws to rid animal fighting from communities that do not want it.

Thank you, Mr. Chairman.

Chairman SENSENBRENNER. The gentleman from Iowa, Mr. King.

Mr. KING. Mr. Chairman, I move to strike the last word.

Chairman SENSENBRENNER. Gentleman's recognized for 5 minutes.

Mr. KING. Thank you, Mr. Chairman. I went through this discussion when I was in the legislature in Iowa and I see this bill come up today, and I speak in opposition to this “strike all” amendment and on the basis of the 10th amendment it does step on States rights. The States have laws that address this, and I believe they are adequate. I think this legislation is unnecessary.

But the real foundation for it is the nature of dogs and roosters is that they do fight, whether they are hunting dogs or what they might be, and I don't support that and it doesn't happen in my district that I know. But I do support the 10th amendment. And furthermore, the issues that have been constitutionalized by our seated Supreme Court, one of those is the things that are decided to be a constitutional right that can be done to babies in the process of being born, struggling babies in the process of being born. And if we can outlaw something like this and constitutionalize a behav-

ior to people the way we do, I think it diminishes human life, and for that reason I will be opposing this bill.

Thank you, Mr. Chairman. I yield back.

Chairman SENSENBRENNER. Are there amendments?

Mr. WATT. Mr. Chairman.

Mr. WATT. Gentleman from North Carolina, Mr. Watt.

Mr. WATT. Move to strike the last word.

Chairman SENSENBRENNER. Gentleman is recognized for 5 minutes.

Mr. WATT. I just wanted to take a minute or two to acknowledge the irony of the selective support for States rights in this Committee on the part of some people. I actually agree that this is a stretch to be using interstate commerce as a means to get into something that the Federal Government has not been involved in. But it would be great if the support for the 10th amendment were a lot more uniform and consistent when it was actually a lot more meaningful. And so while I agree with the gentleman who just spoke, I am hoping that on some occasions where it really has some more practical and meaningful benefit, he will join the States Rights Caucus, and consistently be a member of the States Rights Caucus.

Mr. GALLEGLY. Would the gentleman yield?

Chairman SENSENBRENNER. Yeah, I am happy to yield to Mr. Delahunt and then I am happy to yield to—

Mr. DELAHUNT. I just want to echo your sentiments about the good news coming from the other side. I am glad to hear that at least the 10th amendment is being respected as it applies to roosters. And with that I will yield back to my friend.

Mr. WATT. It doesn't seem to be respected when it applies to individuals very much, I can tell you that. Did Mr. Gallegly want me to yield to him? I will be happy to yield to you.

Mr. GALLEGLY. Yes. I thank the gentleman for yielding. I would like to just respond to your comment about how the Federal Government—your reticence to maybe get the Federal Government more involved in this and to create a law. The fact remains there is Federal law on this very act right now. The fact is that it is a misdemeanor and the U.S. Attorney is not nearly as apt to prosecute on misdemeanors as we would be able to do.

Mr. WATT. I appreciate the gentleman pointing that out to me. Had I been here when that passed I probably would have taken the same position. If you follow the theory that every time something moves in interstate commerce the Federal Government has the prerogative to control it, there really won't be any States rights anymore. And I guess that is you all's theory when it comes to federalizing tort standards, too. Some scalpel or knife or device that was used in an operation in an operating room in a State moved in interstate commerce. So therefore, it is appropriate for the Federal Government to take over the whole territory.

And I just—I think, you know, I don't have any real problem with the substance of the bill. But we don't do ourselves much good to assume that State legislators are not smart enough to handle cock fighting in States. I mean, you know, States have the prerogative to control some things in this country, and we should respect that prerogative and we should do it a heck of a lot more consist-

ently than my colleagues on your side of the aisle seem to be willing to do it.

You know, it is one thing to do it for chickens. I just wish you would do it for people. And I am happy to yield back.

Chairman SENSENBRENNER. The gentleman from Alabama, Mr. Bachus.

Mr. BACHUS. Mr. Chairman, I know that we are trying to get through this hearing, but I think that an important point that Mr. King made was missed. And he talked about the irony of what Mr. King said and the inconsistency. I think what Mr. King said was he was pointing out the irony and the inconsistency that we are going to make it a felony to protect chickens when we permit unborn children to be killed. And I think that was his point as I saw it, and I think he made his point well, that if we are going to set priorities it is ironic that we would actually put and make it a felony to take the life of a chicken. And I don't know how many cocks or chickens have been killed in all this, but I would say that we have made no attempt, and we, as he said, we permit a child within months of its being born when it is very much alive to be taken.

Mr. WATT. Will the gentleman yield?

Mr. BACHUS. I think that is quite a bit more ironic and inconsistent and really immoral.

Mr. GALLEGLY. Would the gentleman yield?

Mr. BACHUS. I would yield.

Mr. GALLEGLY. I thank the gentleman for yielding. I would just like to clarify your comment about protecting children versus protecting animals. There are many of us that have voted our entire career to protect the lives of unborn children that are supporting this bill, and I think that we are—you know, people have to stand up and be accountable for how they vote on each one. So let's not mix apples and oranges.

Mr. BACHUS. I would yield to the gentleman from California. I am not mixing anything. What I am saying is that his point was very well made. And for Mr. King to be accused of saying something that doesn't make any sense.

Mr. WATT. Will the gentleman yield?

Mr. BACHUS. Something that was ironic was what he said and that was inconsistent, he was very consistent in what he said in pointing out the inconsistency and it is tremendously ironic. Probably the most ironic thing about our laws today that we are going to make it a felony to protect chickens.

Mr. WATT. Would the gentleman yield?

Mr. BACHUS. And we yet—the same Committee that rushes to do that—and I am not saying that you don't have a right to do that—that they refuse to protect unborn children. And I very much want to associate myself with the remarks of Mr. King. I think of anything said this morning he makes more sense than anybody.

Mr. WATT. Would the gentleman yield?

Mr. BACHUS. I would yield.

Mr. WATT. I appreciate the gentleman yielding. I don't think you ever heard me say Mr. King said anything insane.

Mr. BACHUS. No, you said ironic and inconsistent.

Mr. WATT. Well, I didn't even say it was inconsistent in this particular case where States rights—I agree with him on the States rights issue. My problem is that he has been very selective and all

of you have been very selective in your support of the 10th amendment and States rights.

Mr. BACHUS. Well, I would say okay.

Mr. WATT. That is the only point I am making.

Mr. BACHUS. Well, I will take back my time and say this. Selectivity is exactly what we are talking about here. We have selected to protect the rights of cocks and chickens and not the right of a child who is 3 months away from being born. And with that I yield back.

Chairman SENSENBRENNER. The gentleman from Wisconsin, who is the author of the bill.

Mr. GREEN. Thank you, Mr. Chairman, and very briefly. I do not wish to debate abortion today or other important issues. I simply want to remind everyone that this bill does not change anything, does not change the law for States that do allow animal fighting. It focuses on animals that are transported across State lines. That is its sole purpose here. So I would like to remind everybody what the bill is about, what it is not about.

The debates that we have heard are great debates. We have had them before. I am sure we will have them again. And with that I yield back to the Chairman.

Chairman SENSENBRENNER. Are there amendments? If there are no amendments, the question is on—

Mr. CARTER. Mr. Chairman. Mr. Chairman, may I be recognized?

Chairman SENSENBRENNER. The gentleman from Texas. Do you have an amendment?

Mr. CARTER. No, I do not. I would like to be recognized on this discussion for just a moment.

Chairman SENSENBRENNER. The gentleman is recognized for 5 minutes.

Mr. CARTER. Thank you, Mr. Chairman. I just want to say that something concerns me very much in this is the fact that we every day talk about the lack of resources and the strain we place on the law enforcement resources of the United States, our border patrol, our Federal FBI and all these other folks that we have in the enforcement positions that have to go out and enforce the laws. And I think this is way beyond the scope of what we ought to be dealing with, making it a felony for somebody to be dealing with chickens and dogs. And whether or not I feel sorry for the chickens and dogs is immaterial. It is a stretch to say we are going to make a felony out of this. You know, it is against the law, used to be against the law in Texas to pick pecans off an interstate highway. That could be argued to involve interstate commerce. Are we going to make picking pecans off interstate highways a felony? At some point in time we have to be serious about that.

Mr. GREEN. Will the gentleman yield?

Mr. CARTER. I yield back my time.

Chairman SENSENBRENNER. Are there amendments? Without objection, the Subcommittee amendment in the nature of a substitute laid down as the base text is adopted. A reporting quorum is present.

The question occurs on the motion to report the bill H.R. 4264 favorably, as amended. All in favor will say aye. Opposed no. The ayes appear to have it.

Mr. WATT. Mr. Chairman, I ask for a recorded vote.

Chairman SENSENBRENNER. A recorded vote will be ordered. All those in favor of reporting the bill, H.R. 4264, favorably, as amended, will as your names are called answer aye. Those opposed no, and the Clerk will call the roll.

The CLERK. Mr. Hyde.

[no response.]

The CLERK. Mr. Coble.

Mr. COBLE. Aye.

The CLERK. Mr. Coble votes aye.

Mr. Smith.

Mr. SMITH. Aye.

The CLERK. Mr. Smith votes aye.

Mr. Gallegly.

Mr. GALLEGLY. Aye.

The CLERK. Mr. Gallegly votes aye.

Mr. Goodlatte.

Mr. GOODLATTE. Aye.

The CLERK. Mr. Goodlatte votes aye.

Mr. Chabot.

Mr. CHABOT. Aye.

The CLERK. Mr. Chabot votes aye.

Mr. Jenkins.

Mr. JENKINS. No.

The CLERK. Mr. Jenkins votes no.

Mr. Cannon.

[no response.]

The CLERK. Mr. Bachus.

Mr. BACHUS. No.

The CLERK. Mr. Bachus votes no.

Mr. Hostettler.

Mr. HOSTETTLER. No.

The CLERK. Mr. Hostettler votes no.

Mr. Green.

Mr. GREEN. Aye.

The CLERK. Mr. Green votes aye.

Mr. Keller.

Mr. KELLER. Aye.

The CLERK. Mr. Keller votes aye.

Ms. Hart.

Ms. HART. Aye.

The CLERK. Ms. Hart votes aye.

Mr. Flake.

Mr. FLAKE. No.

The CLERK. Mr. Flake votes no.

Mr. Pence.

[no response.]

The CLERK. Mr. Forbes.

Mr. FORBES. Aye.

The CLERK. Mr. Forbes votes aye.

Mr. King.

Mr. KING. No.

The CLERK. Mr. King votes no.

Mr. Carter.

Mr. CARTER. No.

The CLERK. Mr. Carter votes no.

Mr. Feeney.
 Mr. FEENEY. No.
 The CLERK. Mr. Feeney votes no.
 Mrs. Blackburn.
 Mrs. BLACKBURN. Aye.
 The CLERK. Mrs. Blackburn votes aye.
 Mr. Conyers.
 Mr. CONYERS. Aye.
 The CLERK. Mr. Conyers votes aye.
 Mr. Berman.
 [no response.]
 The CLERK. Mr. Boucher.
 [no response.]
 The CLERK. Mr. Nadler.
 [no response.]
 The CLERK. Mr. Scott.
 Mr. SCOTT. Aye.
 The CLERK. Mr. Scott votes aye.
 Mr. Watt.
 Mr. WATT. No.
 The CLERK. Mr. Watt votes no.
 Ms. Lofgren.
 [no response.]
 The CLERK. Ms. Jackson Lee.
 Ms. JACKSON LEE. Pass.
 The CLERK. Ms. Jackson Lee passes.
 Ms. Waters.
 [no response.]
 The CLERK. Mr. Meehan.
 Mr. MEEHAN. Pass.
 The CLERK. Mr. Meehan passes.
 Mr. Delahunt.
 Mr. DELAHUNT. Pass.
 The CLERK. Mr. Delahunt passes.
 Mr. Wexler.
 [no response.]
 The CLERK. Ms. Baldwin.
 [no response.]
 The CLERK. Mr. Weiner.
 [no response.]
 The CLERK. Mr. Schiff.
 [no response.]
 The CLERK. Ms. Sánchez.
 Ms. SÁNCHEZ. Aye.
 The CLERK. Ms. Sánchez votes aye.
 Mr. Chairman.
 Chairman SENSENBRENNER. Aye.
 The CLERK. Mr. Chairman votes aye.
 Chairman SENSENBRENNER. Members in the chamber who wish
 to cast or change their votes?
 Ms. JACKSON LEE. How am I recorded, Mr. Chairman?
 The CLERK. Mr. Chairman, Ms. Jackson Lee is recorded as a
 pass.
 Ms. JACKSON LEE. Aye.
 The CLERK. Ms. Jackson Lee, aye.

Chairman SENSENBRENNER. Further Members who wish to cast or change their votes? If not—the gentleman from Massachusetts.

Mr. DELAHUNT. Mr. Chairman, I am going to vote aye.

The CLERK. Mr. Delahunt, aye.

Chairman SENSENBRENNER. It all counts the same whether there is conviction or not.

Further Members who wish to cast or change their votes. Gentleman—other gentleman from Massachusetts.

Mr. MEEHAN. Mr. Chairman, I am going to join my distinguished colleague from Massachusetts in voting aye.

The CLERK. Mr. Meehan, aye.

Chairman SENSENBRENNER. Anybody else? Gentlewoman from California.

Ms. LOFGREN. Aye.

The CLERK. Ms. Lofgren, aye.

Chairman SENSENBRENNER. The Clerk will report.

The CLERK. Mr. Chairman, there are 18 ayes and 8 noes.

Chairman SENSENBRENNER. The motion to report favorably is agreed to. Without objection, the bill will be reported favorably to the House in the form of a single amendment in the nature of a substitute, incorporating the amendment here today.

Without objection, the Chairman is authorized to move to go to conference pursuant to House rules. Without objection, the staff is directed to make any technical and conforming changes, and all Members will be given 2 days as provided by the House rules in which to submit additional, dissenting, supplemental, or minority views.

