

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Agriculture Committee

BILL: SB 2032

INTRODUCER: Senator Braynon

SUBJECT: Fighting or Baiting Animals

DATE: March 31, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Klein	Spalla	AG	Pre-meeting
2.			CJ	
3.			CA	
4.				
5.				
6.				

I. Summary:

This bill would strengthen Florida's animal fighting statute by adding a rebuttable presumption that an animal has been trained or used for fighting when animal fighting paraphernalia, such as spurs or a fighting pit, are discovered, or when animals exhibit wounds or scarring from fighting. The bill would also protect animal control agencies from lawsuits related to the seizure of animals kept or used for fighting.

This bill amends section 828.122 of the Florida Statutes.

II. Present Situation:

In 2003, Florida passed a stringent animal fighting law that included a prohibition on owning, selling, or possessing equipment used in animal fighting. In 2010, the 4th District Court of Appeal overturned an animal fighting conviction in the case of *Rodriguez v. State*, 29 So.3d 357 (Fla. 4th DCA 2010). The court ruled that the prosecution failed to adduce the proper evidence to convict the defendant of animal fighting or baiting. This case primarily regarded cocks and game fowl.

Currently, if the defense is able to prove by a preponderance of the evidence that animal game fighting or baiting equipment is solely part of a collection, used for a legitimate purpose or used legally in another jurisdiction, the accused could be found not guilty.

According to the Humane Society, common injuries from all types of animal fighting include punctured lungs, broken bones, and pierced eyes due to the razor-sharp steel blades or "gaffs" (which resemble three-inch-long, curved ice picks) tied to the birds' legs. The Humane Society

also reports that in addition to animal deaths, the artificial spurs are so dangerous that cock-fighters themselves have been killed when accidentally slashed by their own birds. It is common to see other illegal activities at animal fighting arenas such as gambling, drug dealing, and illegal gun sales. Gambling (thousands of dollars) is the illegal activity most frequent at cockfights and dogfights. Gambling income is presumably unreported income. The Humane Society further reports that firearms and other weapons are common at animal fights, mainly because of the large amounts of cash present, which can lead to dangerous accidents in a high stress and drug induced environment. Law enforcement officials have documented a strong connection between animal fighting and the distribution of illegal drugs. Drug enforcement agents often learn about animal fighting operations as a result of narcotics investigations.

A detective from the Collier County Sheriff's Office Organized Crime Bureau reports that animal fighting activities happen frequently and it is difficult to document all cases due to the underground and secretive nature of the operations. He further states that since the 2010 *Rodriguez v. State* case, it has been almost impossible to respond to complaints of animal fighting or associated effects. Subsequent to the case being decided, they have gotten many animal fighting reports, but the state attorney's office will only prosecute if the fighting has *actually* been caught in action. He further claims that the original law (s. 828.122, F.S.) was intended to prosecute offenders with evidence such as gaffs, spurs or any other associated animal fighting paraphernalia. Now it is virtually impossible to hear any such cases pertaining to animal baiting or fighting.

A detective from the Palm Beach County Sheriff's Office reports the same frustrated sentiment. She relays that there are more than 12 cock fighting facilities in Palm Beach County. She states that there have been a number of instances where she revealed electrocution machines, needles, wounded animals, essentially any evidence necessary to prove guilt, but because of the 2010 ruling, they are unable to pursue any cases. Both detectives from Palm Beach County and Collier County support this legislation because they feel there is nothing they can do to respond to citizen complaints.

Lee County Animal Services recently had the state's largest cock-fighting investigation in August 2010 investigating a property with 676 animals. Lee County Animal Services reports that they have had an increased number of calls in the past year and the problem is not improving. They were unable to deliver the exact number of reports and calls because they are still doing investigations.

At times the Fish and Wildlife Conservation (FWC) receives calls about animal fighting as well. The FWC law enforcement completed a Computer Aided Dispatch (CAD) search from January 1, 2005 through December 31, 2010. They reported eight total calls relating to animal fighting: four related to dogs and four related to cock fighting.

Statutory rebuttal presumptions exist in other areas of Florida law. For example, rebuttal presumptions are employed in s. 817.41, F.S., dealing with Fraudulent Practices related to false advertising. Further, statutory references to rebuttable presumptions and their evidentiary application are set forth in the Florida Evidence Code ss. 90.301 and 90.302, F.S.

III. Effect of Proposed Changes:

Section 1 amends s. 828.122, F.S., to provide a rebuttable presumption that an animal has been trained or used for fighting if:

- An animal exhibits fresh wounds, scars or other indications, or
- A person possesses training apparatus, animal fighting or baiting paraphernalia, or drugs known to be used to prepare an animal to be fought or known to be used during an acutal fight.

This bill also adds a provision to ensure that a county or agency is not liable for the cost of an animal seized and awarded custody to the county or agency pursuant to a court order under this section.

Section 2 provides that this act shall take effect October 1, 2011.

Other Potential Implications:

None.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

Indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
