Amendment in the Nature of a Substitute to H.R. 4239

Offered by M__ ____________

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.
2 This Act may be cited as the “Animal Enterprise Terrorism Act”.

3 SEC. 2. INCLUSION OF ECONOMIC DAMAGE TO ANIMAL ENTERPRISES AND THREATS OF DEATH AND SERIOUS BODILY INJURY TO ASSOCIATED PERSONS.

4 (a) IN GENERAL.—Section 43 of title 18, United States Code, is amended to read as follows:

5 “§ 43. Force, violence, and threats involving animal enterprises

6 “(a) OFFENSE.—Whoever travels in interstate or foreign commerce, or uses or causes to be used the mail or any facility of interstate or foreign commerce—

7 “(1) for the purpose of damaging or interfering with the operations of an animal enterprise; and

8 “(2) in connection with such purpose—
“(A) intentionally damages, or causes the
loss of any property (including animals or
records) used by an animal enterprise, or any
property of a person or entity having a connec-
tion to, relationship with, or transactions with
an animal enterprise;

“(B) intentionally places a person in rea-
sonable fear of the death of, or serious bodily
injury to that person, a member of the imme-
diate family (as defined in section 115) of that
person, or a spouse or intimate partner of that
person by a course of conduct involving threats,
acts of vandalism, property damage, criminal
trespass, harassment, or intimidation; or

“(C) conspires or attempts to do so;

shall be punished as provided for in subsection (b).

“(b) PENALTIES.—The punishment for a violation of
section (a) or an attempt or conspiracy to violate sub-
section (a) shall be—

“(1) for an offense involving exclusively a non-
viole

“(A) not more than $10,000 and the
length of imprisonment shall be not more than
6 months, or both, for the first offense; and
“(B) not more than $25,000 and the
length of imprisonment shall be not more than
18 months, or both, for a subsequent offense;
“(2) a fine under this title or imprisonment not
more than 1 year, or both, if the offense does not
instill in another the reasonable fear of serious bod-
ily injury or death and—
“(A) the offense results in no economic
damage or bodily injury; or
“(B) the offense results in economic dam-
age that does not exceed $10,000;
“(3) a fine under this title or imprisonment for
not more than 5 years, or both, if no bodily injury
occurs and—
“(A) the offense results in economic dam-
age exceeding $10,000 but not exceeding
$100,000; or
“(B) the offense instills in another the rea-
sonable fear of serious bodily injury or death;
“(4) a fine under this title or imprisonment for
not more than 10 years, or both, if—
“(A) the offense results in economic damage exceeding $100,000; or

“(B) the offense causes substantial bodily injury to another individual;

“(5) a fine under this title or imprisonment for not more than 20 years, or both, if—

“(A) the offense results in serious bodily injury to another individual; or

“(B) the offense results in economic damage exceeding $1,000,000; and

“(6) a fine under this title and imprisonment for life or for any term of years, or both, if the offense results in death of another individual.

“(c) RESTITUTION.—An order of restitution under section 3663 or 3663A of this title with respect to a violation of this section may also include restitution—

“(1) for the reasonable cost of repeating any experimentation that was interrupted or invalidated as a result of the offense;

“(2) for the loss of food production or farm income reasonably attributable to the offense; and

“(3) for any other economic damage, including any losses or costs caused by economic disruption, resulting from the offense.

“(d) DEFINITIONS.—As used in this section—
“(1) the term ‘animal enterprise’ means—

“(A) a commercial or academic enterprise that uses or sells animals or animal products for profit, food or fiber production, agriculture, education, research, or testing;

“(B) a zoo, aquarium, animal shelter, pet store, breeder, furrier, circus, or rodeo, or other lawful competitive animal event; or

“(C) any fair or similar event intended to advance agricultural arts and sciences;

“(2) the term ‘course of conduct’ means a pattern of conduct composed of 2 or more acts, evidencing a continuity of purpose;

“(3) the term ‘economic damage’—

“(A) means the replacement costs of lost or damaged property or records, the costs of repeating an interrupted or invalidated experiment, the loss of profits, or increased costs, including losses and increased costs resulting from threats, acts or vandalism, property damage, trespass, harassment, or intimidation taken against a person or entity on account of that person’s or entity’s connection to, relationship with, or transactions with the animal enterprise; but
“(B) does not include any lawful economic disruption (including a lawful boycott) that results from lawful public, governmental, or business reaction to the disclosure of information about an animal enterprise;

“(4) the term ‘physical obstruction’ means rendering impassable ingress to or egress from an animal enterprise facility, or rendering passage to or from such a facility unreasonably difficult;

“(5) the term ‘serious bodily injury’ means—

“(A) injury posing a substantial risk of death;

“(B) extreme physical pain;

“(C) protracted and obvious disfigurement;

or

“(D) protracted loss or impairment of the function of a bodily member, organ, or mental faculty; and

“(6) the term ‘substantial bodily injury’ means—

“(A) deep cuts and serious burns or abrasions;

“(B) short-term or nonobvious disfigurement;
“(C) fractured or dislocated bones, or torn members of the body;

“(D) significant physical pain;

“(E) illness;

“(F) short-term loss or impairment of the function of a bodily member, organ, or mental faculty; or

“(G) any other significant injury to the body.

“(e) Rules of Construction.—Nothing in this section shall be construed—

“(1) to prohibit any expressive conduct (including peaceful picketing or other peaceful demonstration) protected from legal prohibition by the First Amendment to the Constitution;

“(2) to create new remedies for interference with activities protected by the free speech or free exercise clauses of the First Amendment to the Constitution, regardless of the point of view expressed, or to limit any existing legal remedies for such interference; or

“(3) to provide exclusive criminal penalties or civil remedies with respect to the conduct prohibited by this action, or to preempt State or local laws that may provide such penalties or remedies.”.
(b) Clerical Amendment.—The item relating to section 43 in the table of sections at the beginning of chapter 3 of title 18, United States Code, is amended to read as follows:

“43. Force, violence, and threats involving animal enterprises.”

(c) Amendments Relating to Substantial Bodily Injury.—

(1) Section 2118 of title 18, United States Code, is amended by striking “significant” each place it appears other than in subsection (e) and inserting “serious”.

(2) Section 2118(e) of title 18, United States Code, is amended—

(A) by striking “significant” the first place it appears and inserting “serious”;  

(B) by inserting “substantial” before “risk of death”; and  

(C) by striking “significant physical pain” and inserting “extreme physical pain”.

(3) Section 113(b)(1) of title 18, United States Code, is amended to read as follows:

“(1) the term ‘substantial bodily injury’ means—

“(A) deep cuts and serious burns or abrasions;
“(B) short-term or nonobvious disfigurement;

“(C) fractured or dislocated bones, or torn members of the body;

“(D) significant physical pain;

“(E) illness;

“(F) short-term loss or impairment of the function of a bodily member, organ, or mental faculty; or

“(G) any other significant injury to the body; and”.