
SENATE BILL 5735

State of Washington

53rd Legislature

1993 Regular Session

By Senators Moore and A. Smith

Read first time 02/10/93. Referred to Committee on Law & Justice.

1 AN ACT Relating to cruelty to animals when the animals are not
2 otherwise exempt from chapter 16.52 RCW; amending RCW 16.52.030,
3 16.52.050, 16.52.060, 16.52.085, 16.52.090, 16.52.095, 16.52.110,
4 16.52.180, 16.52.200, 9.08.070, 81.56.120, and 13.40.150; adding new
5 sections to chapter 16.52 RCW; adding a new section to chapter 69.38
6 RCW; repealing RCW 16.52.010, 16.52.040, 16.52.055, 16.52.065,
7 16.52.113, 16.52.117, 16.52.120, 16.52.130, 16.52.140, 16.52.160,
8 16.52.165, 16.52.190, 16.52.193, and 16.52.195; and prescribing
9 penalties.

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

11 NEW SECTION. **Sec. 1.** It is the intent of the legislature with
12 chapter . . . , Laws of 1993 (this act) to update the existing animal
13 cruelty statutes and to provide penalties which more accurately reflect
14 the severity of cruelty to animals. The legislature does not intend to
15 revise, expand, or diminish in any way the existing exemptions from the
16 chapter.

1 NEW SECTION. **Sec. 2.** Unless the context clearly requires
2 otherwise, the definitions in this section apply throughout this
3 chapter.

4 (1) "Animal" means any nonhuman mammal, bird, reptile, amphibian,
5 or fish.

6 (2) "Owner" means a person who has a right, claim, title, legal
7 share, or right of possession to an animal or a person having lawful
8 control, custody, or possession of an animal.

9 (3) "Person" means an individual, natural or otherwise.

10 (4) "Physical injury" means impairment of physical condition.

11 **Sec. 3.** RCW 16.52.030 and 1982 c 114 s 2 are each amended to read
12 as follows:

13 (1) All members and agents, and all officers of any society ((~~so~~))
14 incorporated under RCW 16.52.020, as shall by the trustees of such
15 society be duly authorized in writing, approved by any judge of the
16 superior court of the county, and sworn in the same manner as are
17 ((~~constables and~~)) peace officers, shall have power lawfully to
18 interfere to prevent the perpetration of any act of cruelty upon any
19 animal and may use such force as may be necessary to prevent the same,
20 and to that end may summon to their aid any bystander; ((~~they may make~~
21 arrests for the violation of any of the provisions of RCW 16.52.010
22 through 16.52.050, 16.52.070 through 16.52.090 and 16.52.100 through
23 16.52.180 in the same manner as herein provided for other officers;))
24 and may carry the same weapons that ((~~such~~)) law enforcement officers
25 are authorized to carry. Before such approval by a judge, the members
26 and agents of any such corporation shall provide satisfactory evidence
27 to the judge that they have successfully completed a training program
28 necessary for the duties and obligations in this chapter. In approving
29 the training, the judge shall consider and give weight to similar
30 training required of law enforcement officers.

31 (2) Authorizations under this section shall be for a period not
32 exceeding three years or termination of duties, whichever occurs first.
33 The trustees of the society shall review the authorizations every three
34 years and may revoke authorizations at any time by filing a certified
35 revocation with the superior court from which the authorization was
36 issued: PROVIDED, That all such members and agents shall((~~, when~~
37 making arrests under this section,)) exhibit and expose a suitable
38 badge to be adopted by such society. ((~~All persons resisting such~~

1 ~~specially authorized, approved and sworn officers, agents or members~~
2 ~~shall be guilty of a misdemeanor.))~~

3 **Sec. 4.** RCW 16.52.050 and 1901 c 146 s 10 are each amended to read
4 as follows:

5 When complaint is made on oath, to any ~~((magistrate))~~ judge
6 authorized to issue warrants in criminal cases that the complainant
7 believes that any of the provisions of law relating to or in any way
8 affecting animals, are being or are about to be violated in any
9 particular building or place, such ~~((magistrates))~~ judge shall issue
10 and deliver immediately a warrant directed to any sheriff,
11 ~~((constable))~~ deputy, police or peace officer, or officer of any
12 incorporated society qualified as provided in RCW 16.52.030,
13 authorizing him or her to enter and search such building or place ~~((~~
14 ~~and to arrest any person or persons there present violating or~~
15 ~~attempting to violate any law relating to or in any way affecting~~
16 ~~animals, and to bring such person or persons before some court or~~
17 ~~magistrate of competent jurisdiction within the city or county within~~
18 ~~which such offense has been committed or attempted to be committed, to~~
19 ~~be dealt with according to law))~~ and seize evidence of violations of
20 this chapter.

21 **Sec. 5.** RCW 16.52.060 and 1987 c 202 s 182 are each amended to
22 read as follows:

23 Any judge, sheriff, deputy, or police officer may arrest any person
24 found committing any ~~((of the))~~ act ~~((s enumerated))~~ in violation of RCW
25 ~~((16.52.065))~~ 9.08.070 or 81.56.120 or this chapter, without a warrant
26 for such arrest, and any officer or member of any humane society, or
27 society for the prevention of cruelty to animals, may cause the
28 immediate arrest of any person engaged in, or who shall have committed
29 such cruelties, upon making oral complaint to any sheriff, deputy, or
30 police officer ~~((, or such officer or member of such society may himself~~
31 ~~or herself arrest any person found perpetrating any of the cruelties~~
32 ~~herein enumerated))~~: PROVIDED, That said person making such oral
33 complaint ~~((or making such arrest))~~ shall file with a proper officer a
34 written complaint, stating the act or acts complained of, within
35 twenty-four hours, excluding Sundays and legal holidays, after such
36 arrest shall have been made.

1 NEW SECTION. **Sec. 6.** (1) A person is guilty of animal cruelty in
2 the first degree when, except as authorized in law, he or she:

3 (a) Intentionally, knowingly, or recklessly (i) inflicts
4 substantial pain on, (ii) causes physical injury to, or (iii) kills an
5 animal by a means causing undue suffering;

6 (b) Intentionally or knowingly kills any mammal or bird not owned
7 by that person; or

8 (c) Uses or causes an animal to be used for purposes of human
9 sexual arousal or intercourse, or requests or encourages the same to be
10 done.

11 (2) For purposes of prosecuting violations under this section, each
12 offense is a separate offense and shall be prosecuted accordingly.

13 (3) Animal cruelty in the first degree is a class C felony.

14 NEW SECTION. **Sec. 7.** (1) A person is guilty of animal cruelty in
15 the second degree when he or she fails to provide an animal that the
16 person owns or possesses with necessary food, water, shelter, rest,
17 sanitation, ventilation, space, or medical attention and such failure
18 results in physical injury or the death of the animal.

19 (2) Animal cruelty in the second degree is a gross misdemeanor.

20 NEW SECTION. **Sec. 8.** (1) A person is guilty of animal cruelty in
21 the third degree when he or she fails to provide an animal that the
22 person owns or possesses with necessary food, water, shelter, rest,
23 sanitation, ventilation, space, or medical attention and such failure
24 jeopardizes the health or safety of the animal.

25 (2) Animal cruelty in the third degree is a misdemeanor.

26 NEW SECTION. **Sec. 9.** (1) A person is guilty of promoting animal
27 fighting who, for amusement or monetary gain:

28 (a) Causes, permits, assists, facilitates, or provides (i)
29 transportation, (ii) a premises, (iii) a facility, (iv) equipment, or
30 (v) an animal for: An animal to fight or injure another animal or a
31 human in this state;

32 (b) Maintains one or more animals with the intent that the animal
33 or animals be used in this state in violation of (a) of this
34 subsection;

35 (c) Advertises, promotes, or in any way disseminates information
36 that can be reasonably construed to be intended to attract human

1 spectators to a fight between animals or animals and humans in this
2 state; or

3 (d) Participates in a fight with an animal in this state.

4 (2) Promoting animal fighting is a class C felony.

5 (3) This section does not prohibit:

6 (a) The use of animals in the management of livestock, as defined
7 by chapter 16.57 RCW, by the owner of the livestock or the owner's
8 employees or agents or other persons in lawful custody of the
9 livestock;

10 (b) The use of animals in any lawful activity licensed by the
11 state; or

12 (c) The training of animals or the use of equipment in the training
13 of animals for purposes not otherwise prohibited by law.

14 (4) For purposes of prosecuting violations under this section, each
15 offense is a separate offense and shall be prosecuted accordingly.

16 (5) For purposes of this section, it is a separate offense for each
17 animal that is maintained for purposes of intent to fight.

18 NEW SECTION. Sec. 10. (1) A person is guilty of being a spectator
19 at animal fighting when he or she is knowingly present as a spectator
20 of an animal fighting event as described in section 9 of this act (a)
21 where preparations are being made for an exhibition of fighting between
22 animals or animals and humans or (b) in which an animal is engaged in
23 fighting.

24 (2) It is not a defense that the person did not pay money to
25 observe an animal fight.

26 (3) Being a spectator at animal fighting is a gross misdemeanor.

27 **Sec. 11.** RCW 16.52.085 and 1987 c 335 s 1 are each amended to read
28 as follows:

29 (1) If the county sheriff, deputy, peace officer, or other law
30 enforcement officer (~~shall find~~) has probable cause to believe that
31 said domestic animal has been neglected or cruelly treated by its owner
32 and no responsible person can be found to assume the care of the
33 animal, he or she may authorize the removal of the animal to a (~~proper~~
34 ~~pasture or other~~) suitable place for feeding and (~~restoring to~~
35 ~~health~~) care without a warrant, or place the animal under the custody
36 of the humane society, animal control agency, or agency responsible for
37 stray animals in that jurisdiction. In determining what is a suitable

1 place, the agency shall consider the animal's needs, including its size
2 and disposition.

3 (2) If ((a)) the county sheriff, deputy, peace officer, or other
4 law enforcement officer has probable cause to believe a violation of
5 this chapter has occurred, the officer may authorize an examination of
6 an allegedly neglected or abused domestic animal by a veterinarian to
7 determine whether the level of neglect or abuse is sufficient to
8 require removal of the animal. ((This section does not condone illegal
9 entry onto private property.))

10 (3) Any owner whose domestic animal is removed to a suitable place
11 pursuant to this chapter shall be given written notice of the
12 circumstances of the removal and notice of legal remedies available to
13 the owner. The notice shall be given by posting at the place of
14 seizure, by delivery to a person residing at the place of seizure, or
15 by registered mail if the owner is known. In making the decision to
16 remove an animal pursuant to this chapter, the law enforcement officer
17 shall make a good faith effort to contact the animal's owner before
18 removal unless the animal is in a life-threatening condition or unless
19 the officer reasonably believes that the owner would remove the animal
20 from the jurisdiction.

21 (4) An animal taken into custody under this section may be humanely
22 disposed of, at the discretion of the corporation or agency having
23 custody of the animal, not less than fourteen business days after the
24 animal is taken into custody. This does not preclude the euthanasia of
25 severely injured or suffering animals at any time. A person may
26 prevent the disposition of an animal in custody by: (a) Petitioning a
27 court of competent jurisdiction for the immediate return of the animal
28 subject to such conditions as the court may impose or (b) posting a
29 bond or security in an amount sufficient to provide for the animal's
30 care and keeping for a minimum of thirty days from the date of the
31 seizure. At the end of the time for which expenses have been covered
32 by the bond or security, the animal becomes the property of the
33 corporation or agency having custody unless a court order prevents such
34 a disposition. A court order preventing such a disposition may provide
35 for a bond or security for the costs to the corporation or agency
36 having custody for the care, keeping, or disposal of the animal.

37 (5) If no criminal case is filed within ((seventy-two hours))
38 fourteen business days of the removal of the animal, the owner may
39 petition ((the district)) a court of competent jurisdiction in the

1 county where the removal of the animal occurred for the return of the
2 animal. The petition shall be filed with the court, with copies served
3 to the law enforcement agency responsible for removing the animal and
4 to the prosecuting attorney. If a criminal action is filed after the
5 petition is filed but before the animal is returned, the petition shall
6 be joined with the criminal matter.

7 ~~((+5))~~ (6) In a motion or petition for the return of the removed
8 animal before a trial, the burden is on the owner to prove by a
9 preponderance of the evidence that the animal will not suffer future
10 neglect and is not in need of being restored to health.

11 ~~((+6))~~ (7) Any authorized person treating or attempting to restore
12 an animal to health under this chapter shall not be civilly or
13 criminally liable for such action.

14 **Sec. 12.** RCW 16.52.090 and 1901 c 146 s 6 are each amended to read
15 as follows:

16 Every person who shall cut ~~((or))~~, cause to be cut, or assist in
17 cutting the solid part of the tail of any horse in the operation known
18 as "docking," or in any other operation for the purpose of shortening
19 the tail or changing the carriage thereof, shall be guilty of a
20 misdemeanor.

21 **Sec. 13.** RCW 16.52.095 and Code 1881 s 840 are each amended to
22 read as follows:

23 It shall not be lawful for any person to cut off more than one-half
24 of the ear or ears of any domestic animal such as an ox, cow, bull,
25 calf, sheep, goat or hog, and any person cutting off more than one-half
26 of the ear or ears of any such animals, shall be deemed guilty of a
27 misdemeanor ~~((, and upon conviction, shall be fined in any sum less than
28 twenty dollars))~~.

29 **Sec. 14.** RCW 16.52.110 and 1901 c 146 s 13 are each amended to
30 read as follows:

31 Every owner, driver, or possessor of any old, maimed or diseased
32 horse, cow, mule, or other domestic animal, who shall permit the same
33 to go loose in any lane, street, square, or lot or place of any city or
34 township, without proper care and attention, for more than three hours
35 after knowledge thereof, shall be guilty of a misdemeanor: PROVIDED,
36 That this shall not apply to any such owner keeping any old or diseased

1 animal belonging to him or her on his or her own premises with proper
2 care. Every sick, disabled, infirm or crippled horse, ox, mule, cow or
3 other domestic animal, which shall be abandoned on the public highway,
4 or in any open or enclosed space in any city or township, may, if,
5 after search by a peace officer or officer of such society no owner can
6 be found therefor, be (~~killed by such officer; and it shall be the~~
7 ~~duty of all peace and public officers to cause the same to be killed on~~
8 ~~information of such abandonment~~) euthanized or removed by such officer
9 to a suitable place for feeding and care, or if necessary, euthanasia.

10 NEW SECTION. **Sec. 15.** (1) Unless the context clearly requires
11 otherwise, as used in this section, "property" means anything of value.

12 (2) Upon conviction of a person for a violation of section 9 of
13 this act, the superior court may, in addition to its other powers of
14 disposition, order forfeiture of any property, including animals, that
15 was used or intended to be used to commit or facilitate the offense, or
16 that is proceeds traceable to or derived from the offense. The court
17 shall hear all motions and testimony and decide the forfeiture without
18 a jury.

19 (3) During the pendency of any criminal case alleging a violation
20 of section 9 of this act, the court may issue such orders as are
21 appropriate to prevent wrongful disposition of property subject to
22 forfeiture under this section. The court shall be guided in the entry
23 of any order under this subsection by RCW 9A.82.100.

24 (4) If any property is seized pursuant to this section, the seizing
25 agency shall immediately file a lis pendens with the appropriate county
26 official.

27 (5) All seized property shall remain under the control of the
28 seizing law enforcement agency, except animals may be released to the
29 custody of a corporation formed under RCW 16.52.020, to a public animal
30 control agency, or the agency responsible for stray animals in the
31 jurisdiction in which the arrest was made. If the owner of seized
32 property is not charged with a violation of section 9 of this act
33 within fourteen days of seizure, all seized property shall be returned.

34 (6) When ordering forfeiture of property the court shall provide
35 for the protection of bona fide security and community property
36 interests unless the holder of the interest knew of or participated in
37 the violation of section 9 of this act, and except to the extent that

1 such interests were acquired in such a way as to be forfeitable under
2 this section.

3 (7) The person seeking the protection of a security or community
4 property interest shall have the burden of proving by a preponderance
5 of the evidence the interest is bona fide and the person did not know
6 of or participate in the violation of section 9 of this act.

7 (8) The prosecuting attorney shall serve notice on the owner and
8 all persons having any known right or interest in the property that it
9 is seeking forfeiture of the property. Notice shall be made according
10 to the rules of civil procedure within fifteen calendar days following
11 the filing of criminal charges.

12 (9) Upon entry of an order of forfeiture, the seizing agency may
13 dispose of the seized property, items, or animals in any manner. The
14 disposition of any animal seized under this subsection shall consider
15 the best interest of the animal. The seizing agency may return any
16 property to a person having a secured or community property interest in
17 such property or may sell the property and remit in cash any amount due
18 and owing the secured or community interest person. Any funds received
19 from disposal of the seized property, items, or animals except as are
20 returned to secured parties or parties having a community property
21 interest may be used for such lawful purposes as the seizing agency
22 deems appropriate, including paying the costs of the investigation and
23 prosecution.

24 (10) In the event a person whose property, items, or animals were
25 seized is not charged with a violation of section 9 of this act, or is
26 not convicted of such violation, all seized property, items, and
27 animals shall be immediately returned to the person. No civil or
28 criminal liability may accrue to any individual or agency as a result
29 of any good faith arrest and seizure of any property or item.

30 **Sec. 16.** RCW 16.52.180 and 1901 c 146 s 18 are each amended to
31 read as follows:

32 (~~No part of RCW 16.52.010 through 16.52.050, 16.52.070 through~~
33 ~~16.52.090 and 16.52.100 through 16.52.180 shall be deemed to~~) This
34 chapter shall not interfere with any of the laws of this state known as
35 the "game laws," (~~nor shall RCW 16.52.010 through 16.52.050, 16.52.070~~
36 ~~through 16.52.090 and 16.52.100 through 16.52.180 be deemed to~~
37 ~~interfere~~) or with the right to destroy any venomous reptile or any
38 known as dangerous to life, limb or property, or to interfere with the

1 right to kill animals to be used for food or with any properly
2 conducted scientific experiments or investigations, which experiments
3 or investigations shall be performed only under the authority of the
4 faculty of some regularly incorporated college or university of the
5 state of Washington.

6 **Sec. 17.** RCW 16.52.200 and 1987 c 335 s 2 are each amended to read
7 as follows:

8 (1) The sentence imposed for a violation of this chapter may be
9 deferred or suspended in accordance with RCW 3.66.067 and 3.66.068,
10 however the probationary period shall be two years.

11 (2) In case of multiple convictions, the sentences shall be
12 consecutive, however the probationary period shall remain two years.

13 (3) In addition to the penalties imposed by the court, the court
14 shall order the forfeiture of all animals held by law enforcement
15 authorities under the provisions of this chapter if any one of the
16 animals involved dies as a result of a violation of this chapter or if
17 the ~~((defendant))~~ offender has a prior conviction under this chapter.
18 In other cases the court may enter an order requiring the owner to
19 forfeit the animal if the court ~~((deems))~~ finds the ~~((cruel))~~
20 of the animal to have been severe and likely to reoccur. If forfeiture
21 is ordered, the owner shall be prohibited from owning or caring for any
22 similar animals for a period of ~~((two-years))~~ time for which the
23 sentencing court retains jurisdiction. The court may delay its
24 decision on forfeiture under this subsection until the end of the
25 probationary period.

26 (4) In addition to fines and court costs, the ~~((owner))~~ offender,
27 only if convicted or in agreement, shall be liable for reasonable costs
28 incurred pursuant to this chapter, including expenses for the
29 investigation of the violation and the care or disposal of the animal
30 or animals, by the law enforcement or authorized private or public
31 entities involved with the care of the animals.

32 (5) If convicted, the ~~((owner))~~ offender shall also pay a civil
33 penalty of one ~~((hundred))~~ thousand dollars to the county to prevent
34 cruelty to animals. These funds shall be used to prosecute offenses
35 under this chapter and to care for forfeited animals pending trial.

36 (6) In addition to the penalties imposed by the court, the court
37 may, when otherwise authorized, order the offender to participate in a

1 program designed to provide prevention, treatment, or education in the
2 area of animal cruelty.

3 NEW SECTION. **Sec. 18.** (1) An owner whose animal is subjected to
4 any act that is a violation of this chapter or RCW 9.08.070,
5 9A.48.080(1)(c), or 81.56.120 may bring an action to recover the actual
6 damages sustained by him or her. Actual damages may include emotional
7 distress suffered by an owner.

8 (2) In an action brought under subsection (1) of this section,
9 regardless of whether an award of actual damages is obtained, a court
10 may award a sum of not less than five hundred dollars and not more than
11 five thousand dollars to an owner whose animal is subjected to any act
12 that is a violation of this chapter or RCW 9.08.070, 9A.48.080(1)(c),
13 or 81.56.120.

14 (3) A city, county, or corporation that is incorporated pursuant to
15 RCW 16.52.020 may bring an action under this section against any
16 person, including an owner. Any damages awarded such corporation shall
17 be limited to the costs incurred by the corporation. The costs may
18 include investigation of alleged violations of this chapter and
19 capturing, transporting, treating, sheltering, feeding, and disposing
20 of animals whose treatment is a violation of this chapter.

21 (4) In an action brought under subsection (3) of this section,
22 regardless of whether an award of damages is obtained, a court may
23 award a sum of not less than five hundred dollars and not more than
24 five thousand dollars to a corporation that has custody, control, or
25 ownership over an animal that has been subjected to any act that is a
26 violation of this chapter or RCW 9.08.070, 9A.48.080(1)(c), or
27 81.56.120. An award made pursuant to this subsection may only be used
28 to provide: (a) Education in prevention of cruelty to animals; or (b)
29 treatment programs for persons who are found in violation of this
30 chapter.

31 (5) An award made by a district court pursuant to this section
32 shall not exceed the amount authorized by RCW 3.66.020.

33 (6) In an action brought under this section, any prevailing
34 plaintiff shall be awarded costs and fees of the action including
35 reasonable attorneys' fees.

36 (7) In any action brought under this section, it is not a defense
37 that the defendant has not been charged with, or convicted of, a crime
38 involving animals. The remedies provided in this section are in

1 addition to, and do not replace or supplant, any other remedy available
2 at law.

3 **Sec. 19.** RCW 9.08.070 and 1989 c 359 s 2 are each amended to read
4 as follows:

5 (1) Any person who, with intent to deprive or defraud the owner
6 thereof, does any of the following shall be guilty of a gross
7 misdemeanor and shall be punished as prescribed under RCW 9A.20.021(2)
8 and by a mandatory fine of not less than five hundred dollars per pet
9 animal except as provided by (~~(d) of~~) this subsection:

10 (a) Takes, leads away, confines, secretes or converts any pet
11 animal, except in cases in which the value of the pet animal exceeds
12 two hundred fifty dollars; or

13 (b) Conceals the identity of any pet animal or its owner by
14 obscuring, altering, or removing from the pet animal any collar, tag,
15 license, tattoo, or other identifying device or mark.

16 (~~(c) Willfully or recklessly kills or injures any pet animal,
17 unless excused by law.~~

18 (~~d~~)) Nothing in this subsection or subsection (2) of this section
19 shall prohibit a person from also being convicted of separate offenses
20 under RCW 9A.56.030, 9A.56.040, or 9A.56.050 for theft or under RCW
21 9A.56.150, 9A.56.160, or 9A.56.170 for possession of stolen property.

22 (2)(a) It is unlawful for any person to receive with intent to sell
23 to a research institution in the state of Washington, or sell or
24 otherwise directly transfer to a research institution in the state of
25 Washington, a pet animal that the person knows or has reason to know
26 has been stolen or fraudulently obtained. This subsection does not
27 apply to U.S.D.A. licensed dealers.

28 (b) The first conviction under (a) of this subsection is a gross
29 misdemeanor and is punishable as prescribed under RCW 9A.20.021(2) and
30 by a mandatory fine of not less than five hundred dollars per pet
31 animal. A second or subsequent conviction under (a) of this subsection
32 is a class C felony and is punishable as prescribed under RCW
33 9A.20.021(1)(c) and by a mandatory fine of not less than one thousand
34 dollars per pet animal.

35 (3)(a) It is unlawful for any person, who knows or has reason to
36 know that a pet animal has been stolen or fraudulently obtained, to
37 sell or otherwise transfer the pet animal to another who the person
38 knows or has reason to know has previously sold a stolen or

1 fraudulently obtained pet animal to a research institution in the state
2 of Washington.

3 (b) A conviction under (a) of this subsection is a class C felony
4 and shall be punishable as prescribed under RCW 9A.20.021(1)(c) and by
5 a mandatory fine of not less than one thousand dollars per pet animal.

6 (4)(a) It is unlawful for a U.S.D.A. licensed dealer to receive
7 with intent to sell, or sell or transfer directly or through a third
8 party, to a research institution in the state of Washington, a pet
9 animal that the dealer knows or has reason to know has been stolen or
10 fraudulently obtained.

11 (b) A conviction under (a) of this subsection is a class C felony
12 and shall be punishable as prescribed under RCW 9A.20.021(1)(c) and by
13 a mandatory fine of not less than one thousand dollars per pet animal.

14 (5) The sale, receipt, or transfer of each individual pet animal in
15 violation of subsections (1), (2), (3), and (4) of this section
16 constitutes a separate offense.

17 (6) The provisions of subsections (1), (2), (3), and (4) of this
18 section shall not apply to the lawful acts of any employee, agent, or
19 director of any humane society, animal control agency, or animal
20 shelter operated by or on behalf of any government agency, operating
21 under law.

22 **Sec. 20.** RCW 81.56.120 and 1961 c 14 s 81.56.120 are each amended
23 to read as follows:

24 Railroad or other transportation companies in carrying or
25 transporting animals shall not permit them to be confined in cars for
26 a longer period than forty-eight consecutive hours without unloading
27 them for rest, water and feeding for a period of at least two
28 consecutive hours, unless prevented from so unloading them by
29 unavoidable accident. In estimating such confinement, the time during
30 which the animals have been confined without such rest on connecting
31 roads from which they are received shall be included. Animals so
32 unloaded shall, during such rest, be properly fed, watered by the owner
33 or person having the custody of them, or in case of his default in so
34 doing, then by the railroad company transporting them, at the expense
35 of said owner or person in custody thereof, and said company shall in
36 such case have a lien upon such animals for food, care and custody
37 furnished, and shall not be liable for such detention of such animals.
38 If animals are transported where they can and do have proper food,

1 water, space and opportunity for rest, the foregoing provision in
2 regard to their being unloaded shall not apply. Violators of this
3 section shall be punished by fine not exceeding one ((hundred))
4 thousand dollars per animal.

5 **Sec. 21.** RCW 13.40.150 and 1992 c 205 s 109 are each amended to
6 read as follows:

7 (1) In disposition hearings all relevant and material evidence,
8 including oral and written reports, may be received by the court and
9 may be relied upon to the extent of its probative value, even though
10 such evidence may not be admissible in a hearing on the information.
11 The youth or the youth's counsel and the prosecuting attorney shall be
12 afforded an opportunity to examine and controvert written reports so
13 received and to cross-examine individuals making reports when such
14 individuals are reasonably available, but sources of confidential
15 information need not be disclosed. The prosecutor and counsel for the
16 juvenile may submit recommendations for disposition.

17 (2) For purposes of disposition:

18 (a) Violations which are current offenses count as misdemeanors;

19 (b) Violations may not count as part of the offender's criminal
20 history;

21 (c) In no event may a disposition for a violation include
22 confinement.

23 (3) Before entering a dispositional order as to a respondent found
24 to have committed an offense, the court shall hold a disposition
25 hearing, at which the court shall:

26 (a) Consider the facts supporting the allegations of criminal
27 conduct by the respondent;

28 (b) Consider information and arguments offered by parties and their
29 counsel;

30 (c) Consider any predisposition reports;

31 (d) Consult with the respondent's parent, guardian, or custodian on
32 the appropriateness of dispositional options under consideration and
33 afford the respondent and the respondent's parent, guardian, or
34 custodian an opportunity to speak in the respondent's behalf;

35 (e) Allow the victim or a representative of the victim and an
36 investigative law enforcement officer to speak;

37 (f) Determine the amount of restitution owing to the victim, if
38 any;

1 (g) Determine whether the respondent is a serious offender, a
2 middle offender, or a minor or first offender;

3 (h) Consider whether or not any of the following mitigating factors
4 exist:

5 (i) The respondent's conduct neither caused nor threatened serious
6 bodily injury or the respondent did not contemplate that his or her
7 conduct would cause or threaten serious bodily injury;

8 (ii) The respondent acted under strong and immediate provocation;

9 (iii) The respondent was suffering from a mental or physical
10 condition that significantly reduced his or her culpability for the
11 offense though failing to establish a defense;

12 (iv) Prior to his or her detection, the respondent compensated or
13 made a good faith attempt to compensate the victim for the injury or
14 loss sustained; and

15 (v) There has been at least one year between the respondent's
16 current offense and any prior criminal offense;

17 (i) Consider whether or not any of the following aggravating
18 factors exist:

19 (i) In the commission of the offense, or in flight therefrom, the
20 respondent inflicted or attempted to inflict serious bodily injury to
21 another;

22 (ii) The offense was committed in an especially heinous, cruel, or
23 depraved manner;

24 (iii) The victim or victims were particularly vulnerable;

25 (iv) The respondent has a recent criminal history or has failed to
26 comply with conditions of a recent dispositional order or diversion
27 agreement;

28 (v) The current offense included a finding of sexual motivation
29 pursuant to RCW 9.94A.127;

30 (vi) The respondent was the leader of a criminal enterprise
31 involving several persons; ((and))

32 (vii) The offense involved cruelty to animals; and

33 (viii) There are other complaints which have resulted in diversion
34 or a finding or plea of guilty but which are not included as criminal
35 history.

36 (4) The following factors may not be considered in determining the
37 punishment to be imposed:

38 (a) The sex of the respondent;

39 (b) The race or color of the respondent or the respondent's family;

1 (c) The creed or religion of the respondent or the respondent's
2 family;

3 (d) The economic or social class of the respondent or the
4 respondent's family; and

5 (e) Factors indicating that the respondent may be or is a dependent
6 child within the meaning of this chapter.

7 (5) A court may not commit a juvenile to a state institution solely
8 because of the lack of facilities, including treatment facilities,
9 existing in the community.

10 NEW SECTION. Sec. 22. A new section is added to chapter 69.38 RCW
11 to read as follows:

12 It is unlawful for any person other than a registered pharmacist to
13 sell at retail or furnish to any person any strychnine. This section
14 does not prohibit county, state, or federal agents, in the course of
15 their duties, from furnishing strychnine to any person. Every
16 registered pharmacist selling or furnishing strychnine shall, before
17 delivering the same, record the transaction as provided for in RCW
18 69.38.030.

19 NEW SECTION. Sec. 23. The following acts or parts of acts are
20 each repealed:

- 21 (1) RCW 16.52.010 and 1901 c 146 s 17;
- 22 (2) RCW 16.52.040 and 1901 c 146 s 14;
- 23 (3) RCW 16.52.055 and 1901 c 146 s 3;
- 24 (4) RCW 16.52.065 and 1982 c 114 s 3 & 1893 c 27 s 8;
- 25 (5) RCW 16.52.113 and 1982 c 114 s 8;
- 26 (6) RCW 16.52.117 and 1982 c 114 s 9;
- 27 (7) RCW 16.52.120 and 1982 c 114 s 11 & 1901 c 146 s 7;
- 28 (8) RCW 16.52.130 and 1982 c 114 s 12 & 1901 c 146 s 8;
- 29 (9) RCW 16.52.140 and 1901 c 146 s 11;
- 30 (10) RCW 16.52.160 and 1901 c 146 s 9;
- 31 (11) RCW 16.52.165 and 1982 c 114 s 7 & 1901 c 146 s 16;
- 32 (12) RCW 16.52.190 and 1941 c 105 s 1;
- 33 (13) RCW 16.52.193 and 1987 c 34 s 7 & 1941 c 105 s 2; and
- 34 (14) RCW 16.52.195 and 1941 c 105 s 3.

1 NEW SECTION. **Sec. 24.** Sections 1, 2, 6 through 10, 15, and 18 of
2 this act are each added to chapter 16.52 RCW.

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