

FIGHTING ANIMALS

I. POSSESSION OF FIGHTING ANIMALS

The defendant is charged with a violation of General Laws Chapter 272, section 94, which prohibits the ownership, possession, keeping, or training of an animal with the intent that it engage in a fighting exhibition.

In order to prove the defendant guilty of this offense, the Commonwealth must prove two things beyond a reasonable doubt:

First: That the defendant owned, possessed, kept, or trained a bird, dog or other animal; and

Second: That the defendant did so with the intent that the animal participate in a fighting exhibition.

Here the jury must be instructed on "Possession" (Instruction 3.220) and "Specific Intent" (Instruction 3.120).

You should consider all the evidence, and any reasonable inferences you draw from the evidence, in determining whether the Commonwealth has proved beyond a reasonable doubt that the defendant acted with the intent to have a bird, dog or other animal participate in a fighting exhibition.

What is an exhibition? An exhibition is an exhibit, display, showing or presentation to others.

The Commonwealth does not have to prove that any exhibition actually occurred, but it must prove that the defendant intended to have a bird, dog or other animal with the purpose of participating in such an exhibition.

If the Commonwealth has proved beyond a reasonable doubt both elements of the offense — that the defendant owned, possessed, kept, or trained a bird, dog or other animal *and* that the defendant did so with the intent that it participate in a fighting exhibition — you should return a verdict of guilty. If the Commonwealth has failed to prove either element beyond a reasonable doubt, you must find the defendant not guilty.

II. PROMOTION OF EXHIBITION OF FIGHTING ANIMALS
--

The defendant is charged with a violation of General Laws chapter 272, section 94, which prohibits the promotion of an exhibition of fighting animals.

In order to prove the defendant guilty of this offense, the Commonwealth must prove two things beyond a reasonable doubt:

First: That the defendant established or promoted an exhibition; and

Second: That the exhibition (was) (was to be) of fighting birds, dogs or other animals.

What is an exhibition? An exhibition is an exhibit, display, showing or presentation to others.

What does it mean to establish or promote an exhibition? To “establish” something means to take some intentional, overt action for the purpose of bringing it into being. To “promote” means to take some overt action such as advertising, publicizing, contributing resources, or making arrangements for the purpose of making the exhibition happen or making it a success.

The Commonwealth does not have to prove that an exhibition actually occurred, but it must prove that the defendant intended for it to occur and also that the defendant took a an overt act — a step — toward bringing it to fruition or completion.

Here the jury must be instructed on “Specific Intent” (Instruction 3.120).

If the Commonwealth has proved beyond a reasonable doubt both elements of the offense — that the defendant established or promoted an

exhibition, *and* that the exhibition was of fighting birds, dogs or other animals — you should return a verdict of guilty. If the Commonwealth has failed to prove either element beyond a reasonable doubt, you must find the defendant not guilty.