

**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
3 Terrorism Act”.

4 **SEC. 2. INCLUSION OF ECONOMIC DAMAGE TO ANIMAL EN-**
5 **TERPRISES AND THREATS OF DEATH AND SE-**
6 **RIOUS BODILY INJURY TO ASSOCIATED PER-**
7 **SONS.**

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

10 **“§ 43. Force, violence, and threats involving animal**
11 **enterprises**

12 “(a) OFFENSE.—Whoever travels in interstate or for-
13 eign commerce, or uses or causes to be used the mail or
14 any facility of interstate or foreign commerce—

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

17 “(2) in connection with such purpose—

1 “(A) intentionally damages, or causes the
2 loss of any property (including animals or
3 records) used by an animal enterprise, or any
4 property of a person or entity having a connec-
5 tion to, relationship with, or transactions with
6 an animal enterprise;

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

15 “(C) conspires or attempts to do so;
16 shall be punished as provided for in subsection (b).

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

20 “(1) for an offense involving exclusively a non-
21 violent physical obstruction of an animal enterprise
22 or a business having a connection to, or relationship
23 with, an animal enterprise, that may result in loss
24 of profits but does not result in bodily injury or
25 death or property damage or loss—

1 “(A) not more than \$10,000 and the
2 length of imprisonment shall be not more than
3 6 months, or both, for the first offense; and

4 “(B) not more than \$25,000 and the
5 length of imprisonment shall be not more than
6 18 months, or both, for a subsequent offense;

7 “(2) a fine under this title or imprisonment not
8 more than 1 year, or both, if the offense does not
9 instill in another the reasonable fear of serious bod-
10 ily injury or death and—

11 “(A) the offense results in no economic
12 damage or bodily injury; or

13 “(B) the offense results in economic dam-
14 age that does not exceed \$10,000;

15 “(3) a fine under this title or imprisonment for
16 not more than 5 years, or both, if no bodily injury
17 occurs and—

18 “(A) the offense results in economic dam-
19 age exceeding \$10,000 but not exceeding
20 \$100,000; or

21 “(B) the offense instills in another the rea-
22 sonable fear of serious bodily injury or death;

23 “(4) a fine under this title or imprisonment for
24 not more than 10 years, or both, if—

1 “(A) the offense results in economic dam-
2 age exceeding \$100,000; or

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

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

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

9 “(B) the offense results in economic dam-
10 age exceeding \$1,000,000; and

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

14 “(c) RESTITUTION.—An order of restitution under
15 section 3663 or 3663A of this title with respect to a viola-
16 tion of this section may also include restitution—

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

20 “(2) for the loss of food production or farm in-
21 come reasonably attributable to the offense; and

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

25 “(d) DEFINITIONS.—As used in this section—

1 “(1) the term ‘animal enterprise’ means—

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

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

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

11 “(2) the term ‘course of conduct’ means a pat-
12 tern of conduct composed of 2 or more acts, evidenc-
13 ing a continuity of purpose;

14 “(3) the term ‘economic damage’—

15 “(A) means the replacement costs of lost
16 or damaged property or records, the costs of re-
17 peating an interrupted or invalidated experi-
18 ment, the loss of profits, or increased costs, in-
19 cluding losses and increased costs resulting
20 from threats, acts or vandalism, property dam-
21 age, trespass, harassment, or intimidation taken
22 against a person or entity on account of that
23 person’s or entity’s connection to, relationship
24 with, or transactions with the animal enter-
25 prise; but

1 “(B) does not include any lawful economic
2 disruption (including a lawful boycott) that re-
3 sults from lawful public, governmental, or busi-
4 ness reaction to the disclosure of information
5 about an animal enterprise;

6 “(4) the term ‘physical obstruction’ means ren-
7 dering impassable ingress to or egress from an ani-
8 mal enterprise facility, or rendering passage to or
9 from such a facility unreasonably difficult;

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

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

13 “(B) extreme physical pain;

14 “(C) protracted and obvious disfigurement;

15 or

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

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

21 “(A) deep cuts and serious burns or abra-
22 sions;

23 “(B) short-term or nonobvious disfigure-
24 ment;

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

3 “(D) significant physical pain;

4 “(E) illness;

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

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

10 “(e) RULES OF CONSTRUCTION.—Nothing in this
11 section shall be construed—

12 “(1) to prohibit any expressive conduct (includ-
13 ing peaceful picketing or other peaceful demonstra-
14 tion) protected from legal prohibition by the First
15 Amendment to the Constitution;

16 “(2) to create new remedies for interference
17 with activities protected by the free speech or free
18 exercise clauses of the First Amendment to the Con-
19 stitution, regardless of the point of view expressed,
20 or to limit any existing legal remedies for such inter-
21 ference; or

22 “(3) to provide exclusive criminal penalties or
23 civil remedies with respect to the conduct prohibited
24 by this action, or to preempt State or local laws that
25 may provide such penalties or remedies.”.

1 (b) CLERICAL AMENDMENT.—The item relating to
2 section 43 in the table of sections at the beginning of
3 chapter 3 of title 18, United States Code, is amended to
4 read as follows:

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

5 (c) AMENDMENTS RELATING TO SUBSTANTIAL BOD-
6 ILY INJURY.—

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

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

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

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

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

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

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

23 “(A) deep cuts and serious burns or abra-
24 sions;

1 “(B) short-term or nonobvious disfigure-
2 ment;
3 “(C) fractured or dislocated bones, or torn
4 members of the body;
5 “(D) significant physical pain;
6 “(E) illness;
7 “(F) short-term loss or impairment of the
8 function of a bodily member, organ, or mental
9 faculty; or
10 “(G) any other significant injury to the
11 body; and”.