~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 23, 2016

**S. 157**

Introduced by Senators Shealy and Hembree

S. Printed 3/23/16--S.

Read the first time January 13, 2015.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 157) to amend Section 16‑17‑650 of the 1976 Code, relating to cockfighting, to increase the fines and penalties for the offense, create a new offense of being, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking SECTION 1 and inserting:

/ SECTION 1. Section 16‑17‑650 of the 1976 Code is amended to read:

“Section 16‑17‑650. (A) For purposes of this section, ‘cockfighting’ means allowing game fowl to engage in physical combat:

(1) in the presence of more than five spectators for purposes of sport or entertainment;

(2) employing spurs or other artificial items, except items designed to protect game fowl from injury;

(3) with the injection or application of a stimulant substance; or

(4) in the presence or for purposes of wagering or gambling.

(B) A person who engages in or who is present at cockfighting ~~or game fowl fighting or illegal game fowl testing~~ is guilty of a:

(1) misdemeanor, and, upon conviction, must be fined not less than five hundred dollars nor more than one thousand five hundred dollars or imprisoned not more than one year for a first offense; ~~or~~

(2) misdemeanor, and, upon conviction, must be fined not less than one thousand dollars nor more than ~~three~~ five thousand dollars or imprisoned not more than three years for a second ~~or subsequent~~ offense; or

(3) misdemeanor, and, upon conviction, must be fined not less than two thousand five hundred dollars nor more than ten thousand dollars or imprisoned not more than three years for a third or subsequent offense.

~~(B)~~ ~~For purposes of this section, ‘illegal game fowl testing’ means allowing game fowl to engage in physical combat:~~

~~(1)~~ ~~with or without spurs or other artificial items while in the presence of more than five spectators;~~

~~(2)~~ ~~under any circumstances while employing spurs or other artificial items or with the injection or application of a stimulant substance; or~~

~~(3)~~ ~~for purposes of or in the presence of wagering or gambling.~~

(C) In addition to other penalties provided by this section, if a person has charge or custody, is the parent or guardian, or is responsible for the welfare of a child under the age of eighteen, and the child is present with the person where cockfighting is taking place, the person is guilty of a misdemeanor, and, upon conviction, must be fined in the discretion of the court or imprisoned not more than three years, or both. The child must not be charged with a violation of this section, if the child is present but not engaged in the cockfighting.

(D) A person who violates ~~the provisions of~~ subsection ~~(A)(1)~~(B)(1) must be tried exclusively in summary court.

~~(D)~~(E) A person who violates ~~the provisions of~~ subsection ~~(A)(2)~~(B)(2) or (B)(3) is subject to the forfeiture of monies, negotiable instruments, and securities specifically gained or used to engage in or further a violation of this section pursuant to Section 16‑27‑55.

~~(E)~~(F) ~~All game~~ Game fowl breeders and game fowl breeder testing facilities ~~must~~ shall comply with the Department of Health and Environmental Control and the State Veterinarian’s regulations, policies, and procedures regarding avian influenza preparedness and testing. In the event of an avian influenza outbreak in South Carolina, ~~all~~ game fowl breeders and game fowl breeder testing facilities ~~must~~ shall allow the Department of Health and Environmental Control and the State Veterinarian to conduct avian influenza testing of ~~all~~ game fowl. /

Renumber sections to conform.

Amend title to conform.

Majority favorable. Minority unfavorable.

BRAD HUTTO LEE BRIGHT

For Majority. For Minority.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Fiscal Impact Summary**

This bill will have minimal impact on the general fund that can be absorbed by the Judicial Department within their current appropriations. This bill would have no impact on other funds or federal funds. Any additional costs for the Summary Courts would be absorbed by the counties and municipalities.

**Explanation of Fiscal Impact**

**State Expenditure**

This bill increases penalties for cockfighting, creates a new offense for being present at a cockfight, removes the requirement that certain cockfighting offenses be tried exclusively in Summary Court, and excludes minors brought by a parent or guardian to a cockfighting structure, facility, or location from being charged with a cockfighting offense.

During calendar year 2014, there were at least 46 charges and 41 convictions for cockfighting in South Carolina state courts. This data represents charges brought in General Sessions, Magistrates and a partial survey of the Municipal courts in South Carolina.

As a result of the create of a new offense and no longer mandating certain offenses be tried exclusively in Summary Court, it is anticipated that additional hearings will be held in General Sessions court.

There is no data available to indicate the number of additional hearings or trials which may result in the General Sessions courts. It is anticipated that any costs for additional hearings or trials in General Sessions court would likely be absorbed by the general fund. There is no impact on federal funds or other funds.

Should this bill result in a significant number of additional hearings, it could result in an increased backlog for the General Sessions Court.

**Local Expenditure**

There is no data available to indicate the number of additional hearings or trials which may result in the Summary Court. Any additional costs to the summary courts would be absorbed by the counties and municipalities.

Should this bill result in a significant number of additional hearings, it could result in an increased backlog for the Summary Courts.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 16‑17‑650 OF THE 1976 CODE, RELATING TO COCKFIGHTING, TO INCREASE THE FINES AND PENALTIES FOR THE OFFENSE, CREATE A NEW OFFENSE OF BEING PRESENT AT A STRUCTURE, FACILITY, OR LOCATION WHERE COCKFIGHTING IS TAKING PLACE, AND TO PROVIDE AN EXCEPTION FOR MINORS PRESENT WHEN COCKFIGHTING IS TAKING PLACE UNDER CERTAIN CIRCUMSTANCES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 16‑17‑650 of the 1976 Code is amended to read:

“Section 16‑17‑650. (A) A person who engages in ~~or is present at~~ cockfighting or game fowl fighting ~~or illegal game fowl testing~~ is guilty of a:

(1) misdemeanor and, upon conviction, must be fined not less than five hundred dollars but not more than one thousand dollars or imprisoned not more than one year for a first offense; or

(2) ~~misdemeanor~~ felony and, upon conviction, must be fined not less than one thousand dollars but not more than three thousand dollars or imprisoned not more than ~~three~~ five years for a second or subsequent offense.

(B) ~~For purposes of this section, ‘illegal game fowl testing’ means allowing game fowl to engage in physical combat:~~

~~(1)~~ ~~with or without spurs or other artificial items while in the presence of more than five spectators;~~

~~(2)~~ ~~under any circumstances while employing spurs or other artificial items or with the injection or application of a stimulant substance; or~~

~~(3)~~ ~~for purposes of or in the presence of wagering or gambling~~ A person who is present at any structure, facility, or location where preparations are being made for the purpose of cockfighting with knowledge that those preparations are being made or with knowledge that cockfighting is taking place or is about to take place there is guilty of a:

(1) misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than six months, or both, for a first offense;

(2) misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both, for a second offense; or

(3) felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years, or both, for a third or subsequent offense.

(C) ~~A person who violates the provisions of subsection (A)(1) must be tried exclusively in summary court.~~

~~(D)~~ A person who violates the provisions of ~~subsection (A)(2)~~ this section is subject to the forfeiture of monies, negotiable instruments, and securities specifically gained or used to engage in or further a violation of this section pursuant to Section 16‑27‑55.

~~(E)~~(D) All game fowl breeders and game fowl breeder testing facilities must comply with the Department of Health and Environmental Control and the State Veterinarian’s regulations, policies, and procedures regarding avian influenza preparedness and testing. In the event of an avian influenza outbreak in South Carolina, all game fowl breeders and game fowl breeder testing facilities must allow the Department of Health and Environmental Control and the State Veterinarian to conduct avian influenza testing of all game fowl.

(E) A minor who is under the age of eighteen who is present at a cockfighting or game fowl fighting structure, facility, or location may not be charged with a violation of the provisions of subsection (B) if he is brought there by a parent, guardian, or other adult with responsibility over him.

(F) For the purposes of this section, ‘cockfighting’ and ‘game fowl fighting’ means an attack with violence by a game fowl against another game fowl.”

SECTION 2. This act takes effect upon approval by the Governor.

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