

2 **ESHB 1652** - S COMM AMD (S5554.1)
3 By Committee on Law & Justice

4 ADOPTED AS AMENDED 3/3/94

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** The legislature finds there is a need to
8 modernize the law on animal cruelty to more appropriately address the
9 nature of the offense. It is not the intent of this act to remove or
10 decrease any of the exemptions from the statutes on animal cruelty that
11 now apply to customary animal husbandry practices, state game or fish
12 laws, rodeos, fairs under chapter 15.76 RCW, or medical research
13 otherwise authorized under federal or state law. It is the intent of
14 this act to require the enforcement of chapter 16.52 RCW by persons who
15 are accountable to elected officials at the local and state level.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 16.52 RCW
17 to read as follows:

18 (1) Principles of liability as defined in chapter 9A.08 RCW apply
19 to this chapter.

20 (2) Unless the context clearly requires otherwise, the definitions
21 in this section apply throughout this chapter.

22 (a) "Animal" means any nonhuman mammal, bird, reptile, or
23 amphibian.

24 (b) "Animal care and control agency" means any city or county
25 animal control agency or authority authorized to enforce city or county
26 municipal ordinances regulating the care, control, licensing, or
27 treatment of animals within the city or county, and any corporation
28 organized under RCW 16.52.020 that contracts with a city or county to
29 enforce the city or county ordinances governing animal care and
30 control.

31 (c) "Animal control officer" means any individual employed,
32 contracted, or appointed pursuant to section 5 of this act by an animal
33 care and control agency or humane society to aid in the enforcement of
34 ordinances or laws regulating the care and control of animals. For
35 purposes of this chapter, the term "animal control officer" shall be

1 interpreted to include "humane officer" as defined in (e) of this
2 subsection and section 5 of this act.

3 (d) "Euthanasia" means the humane destruction of an animal
4 accomplished by a method that involves instantaneous unconsciousness
5 and immediate death, or by a method that causes painless loss of
6 consciousness, and death during the loss of consciousness.

7 (e) "Humane officer" means any individual employed, contracted, or
8 appointed by an animal care and control agency or humane society as
9 authorized under section 5 of this act.

10 (f) "Law enforcement agency" means a general authority Washington
11 law enforcement agency as defined in RCW 10.93.020.

12 (g) "Necessary food" means the provision at suitable intervals of
13 wholesome foodstuff suitable for the animal's age and species and
14 sufficient to provide a reasonable level of nutrition for the animal.

15 (h) "Owner" means a person who has a right, claim, title, legal
16 share, or right of possession to an animal or a person having lawful
17 control, custody, or possession of an animal.

18 (i) "Person" means individuals, corporations, partnerships,
19 associations, or other legal entities, and agents of those entities.

20 (j) "Substantial bodily harm" means substantial bodily harm as
21 defined in RCW 9A.04.110.

22 NEW SECTION. **Sec. 3.** A new section is added to chapter 16.52 RCW
23 to read as follows:

24 (1) Law enforcement agencies and animal care and control agencies
25 may enforce the provisions of this chapter. Animal care and control
26 agencies may enforce the provisions of this chapter in a county or city
27 only if the county or city legislative authority has entered into a
28 contract with the agency to enforce the provisions of this chapter.

29 (2) Animal control officers enforcing this chapter shall comply
30 with the same constitutional and statutory restrictions concerning the
31 execution of police powers imposed on law enforcement officers who
32 enforce this chapter and other criminal laws of the state of
33 Washington.

34 (3) Animal control officers have the following enforcement powers
35 when enforcing this chapter:

36 (a) The power to issue citations based on probable cause to
37 offenders for misdemeanor and gross misdemeanor violations of this
38 chapter or RCW 9.08.070 or 81.56.120;

1 (b) The power to cause a law enforcement officer to arrest and take
2 into custody any person the animal control officer has probable cause
3 to believe has committed or is committing a violation of this chapter
4 or RCW 9.08.070 or 81.56.120. Animal control officers may make an oral
5 complaint to a prosecuting attorney or a law enforcement officer to
6 initiate arrest. The animal control officer causing the arrest shall
7 file with the arresting agency a written complaint within twenty-four
8 hours of the arrest, excluding Sundays and legal holidays, stating the
9 alleged act or acts constituting a violation;

10 (c) The power to carry nonfirearm protective devices for personal
11 protection;

12 (d) The power to prepare affidavits in support of search warrants
13 and to execute search warrants when accompanied by law enforcement
14 officers to investigate violations of this chapter or RCW 9.08.070 or
15 81.56.120, and to seize evidence of those violations.

16 (4) Upon request of an animal control officer who has probable
17 cause to believe that a person has violated this chapter or RCW
18 9.08.070 or 81.56.120, a law enforcement agency officer may arrest the
19 alleged offender.

20 **Sec. 4.** RCW 16.52.020 and 1973 1st ex.s. c 125 s 1 are each
21 amended to read as follows:

22 Any citizens of the state of Washington (~~((who have heretofore, or~~
23 ~~who shall hereafter, incorporate as a body corporate,))~~ incorporated
24 under the laws of this state as a humane society or as a society for
25 the prevention of cruelty to animals may (~~((avail themselves of the~~
26 ~~privileges of RCW 16.52.010 through 16.52.050, 16.52.070 through~~
27 ~~16.52.090 and 16.52.100 through 16.52.180: PROVIDED, That))~~ enforce
28 the provisions of this chapter through its animal control officers
29 subject to the limitations in sections 3 and 5 of this act. The
30 legislative authority in each county may grant exclusive authority to
31 exercise the privileges and authority granted by this section to one or
32 more qualified corporations for a period of up to three years based
33 upon ability to fulfill the purposes of this chapter.

34 NEW SECTION. **Sec. 5.** A new section is added to chapter 16.52 RCW
35 to read as follows:

36 Trustees of humane societies incorporated pursuant to RCW 16.52.020
37 may appoint society members to act as animal control officers. The

1 trustee appointments shall be in writing. The appointment shall be
2 effective in a particular county only if an appointee obtains written
3 authorization from the superior court of the county in which the
4 appointee seeks to enforce this chapter. To obtain judicial
5 authorization, an appointee seeking judicial authorization on or after
6 the effective date of this section shall provide evidence satisfactory
7 to the judge that the appointee has successfully completed training
8 which has prepared the appointee to assume the powers granted to animal
9 control officers pursuant to section 3 of this act. The trustees shall
10 review appointments every three years and may revoke an appointment at
11 any time by filing a certified revocation with the superior court that
12 approved the appointment. Authorizations shall not exceed three years
13 or trustee termination, whichever occurs first. To qualify for
14 reappointment when a term expires on or after the effective date of
15 this section, the officer shall obtain training or satisfy the court
16 that the officer has sufficient experience to exercise the powers
17 granted to animal control officers pursuant to section 3 of this act.

18 **Sec. 6.** RCW 16.52.085 and 1987 c 335 s 1 are each amended to read
19 as follows:

20 (1) If ~~((the county sheriff or other))~~ a law enforcement officer
21 ~~((shall find))~~ or animal control officer has probable cause to believe
22 that ~~((said))~~ an owner of a domestic animal has ~~((been neglected by its~~
23 owner, he or she)) violated this chapter and no responsible person can
24 be found to assume the animal's care, the officer may authorize, with
25 a warrant, the removal of the animal to a ~~((proper pasture or other))~~
26 suitable place for feeding and ~~((restoring to health.))~~ care, or may
27 place the animal under the custody of an animal care and control
28 agency. In determining what is a suitable place, the officer shall
29 consider the animal's needs, including its size and behavioral
30 characteristics. An officer may remove an animal under this subsection
31 without a warrant only if the animal is in an immediate life-
32 threatening condition.

33 (2) If a law enforcement officer or an animal control officer has
34 probable cause to believe a violation of this chapter has occurred, the
35 officer may authorize an examination of ~~((an))~~ a domestic animal
36 allegedly neglected ~~((domestic animal))~~ or abused in violation of this
37 chapter by a veterinarian to determine whether the level of neglect or
38 abuse in violation of this chapter is sufficient to require removal of

1 the animal. This section does not condone illegal entry onto private
2 property.

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

14 (4) The agency having custody of the animal may euthanize the
15 animal or may find a responsible person to adopt the animal not less
16 than fifteen business days after the animal is taken into custody. A
17 custodial agency may euthanize severely injured, diseased, or suffering
18 animals at any time. An owner may prevent the animal's destruction or
19 adoption by: (a) Petitioning the district court of the county where
20 the animal was seized for the animal's immediate return subject to
21 court-imposed conditions, or (b) posting a bond or security in an
22 amount sufficient to provide for the animal's care for a minimum of
23 thirty days from the seizure date. If the custodial agency still has
24 custody of the animal when the bond or security expires, the animal
25 shall become the agency's property unless the court orders an
26 alternative disposition. If a court order prevents the agency from
27 assuming ownership and the agency continues to care for the animal, the
28 court shall order the owner to renew a bond or security for the
29 agency's continuing costs for the animal's care.

30 (5) If no criminal case is filed within (~~(seventy-two hours))~~)
31 fourteen business days of the ((removal of the animal)) animal's
32 removal, the owner may petition the district court of the county where
33 the (~~(removal of the))~~) animal (~~(occurred))~~) was removed for the ((return
34 of the animal)) animal's return. The petition shall be filed with the
35 court, with copies served to the law enforcement or animal care and
36 control agency responsible for removing the animal and to the
37 prosecuting attorney. If the court grants the petition, the agency
38 which seized the animal must deliver the animal to the owner at no cost
39 to the owner. If a criminal action is filed after the petition is

1 filed but before the animal is returned, the petition shall be joined
2 with the criminal matter.

3 ~~((+5))~~ (6) In a motion or petition for the ~~((return of the removed~~
4 ~~animal))~~ animal's return before a trial, the burden is on the owner to
5 prove by a preponderance of the evidence that the animal will not
6 suffer future neglect or abuse and is not in need of being restored to
7 health.

8 ~~((+6))~~ (7) Any authorized person treating or attempting to restore
9 an animal to health under this chapter shall not be civilly or
10 criminally liable for such action.

11 **Sec. 7.** RCW 16.52.095 and Code 1881 s 840 are each amended to read
12 as follows:

13 It shall not be lawful for any person to cut off more than one-half
14 of the ear or ears of any domestic animal such as an ox, cow, bull,
15 calf, sheep, goat or hog, or dog, and any person cutting off more than
16 one-half of the ear or ears of any such animals, shall be deemed guilty
17 of a misdemeanor, and upon conviction, shall be fined in any sum less
18 than twenty dollars. This section does not apply if cutting off more
19 than one-half of the ear of the animal is a customary husbandry
20 practice.

21 NEW SECTION. **Sec. 8.** A new section is added to chapter 16.52 RCW
22 to read as follows:

23 (1) A person is guilty of animal cruelty in the first degree when,
24 except as authorized in law, he or she intentionally or knowingly (a)
25 inflicts substantial pain on, (b) causes physical injury to, or (c)
26 kills an animal by a means causing undue suffering, or forces a minor
27 to inflict unnecessary pain, injury, or death on an animal.

28 (2) Animal cruelty in the first degree is a class C felony.

29 NEW SECTION. **Sec. 9.** A new section is added to chapter 16.52 RCW
30 to read as follows:

31 (1) A person is guilty of animal cruelty in the second degree if,
32 under circumstances not amounting to first degree animal cruelty, the
33 person knowingly, recklessly, or with criminal negligence inflicts
34 unnecessary suffering or pain upon an animal.

1 (2) An owner of an animal is guilty of animal cruelty in the second
2 degree if, under circumstances not amounting to first degree animal
3 cruelty, the owner knowingly, recklessly, or with criminal negligence:

4 (a) Fails to provide the animal with necessary food, water,
5 shelter, rest, sanitation, ventilation, space, or medical attention and
6 the animal suffers unnecessary or unjustifiable physical pain as a
7 result of the failure; or

8 (b) Abandons the animal.

9 (3) Animal cruelty in the second degree is a misdemeanor.

10 (4) In any prosecution of animal cruelty in the second degree, it
11 shall be an affirmative defense, if established by the defendant by a
12 preponderance of the evidence, that the defendant's failure was due to
13 economic distress beyond the defendant's control.

14 **Sec. 10.** RCW 16.52.100 and 1982 c 114 s 6 are each amended to read
15 as follows:

16 (~~Any person who shall impound or confine or cause to be impounded~~
17 ~~or confined any domestic animal, shall supply the same during such~~
18 ~~confinement with a sufficient quantity of good and wholesome food and~~
19 ~~water, and in default thereof shall be guilty of a misdemeanor. In~~
20 ~~ease)) If any domestic animal ~~((shall be))~~ is impounded or confined
21 ~~((as aforesaid and shall continue to be))~~ without necessary food and
22 water for more than ~~((twenty-four))~~ thirty-six consecutive hours, ~~((it~~
23 ~~shall be lawful for))~~ any person may, from time to time, as ~~((it shall~~
24 ~~be deemed))~~ is necessary ~~((to))~~, enter into and open any pound or place
25 of confinement in which any domestic animal ~~((shall be))~~ is confined,
26 and supply it with necessary food and water so long as it ~~((shall be))~~
27 is confined. ~~((Such))~~ The person shall not be liable to action for
28 ~~((such))~~ the entry, and may collect from the animal's owner the
29 reasonable cost of ~~((such))~~ the food and water ~~((may be collected by~~
30 ~~him of the owner of such animal, and the said))~~. The animal shall be
31 subject to attachment ~~((therefor))~~ for the costs and shall not be
32 exempt from levy and sale upon execution issued upon a judgment
33 ~~((therefor))~~. If an investigating officer finds it extremely difficult
34 to supply ~~((such))~~ confined animals with food and water, the officer
35 may remove the animals to protective custody for that purpose.~~

36 **Sec. 11.** RCW 16.52.117 and 1982 c 114 s 9 are each amended to read
37 as follows:

1 (1) Any person who does any of the following is guilty of a gross
2 misdemeanor punishable by imprisonment not to exceed one year, or by a
3 fine not to exceed five thousand dollars, or by both fine and
4 imprisonment:

5 (a) Owns, possesses, keeps, or trains any ~~((dog))~~ animal with the
6 intent that the ~~((dog))~~ animal shall be engaged in an exhibition of
7 fighting with another ~~((dog))~~ animal;

8 (b) For amusement or gain causes any ~~((dog))~~ animal to fight with
9 another ~~((dog))~~ animal, or causes any ~~((dogs))~~ animals to injure each
10 other; or

11 (c) Permits any act in violation of (a) or (b) of this subsection
12 to be done on any premises under his or her charge or control, or
13 promotes or aids or abets any such act.

14 (2) Any person who is knowingly present, as a spectator, at any
15 place or building where preparations are being made for an exhibition
16 of the fighting of ~~((dogs))~~ animals, with the intent to be present at
17 such preparations, or is knowingly present at such exhibition or at any
18 other fighting or injuring as described in subsection (1)(b) of this
19 section, with the intent to be present at such exhibition, fighting, or
20 injuring, is guilty of a misdemeanor.

21 (3) Nothing in this section may prohibit the following:

22 (a) The use of dogs in the management of livestock, as defined by
23 chapter 16.57 RCW, by the owner of the livestock or the owner's
24 employees or agents or other persons in lawful custody of the
25 livestock;

26 (b) The use of dogs in hunting as permitted by law; or

27 (c) The training of ~~((dogs))~~ animals or the use of equipment in the
28 training of ~~((dogs))~~ animals for any purpose not prohibited by law.

29 **Sec. 12.** RCW 16.52.180 and 1901 c 146 s 18 are each amended to
30 read as follows:

31 No part of ~~((RCW 16.52.010 through 16.52.050, 16.52.070 through~~
32 ~~16.52.090 and 16.52.100 through 16.52.180))~~ this chapter shall be
33 deemed to interfere with any of the laws of this state known as the
34 "game laws," nor ~~((shall RCW 16.52.010 through 16.52.050, 16.52.070~~
35 ~~through 16.52.090 and 16.52.100 through 16.52.180))~~ be deemed to
36 interfere with the right to destroy any venomous reptile or any known
37 as dangerous to life, limb or property, or to interfere with the right
38 to kill animals to be used for food or with any properly conducted

1 scientific experiments or investigations, which experiments or
2 investigations shall be performed only under the authority of the
3 faculty of some regularly incorporated college or university of the
4 state of Washington or a research facility registered with the United
5 States department of agriculture and regulated by 7 U.S.C. Sec. 2131 et
6 seq.

7 **Sec. 13.** RCW 16.52.190 and 1941 c 105 s 1 are each amended to read
8 as follows:

9 ~~((It shall be unlawful for any person to wilfully or maliciously~~
10 ~~poison any domestic animal or domestic bird:— PROVIDED, That the~~
11 ~~provisions))~~ (1) Except as provided in subsections (2) and (3) of this
12 section, a person is guilty of the crime of poisoning animals if the
13 person intentionally or knowingly poisons an animal under circumstances
14 which do not constitute animal cruelty in the first degree.

15 (2) Subsection (1) of this section shall not apply to ((the
16 killing)) euthanizing by poison ((such)) an animal ((or bird)) in a
17 lawful and humane manner by the animal's owner ((thereof)), or by a
18 duly authorized servant or agent of ((such)) the owner, or by a person
19 acting pursuant to instructions from a duly constituted public
20 authority.

21 (3) Subsection (1) of this section shall not apply to the
22 reasonable use of rodent or pest poison, insecticides, fungicides, or
23 slug bait for their intended purposes. As used in this section, the
24 term "rodent" includes but is not limited to Columbia ground squirrels,
25 other ground squirrels, rats, mice, gophers, rabbits, and any other
26 rodent designated as injurious to the agricultural interests of the
27 state as provided in chapter 17.16 RCW. The term "pest" as used in
28 this section includes any pest as defined in RCW 17.21.020.

29 **Sec. 14.** RCW 16.52.200 and 1987 c 335 s 2 are each amended to read
30 as follows:

31 (1) The sentence imposed for a misdemeanor or gross misdemeanor
32 violation of this chapter may be deferred or suspended in accordance
33 with RCW 3.66.067 and 3.66.068, however the probationary period shall
34 be two years.

35 (2) In case of multiple misdemeanor or gross misdemeanor
36 convictions, the sentences shall be consecutive, however the
37 probationary period shall remain two years.

1 (3) In addition to the penalties imposed by the court, the court
2 shall order the forfeiture of all animals held by law enforcement or
3 animal care and control authorities under the provisions of this
4 chapter if any one of the animals involved dies as a result of a
5 violation of this chapter or if the defendant has a prior conviction
6 under this chapter. In other cases the court may enter an order
7 requiring the owner to forfeit the animal if the court deems the
8 ~~((owner))~~ animal's treatment to have been severe and likely to reoccur.
9 If forfeiture is ordered, the owner shall be prohibited from owning or
10 caring for any similar animals for a period of two years. The court
11 may delay its decision on forfeiture under this subsection until the
12 end of the probationary period.

13 (4) In addition to fines and court costs, the ~~((owner))~~ defendant,
14 only if convicted or in agreement, shall be liable for reasonable costs
15 incurred pursuant to this chapter by ~~((the))~~ law enforcement agencies,
16 animal care and control agencies, or authorized private or public
17 entities involved with the care of the animals. Reasonable costs
18 include expenses of the investigation, and the animal's care,
19 euthanization, or adoption.

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

24 (6) As a condition of the sentence imposed under this chapter or
25 RCW 9.08.070, the court may also order the defendant to participate in
26 an available animal cruelty prevention or education program or obtain
27 available psychological counseling to treat mental health problems
28 contributing to the violation's commission. The defendant shall bear
29 the costs of the program or treatment.

30 **Sec. 15.** RCW 16.52.300 and 1990 c 226 s 1 are each amended to read
31 as follows:

32 (1) If any person ~~((who uses))~~ commits the crime of animal cruelty
33 in the first or second degree by using or trapping to use domestic dogs
34 or cats as bait, prey, or targets for the purpose of training dogs or
35 other animals to track, fight, or hunt, ~~((in such a fashion as to~~
36 torture, torment, deprive of necessary sustenance, cruelly beat, or
37 mutilate such animals, shall be guilty of a misdemeanor.

1 ~~(2) Any person who violates the provisions of subsection (1) of~~
2 ~~this section, and whose actions result in the death of the animal,~~
3 ~~shall be guilty of a gross misdemeanor.~~

4 ~~(3) Any person who captures by trap a domestic dog or cat to be~~
5 ~~used as bait, prey, or targets for the purpose of training dogs or~~
6 ~~other animals to track, fight, or hunt, in such a fashion as to~~
7 ~~torture, torment, deprive of necessary sustenance, cruelly beat, or~~
8 ~~mutilate such animals, shall be guilty of a misdemeanor.~~

9 ~~(4) Any person who violates the provisions of subsection (3) of~~
10 ~~this section, and whose actions result in the death of the animal,~~
11 ~~shall be guilty of a gross misdemeanor.~~

12 ~~(5) If a person violates this section,~~) law enforcement
13 ~~((authorities)) officers or animal control officers shall seize and~~
14 ~~hold the animals being trained. ((Such)) The seized animals shall be~~
15 ~~disposed of by the court pursuant to the provisions of RCW~~
16 ~~16.52.200(3).~~

17 ~~((+6))~~ (2) This section shall not in any way interfere with or
18 impair the operation of any provision of Title 28B RCW, relating to
19 higher education or biomedical research.

20 **Sec. 16.** RCW 9.94A.030 and 1994 c 1 s 3 (Initiative Measure No.
21 593), 1993 c 338 s 2, 1993 c 251 s 4, and 1993 c 164 s 1 are each
22 reenacted and amended to read as follows:

23 Unless the context clearly requires otherwise, the definitions in
24 this section apply throughout this chapter.

25 (1) "Collect," or any derivative thereof, "collect and remit," or
26 "collect and deliver," when used with reference to the department of
27 corrections, means that the department is responsible for monitoring
28 and enforcing the offender's sentence with regard to the legal
29 financial obligation, receiving payment thereof from the offender, and,
30 consistent with current law, delivering daily the entire payment to the
31 superior court clerk without depositing it in a departmental account.

32 (2) "Commission" means the sentencing guidelines commission.

33 (3) "Community corrections officer" means an employee of the
34 department who is responsible for carrying out specific duties in
35 supervision of sentenced offenders and monitoring of sentence
36 conditions.

37 (4) "Community custody" means that portion of an inmate's sentence
38 of confinement in lieu of earned early release time served in the

1 community subject to controls placed on the inmate's movement and
2 activities by the department of corrections.

3 (5) "Community placement" means that period during which the
4 offender is subject to the conditions of community custody and/or
5 postrelease supervision, which begins either upon completion of the
6 term of confinement (postrelease supervision) or at such time as the
7 offender is transferred to community custody in lieu of earned early
8 release. Community placement may consist of entirely community
9 custody, entirely postrelease supervision, or a combination of the two.

10 (6) "Community service" means compulsory service, without
11 compensation, performed for the benefit of the community by the
12 offender.

13 (7) "Community supervision" means a period of time during which a
14 convicted offender is subject to crime-related prohibitions and other
15 sentence conditions imposed by a court pursuant to this chapter or RCW
16 16.52.200(6) or 46.61.524. For first-time offenders, the supervision
17 may include crime-related prohibitions and other conditions imposed
18 pursuant to RCW 9.94A.120(5). For purposes of the interstate compact
19 for out-of-state supervision of parolees and probationers, RCW
20 9.95.270, community supervision is the functional equivalent of
21 probation and should be considered the same as probation by other
22 states.

23 (8) "Confinement" means total or partial confinement as defined in
24 this section.

25 (9) "Conviction" means an adjudication of guilt pursuant to Titles
26 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
27 acceptance of a plea of guilty.

28 (10) "Court-ordered legal financial obligation" means a sum of
29 money that is ordered by a superior court of the state of Washington
30 for legal financial obligations which may include restitution to the
31 victim, statutorily imposed crime victims' compensation fees as
32 assessed pursuant to RCW 7.68.035, court costs, county or interlocal
33 drug funds, court-appointed attorneys' fees, and costs of defense,
34 fines, and any other financial obligation that is assessed to the
35 offender as a result of a felony conviction. Upon conviction for
36 vehicular assault while under the influence of intoxicating liquor or
37 any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the
38 influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a),
39 legal financial obligations may also include payment to a public agency

1 of the expense of an emergency response to the incident resulting in
2 the conviction, subject to the provisions in RCW 38.52.430.

3 (11) "Crime-related prohibition" means an order of a court
4 prohibiting conduct that directly relates to the circumstances of the
5 crime for which the offender has been convicted, and shall not be
6 construed to mean orders directing an offender affirmatively to
7 participate in rehabilitative programs or to otherwise perform
8 affirmative conduct.

9 (12)(a) "Criminal history" means the list of a defendant's prior
10 convictions, whether in this state, in federal court, or elsewhere.
11 The history shall include, where known, for each conviction (i) whether
12 the defendant has been placed on probation and the length and terms
13 thereof; and (ii) whether the defendant has been incarcerated and the
14 length of incarceration.

15 (b) "Criminal history" shall always include juvenile convictions
16 for sex offenses and shall also include a defendant's other prior
17 convictions in juvenile court if: (i) The conviction was for an
18 offense which is a felony or a serious traffic offense and is criminal
19 history as defined in RCW 13.40.020(~~(+6)(a)~~) (9); (ii) the defendant
20 was fifteen years of age or older at the time the offense was
21 committed; and (iii) with respect to prior juvenile class B and C
22 felonies or serious traffic offenses, the defendant was less than
23 twenty-three years of age at the time the offense for which he or she
24 is being sentenced was committed.

25 (13) "Department" means the department of corrections.

26 (14) "Determinate sentence" means a sentence that states with
27 exactitude the number of actual years, months, or days of total
28 confinement, of partial confinement, of community supervision, the
29 number of actual hours or days of community service work, or dollars or
30 terms of a legal financial obligation. The fact that an offender
31 through "earned early release" can reduce the actual period of
32 confinement shall not affect the classification of the sentence as a
33 determinate sentence.

34 (15) "Disposable earnings" means that part of the earnings of an
35 individual remaining after the deduction from those earnings of any
36 amount required by law to be withheld. For the purposes of this
37 definition, "earnings" means compensation paid or payable for personal
38 services, whether denominated as wages, salary, commission, bonuses, or
39 otherwise, and, notwithstanding any other provision of law making the

1 payments exempt from garnishment, attachment, or other process to
2 satisfy a court-ordered legal financial obligation, specifically
3 includes periodic payments pursuant to pension or retirement programs,
4 or insurance policies of any type, but does not include payments made
5 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,
6 or Title 74 RCW.

7 (16) "Drug offense" means:

8 (a) Any felony violation of chapter 69.50 RCW except possession of
9 a controlled substance (RCW 69.50.401(d)) or forged prescription for a
10 controlled substance (RCW 69.50.403);

11 (b) Any offense defined as a felony under federal law that relates
12 to the possession, manufacture, distribution, or transportation of a
13 controlled substance; or

14 (c) Any out-of-state conviction for an offense that under the laws
15 of this state would be a felony classified as a drug offense under (a)
16 of this subsection.

17 (17) "Escape" means:

18 (a) Escape in the first degree (RCW 9A.76.110), escape in the
19 second degree (RCW 9A.76.120), willful failure to return from furlough
20 (RCW 72.66.060), willful failure to return from work release (RCW
21 72.65.070), or willful failure to be available for supervision by the
22 department while in community custody (RCW 72.09.310); or

23 (b) Any federal or out-of-state conviction for an offense that
24 under the laws of this state would be a felony classified as an escape
25 under (a) of this subsection.

26 (18) "Felony traffic offense" means:

27 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
28 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
29 and-run injury-accident (RCW 46.52.020(4)); or

30 (b) Any federal or out-of-state conviction for an offense that
31 under the laws of this state would be a felony classified as a felony
32 traffic offense under (a) of this subsection.

33 (19) "Fines" means the requirement that the offender pay a specific
34 sum of money over a specific period of time to the court.

35 (20)(a) "First-time offender" means any person who is convicted of
36 a felony (i) not classified as a violent offense or a sex offense under
37 this chapter, or (ii) that is not the manufacture, delivery, or
38 possession with intent to manufacture or deliver a controlled substance
39 classified in schedule I or II that is a narcotic drug or the selling

1 for profit of any controlled substance or counterfeit substance
2 classified in schedule I, RCW 69.50.204, except leaves and flowering
3 tops of marihuana, and except as provided in (b) of this subsection,
4 who previously has never been convicted of a felony in this state,
5 federal court, or another state, and who has never participated in a
6 program of deferred prosecution for a felony offense.

7 (b) For purposes of (a) of this subsection, a juvenile adjudication
8 for an offense committed before the age of fifteen years is not a
9 previous felony conviction except for adjudications of sex offenses.

10 (21) "Most serious offense" means any of the following felonies or
11 a felony attempt to commit any of the following felonies, as now
12 existing or hereafter amended:

13 (a) Any felony defined under any law as a class A felony or
14 criminal solicitation of or criminal conspiracy to commit a class A
15 felony;

16 (b) Assault in the second degree;

17 (c) Assault of a child in the second degree;

18 (d) Child molestation in the second degree;

19 (e) Controlled substance homicide;

20 (f) Extortion in the first degree;

21 (g) Incest when committed against a child under age fourteen;

22 (h) Indecent liberties;

23 (i) Kidnapping in the second degree;

24 (j) Leading organized crime;

25 (k) Manslaughter in the first degree;

26 (l) Manslaughter in the second degree;

27 (m) Promoting prostitution in the first degree;

28 (n) Rape in the third degree;

29 (o) Robbery in the second degree;

30 (p) Sexual exploitation;

31 (q) Vehicular assault;

32 (r) Vehicular homicide, when proximately caused by the driving of
33 any vehicle by any person while under the influence of intoxicating
34 liquor or any drug as defined by RCW 46.61.502, or by the operation of
35 any vehicle in a reckless manner;

36 (s) Any other class B felony offense with a finding of sexual
37 motivation, as "sexual motivation" is defined under this section;

38 (t) Any other felony with a deadly weapon verdict under RCW
39 9.94A.125;

1 (u) Any felony offense in effect at any time prior to December 2,
2 1993, that is comparable to a most serious offense under this
3 subsection, or any federal or out-of-state conviction for an offense
4 that under the laws of this state would be a felony classified as a
5 most serious offense under this subsection.

6 (22) "Nonviolent offense" means an offense which is not a violent
7 offense.

8 (23) "Offender" means a person who has committed a felony
9 established by state law and is eighteen years of age or older or is
10 less than eighteen years of age but whose case has been transferred by
11 the appropriate juvenile court to a criminal court pursuant to RCW
12 13.40.110. Throughout this chapter, the terms "offender" and
13 "defendant" are used interchangeably.

14 (24) "Partial confinement" means confinement for no more than one
15 year in a facility or institution operated or utilized under contract
16 by the state or any other unit of government, or, if home detention or
17 work crew has been ordered by the court, in an approved residence, for
18 a substantial portion of each day with the balance of the day spent in
19 the community. Partial confinement includes work release, home
20 detention, work crew, and a combination of work crew and home detention
21 as defined in this section.

22 (25) "Persistent offender" is an offender who:

23 (a) Has been convicted in this state of any felony considered a
24 most serious offense; and

25 (b) Has, before the commission of the offense under (a) of this
26 subsection, been convicted as an offender on at least two separate
27 occasions, whether in this state or elsewhere, of felonies that under
28 the laws of this state would be considered most serious offenses and
29 would be included in the offender score under RCW 9.94A.360; provided
30 that of the two or more previous convictions, at least one conviction
31 must have occurred before the commission of any of the other most
32 serious offenses for which the offender was previously convicted.

33 (26) "Postrelease supervision" is that portion of an offender's
34 community placement that is not community custody.

35 (27) "Restitution" means the requirement that the offender pay a
36 specific sum of money over a specific period of time to the court as
37 payment of damages. The sum may include both public and private costs.
38 The imposition of a restitution order does not preclude civil redress.

39 (28) "Serious traffic offense" means:

1 (a) Driving while under the influence of intoxicating liquor or any
2 drug (RCW 46.61.502), actual physical control while under the influence
3 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving
4 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));
5 or

6 (b) Any federal, out-of-state, county, or municipal conviction for
7 an offense that under the laws of this state would be classified as a
8 serious traffic offense under (a) of this subsection.

9 (29) "Serious violent offense" is a subcategory of violent offense
10 and means:

11 (a) Murder in the first degree, homicide by abuse, murder in the
12 second degree, assault in the first degree, kidnapping in the first
13 degree, or rape in the first degree, assault of a child in the first
14 degree, or an attempt, criminal solicitation, or criminal conspiracy to
15 commit one of these felonies; or

16 (b) Any federal or out-of-state conviction for an offense that
17 under the laws of this state would be a felony classified as a serious
18 violent offense under (a) of this subsection.

19 (30) "Sentence range" means the sentencing court's discretionary
20 range in imposing a nonappealable sentence.

21 (31) "Sex offense" means:

22 (a) A felony that is a violation of chapter 9A.44 RCW or RCW
23 9A.64.020 or 9.68A.090 or that is, under chapter 9A.28 RCW, a criminal
24 attempt, criminal solicitation, or criminal conspiracy to commit such
25 crimes;

26 (b) A felony with a finding of sexual motivation under RCW
27 9.94A.127; or

28 (c) Any federal or out-of-state conviction for an offense that
29 under the laws of this state would be a felony classified as a sex
30 offense under (a) of this subsection.

31 (32) "Sexual motivation" means that one of the purposes for which
32 the defendant committed the crime was for the purpose of his or her
33 sexual gratification.

34 (33) "Total confinement" means confinement inside the physical
35 boundaries of a facility or institution operated or utilized under
36 contract by the state or any other unit of government for twenty-four
37 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

38 (34) "Transition training" means written and verbal instructions
39 and assistance provided by the department to the offender during the

1 two weeks prior to the offender's successful completion of the work
2 ethic camp program. The transition training shall include instructions
3 in the offender's requirements and obligations during the offender's
4 period of community custody.

5 (35) "Victim" means any person who has sustained emotional,
6 psychological, physical, or financial injury to person or property as
7 a direct result of the crime charged.

8 (36) "Violent offense" means:

9 (a) Any of the following felonies, as now existing or hereafter
10 amended: Any felony defined under any law as a class A felony or an
11 attempt to commit a class A felony, criminal solicitation of or
12 criminal conspiracy to commit a class A felony, manslaughter in the
13 first degree, manslaughter in the second degree, indecent liberties if
14 committed by forcible compulsion, kidnapping in the second degree,
15 arson in the second degree, assault in the second degree, assault of a
16 child in the second degree, extortion in the first degree, robbery in
17 the second degree, vehicular assault, and vehicular homicide, when
18 proximately caused by the driving of any vehicle by any person while
19 under the influence of intoxicating liquor or any drug as defined by
20 RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

21 (b) Any conviction for a felony offense in effect at any time prior
22 to July 1, 1976, that is comparable to a felony classified as a violent
23 offense in (a) of this subsection; and

24 (c) Any federal or out-of-state conviction for an offense that
25 under the laws of this state would be a felony classified as a violent
26 offense under (a) or (b) of this subsection.

27 (37) "Work crew" means a program of partial confinement consisting
28 of civic improvement tasks for the benefit of the community of not less
29 than thirty-five hours per week that complies with RCW 9.94A.135. The
30 civic improvement tasks shall have minimal negative impact on existing
31 private industries or the labor force in the county where the service
32 or labor is performed. The civic improvement tasks shall not affect
33 employment opportunities for people with developmental disabilities
34 contracted through sheltered workshops as defined in RCW 82.04.385.
35 Only those offenders sentenced to a facility operated or utilized under
36 contract by a county or the state are eligible to participate on a work
37 crew. Offenders sentenced for a sex offense as defined in subsection
38 (31) of this section are not eligible for the work crew program.

1 (38) "Work ethic camp" means an alternative incarceration program
2 designed to reduce recidivism and lower the cost of corrections by
3 requiring offenders to complete a comprehensive array of real-world job
4 and vocational experiences, character-building work ethics training,
5 life management skills development, substance abuse rehabilitation,
6 counseling, literacy training, and basic adult education.

7 (39) "Work release" means a program of partial confinement
8 available to offenders who are employed or engaged as a student in a
9 regular course of study at school. Participation in work release shall
10 be conditioned upon the offender attending work or school at regularly
11 defined hours and abiding by the rules of the work release facility.

12 (40) "Home detention" means a program of partial confinement
13 available to offenders wherein the offender is confined in a private
14 residence subject to electronic surveillance. Home detention may not
15 be imposed for offenders convicted of a violent offense, any sex
16 offense, any drug offense, reckless burning in the first or second
17 degree as defined in RCW 9A.48.040 or 9A.48.050, assault in the third
18 degree as defined in RCW 9A.36.031, assault of a child in the third
19 degree, unlawful imprisonment as defined in RCW 9A.40.040, or
20 harassment as defined in RCW 9A.46.020. Home detention may be imposed
21 for offenders convicted of possession of a controlled substance (RCW
22 69.50.401(d)) or forged prescription for a controlled substance (RCW
23 69.50.403) if the offender fulfills the participation conditions set
24 forth in this subsection and is monitored for drug use by treatment
25 alternatives to street crime (TASC) or a comparable court or agency-
26 referred program.

27 (a) Home detention may be imposed for offenders convicted of
28 burglary in the second degree as defined in RCW 9A.52.030 or
29 residential burglary conditioned upon the offender: (i) Successfully
30 completing twenty-one days in a work release program, (ii) having no
31 convictions for burglary in the second degree or residential burglary
32 during the preceding two years and not more than two prior convictions
33 for burglary or residential burglary, (iii) having no convictions for
34 a violent felony offense during the preceding two years and not more
35 than two prior convictions for a violent felony offense, (iv) having no
36 prior charges of escape, and (v) fulfilling the other conditions of the
37 home detention program.

38 (b) Participation in a home detention program shall be conditioned
39 upon: (i) The offender obtaining or maintaining current employment or

1 attending a regular course of school study at regularly defined hours,
2 or the offender performing parental duties to offspring or minors
3 normally in the custody of the offender, (ii) abiding by the rules of
4 the home detention program, and (iii) compliance with court-ordered
5 legal financial obligations. The home detention program may also be
6 made available to offenders whose charges and convictions do not
7 otherwise disqualify them if medical or health-related conditions,
8 concerns or treatment would be better addressed under the home
9 detention program, or where the health and welfare of the offender,
10 other inmates, or staff would be jeopardized by the offender's
11 incarceration. Participation in the home detention program for medical
12 or health-related reasons is conditioned on the offender abiding by the
13 rules of the home detention program and complying with court-ordered
14 restitution.

15 **Sec. 17.** RCW 9A.48.080 and 1979 c 145 s 2 are each amended to read
16 as follows:

17 (1) A person is guilty of malicious mischief in the second degree
18 if he or she knowingly and maliciously:

19 (a) Causes physical damage to the property of another in an amount
20 exceeding two hundred fifty dollars; or

21 (b) Creates a substantial risk of interruption or impairment of
22 service rendered to the public, by physically damaging or tampering
23 with an emergency vehicle or property of the state, a political
24 subdivision thereof, or a public utility or mode of public
25 transportation, power, or communication(~~(i) or~~

26 ~~(c) Notwithstanding RCW 16.52.070, causes physical damage,~~
27 ~~destruction, or injury by amputation, mutilation, castration, or other~~
28 ~~malicious act to a horse, mule, cow, heifer, bull, steer, swine, goat,~~
29 ~~or sheep which is the property of another)).~~

30 (2) Malicious mischief in the second degree is a class C felony.

31 **Sec. 18.** RCW 13.40.020 and 1993 c 373 s 1 are each amended to read
32 as follows:

33 For the purposes of this chapter:

34 (1) "Serious offender" means a person fifteen years of age or older
35 who has committed an offense which if committed by an adult would be:

36 (a) A class A felony, or an attempt to commit a class A felony;

37 (b) Manslaughter in the first degree; or

1 (c) Assault in the second degree, extortion in the first degree,
2 child molestation in the second degree, kidnapping in the second
3 degree, robbery in the second degree, residential burglary, or burglary
4 in the second degree, where such offenses include the infliction of
5 bodily harm upon another or where during the commission of or immediate
6 withdrawal from such an offense the perpetrator is armed with a deadly
7 weapon or firearm as defined in RCW 9A.04.110;

8 (2) "Community service" means compulsory service, without
9 compensation, performed for the benefit of the community by the
10 offender as punishment for committing an offense. Community service
11 may be performed through public or private organizations or through
12 work crews;

13 (3) "Community supervision" means an order of disposition by the
14 court of an adjudicated youth not committed to the department. A
15 community supervision order for a single offense may be for a period of
16 up to two years for a sex offense as defined by RCW 9.94A.030 and up to
17 one year for other offenses. Community supervision is an
18 individualized program comprised of one or more of the following:

19 (a) Community-based sanctions;

20 (b) Community-based rehabilitation;

21 (c) Monitoring and reporting requirements;

22 (4) Community-based sanctions may include one or more of the
23 following:

24 (a) A fine, not to exceed one hundred dollars;

25 (b) Community service not to exceed one hundred fifty hours of
26 service;

27 (5) "Community-based rehabilitation" means one or more of the
28 following: Attendance of information classes; counseling, outpatient
29 substance abuse treatment programs, outpatient mental health programs,
30 anger management classes, education or outpatient treatment programs to
31 prevent animal cruelty, or other services; or attendance at school or
32 other educational programs appropriate for the juvenile as determined
33 by the school district. Placement in community-based rehabilitation
34 programs is subject to available funds;

35 (6) "Monitoring and reporting requirements" means one or more of
36 the following: Curfews; requirements to remain at home, school, work,
37 or court-ordered treatment programs during specified hours;
38 restrictions from leaving or entering specified geographical areas;
39 requirements to report to the probation officer as directed and to

1 remain under the probation officer's supervision; and other conditions
2 or limitations as the court may require which may not include
3 confinement;

4 (7) "Confinement" means physical custody by the department of
5 social and health services in a facility operated by or pursuant to a
6 contract with the state, or physical custody in a detention facility
7 operated by or pursuant to a contract with any county. The county may
8 operate or contract with vendors to operate county detention
9 facilities. The department may operate or contract to operate
10 detention facilities for juveniles committed to the department.
11 Pretrial confinement or confinement of less than thirty-one days
12 imposed as part of a disposition or modification order may be served
13 consecutively or intermittently, in the discretion of the court and may
14 be served in a detention group home, detention foster home, or with
15 electronic monitoring. Detention group homes and detention foster
16 homes used for confinement shall not also be used for the placement of
17 dependent children. Confinement in detention group homes and detention
18 foster homes and electronic monitoring are subject to available funds;

19 (8) "Court", when used without further qualification, means the
20 juvenile court judge(s) or commissioner(s);

21 (9) "Criminal history" includes all criminal complaints against the
22 respondent for which, prior to the commission of a current offense:

23 (a) The allegations were found correct by a court. If a respondent
24 is convicted of two or more charges arising out of the same course of
25 conduct, only the highest charge from among these shall count as an
26 offense for the purposes of this chapter; or

27 (b) The criminal complaint was diverted by a prosecutor pursuant to
28 the provisions of this chapter on agreement of the respondent and after
29 an advisement to the respondent that the criminal complaint would be
30 considered as part of the respondent's criminal history;

31 (10) "Department" means the department of social and health
32 services;

33 (11) "Detention facility" means a county facility for the physical
34 confinement of a juvenile alleged to have committed an offense or an
35 adjudicated offender subject to a disposition or modification order;

36 (12) "Diversion unit" means any probation counselor who enters into
37 a diversion agreement with an alleged youthful offender, or any other
38 person or entity except a law enforcement official or entity, with whom
39 the juvenile court administrator has contracted to arrange and

1 supervise such agreements pursuant to RCW 13.40.080, or any person or
2 entity specially funded by the legislature to arrange and supervise
3 diversion agreements in accordance with the requirements of this
4 chapter;

5 (13) "Institution" means a juvenile facility established pursuant
6 to chapters 72.05 and 72.16 through 72.20 RCW;

7 (14) "Juvenile," "youth," and "child" mean any individual who is
8 under the chronological age of eighteen years and who has not been
9 previously transferred to adult court;

10 (15) "Juvenile offender" means any juvenile who has been found by
11 the juvenile court to have committed an offense, including a person
12 eighteen years of age or older over whom jurisdiction has been extended
13 under RCW 13.40.300;

14 (16) "Manifest injustice" means a disposition that would either
15 impose an excessive penalty on the juvenile or would impose a serious,
16 and clear danger to society in light of the purposes of this chapter;

17 (17) "Middle offender" means a person who has committed an offense
18 and who is neither a minor or first offender nor a serious offender;

19 (18) "Minor or first offender" means a person sixteen years of age
20 or younger whose current offense(s) and criminal history fall entirely
21 within one of the following categories:

22 (a) Four misdemeanors;

23 (b) Two misdemeanors and one gross misdemeanor;

24 (c) One misdemeanor and two gross misdemeanors;

25 (d) Three gross misdemeanors;

26 (e) One class C felony except manslaughter in the second degree and
27 one misdemeanor or gross misdemeanor;

28 (f) One class B felony except: Any felony which constitutes an
29 attempt to commit a class A felony; manslaughter in the first degree;
30 assault in the second degree; extortion in the first degree; indecent
31 liberties; kidnapping in the second degree; robbery in the second
32 degree; burglary in the second degree; residential burglary; vehicular
33 homicide; or arson in the second degree.

34 For purposes of this definition, current violations shall be
35 counted as misdemeanors;

36 (19) "Offense" means an act designated a violation or a crime if
37 committed by an adult under the law of this state, under any ordinance
38 of any city or county of this state, under any federal law, or under
39 the law of another state if the act occurred in that state;

1 (20) "Respondent" means a juvenile who is alleged or proven to have
2 committed an offense;

3 (21) "Restitution" means financial reimbursement by the offender to
4 the victim, and shall be limited to easily ascertainable damages for
5 injury to or loss of property, actual expenses incurred for medical
6 treatment for physical injury to persons, lost wages resulting from
7 physical injury, and costs of the victim's counseling reasonably
8 related to the offense if the offense is a sex offense. Restitution
9 shall not include reimbursement for damages for mental anguish, pain
10 and suffering, or other intangible losses. Nothing in this chapter
11 shall limit or replace civil remedies or defenses available to the
12 victim or offender;

13 (22) "Secretary" means the secretary of the department of social
14 and health services;

15 (23) "Services" mean services which provide alternatives to
16 incarceration for those juveniles who have pleaded or been adjudicated
17 guilty of an offense or have signed a diversion agreement pursuant to
18 this chapter;

19 (24) "Sex offense" means an offense defined as a sex offense in RCW
20 9.94A.030;

21 (25) "Sexual motivation" means that one of the purposes for which
22 the respondent committed the offense was for the purpose of his or her
23 sexual gratification;

24 (26) "Foster care" means temporary physical care in a foster family
25 home or group care facility as defined in RCW 74.15.020 and licensed by
26 the department, or other legally authorized care;

27 (27) "Violation" means an act or omission, which if committed by an
28 adult, must be proven beyond a reasonable doubt, and is punishable by
29 sanctions which do not include incarceration.

30 **Sec. 19.** RCW 81.56.120 and 1961 c 14 s 81.56.120 are each amended
31 to read as follows:

32 Railroad companies in carrying or transporting animals shall not
33 permit them to be confined in cars for a longer period than forty-eight
34 consecutive hours without unloading them for rest, water and feeding
35 for a period of at least two consecutive hours, unless prevented from
36 so unloading them by unavoidable accident. In estimating such
37 confinement, the time during which the animals have been confined
38 without such rest on connecting roads from which they are received

1 shall be included. Animals so unloaded shall, during such rest, be
2 properly fed, watered by the owner or person having the custody of
3 them, or in case of his default in so doing, then by the railroad
4 company transporting them, at the expense of said owner or person in
5 custody thereof, and said company shall in such case have a lien upon
6 such animals for food, care and custody furnished, and shall not be
7 liable for such detention of such animals. If animals are transported
8 where they can and do have proper food, water, space and opportunity
9 for rest, the foregoing provision in regard to their being unloaded
10 shall not apply. Violators of this section shall be punished by fine
11 not exceeding one (~~hundred~~) thousand dollars per animal.

12 NEW SECTION. **Sec. 20.** A new section is added to chapter 16.52 RCW
13 to read as follows:

14 A person may kill a bear or cougar that is reasonably perceived to
15 be an unavoidable and immediate threat to human life.

16 **Sec. 21.** RCW 77.12.265 and 1987 c 506 s 35 are each amended to
17 read as follows:

18 The owner or tenant of real property may trap or kill on that
19 property wild animals or wild birds, other than an endangered species,
20 that is threatening human life or damaging crops, domestic animals,
21 fowl, or other property. Except in emergency situations, deer, elk,
22 and protected wildlife shall not be killed without a permit issued and
23 conditioned by the director. The director may delegate this authority.

24 For the purposes of this section, "emergency" means an unforeseen
25 circumstance beyond the control of the landowner or tenant that
26 presents a real and immediate threat to human life, crops, domestic
27 animals, fowl, or other property.

28 Alternatively, when sufficient time for the issuance of a permit by
29 the director is not available, verbal permission may be given by the
30 appropriate department regional administrator to owners or tenants of
31 real property to trap or kill on that property any cougar, bear, deer,
32 elk, or protected wildlife which is threatening human life or damaging
33 crops, domestic animals, fowl, or other property. The regional
34 administrator may delegate, in writing, a member of the regional staff
35 to give the required permission in these emergency situations. Nothing
36 in this section authorizes in any situation the trapping, hunting, or
37 killing of an endangered species.

1 Wildlife trapped or killed under this section remains the property
2 of the state, and the person trapping or killing the wildlife shall
3 notify the department immediately. The director shall dispose of
4 wildlife so taken within three working days of receiving such a
5 notification.

6 If the department receives recurring complaints regarding property
7 being damaged as described in this section from the owner or tenant of
8 real property, or receives such complaints from several such owners or
9 tenants in a locale, the commission shall consider conducting a special
10 hunt or special hunts to reduce the potential for such damage.

11 For purposes of this section, "crop" means an agricultural or
12 horticultural product growing or harvested and includes wild shrubs and
13 range land vegetation on privately owned cattle ranching lands. On
14 such lands, the land owner or lessee may declare an emergency when the
15 department has not responded within forty-eight hours after having been
16 contacted by the land owner or lessee regarding crop damage by wild
17 animals or wild birds. However, the department shall not allow claims
18 for damage to wild shrubs or range land vegetation on such lands.

19 Deer and elk shall not be killed under the authority of this
20 section on privately owned cattle ranching lands that were closed to
21 public hunting during the previous hunting season, except for land
22 closures which are coordinated with the department to protect property
23 and livestock.

24 The department shall work closely with landowners and tenants
25 suffering game damage problems to control damage without killing the
26 animals when practical, to increase the harvest of damage-causing
27 animals in hunting seasons, or to kill the animals when no other
28 practical means of damage control is feasible.

29 **Sec. 22.** RCW 16.52.185 and 1982 c 114 s 10 are each amended to
30 read as follows:

31 Nothing in this chapter applies to accepted husbandry practices
32 used in the commercial raising or slaughtering of livestock or poultry,
33 or products thereof or to the use of animals in the normal and usual
34 course of rodeo events or to the customary use or exhibiting of animals
35 in normal and usual events at fairs as defined in RCW 15.76.120.

36 NEW SECTION. **Sec. 23.** The following acts or parts of acts are
37 each repealed:

- 1 (1) RCW 16.52.010 and 1901 c 146 s 17;
2 (2) RCW 16.52.030 and 1982 c 114 s 2 & 1901 c 146 s 2;
3 (3) RCW 16.52.040 and 1901 c 146 s 14;
4 (4) RCW 16.52.050 and 1901 c 146 s 10;
5 (5) RCW 16.52.055 and 1901 c 146 s 3;
6 (6) RCW 16.52.060 and 1987 c 202 s 182 & 1893 c 27 s 9;
7 (7) RCW 16.52.065 and 1982 c 114 s 3 & 1893 c 27 s 8;
8 (8) RCW 16.52.070 and 1982 c 114 s 4, 1979 c 145 s 4, & 1901 c 146
9 s 4;
10 (9) RCW 16.52.113 and 1982 c 114 s 8;
11 (10) RCW 16.52.120 and 1982 c 114 s 11 & 1901 c 146 s 7;
12 (11) RCW 16.52.130 and 1982 c 114 s 12 & 1901 c 146 s 8;
13 (12) RCW 16.52.140 and 1901 c 146 s 11; and
14 (13) RCW 16.52.160 and 1901 c 146 s 9."

15 **ESHB 1652** - S COMM AMD
16 By Committee on Law & Justice

17 ADOPTED AS AMENDED 3/4/94

18 On page 1, line 1 of the title, after "cruelty;" strike the
19 remainder of the title and insert "amending RCW 16.52.020, 16.52.085,
20 16.52.095, 16.52.100, 16.52.117, 16.52.180, 16.52.190, 16.52.200,
21 16.52.300, 9A.48.080, 13.40.020, 81.56.120, 77.12.265, and 16.52.185;
22 reenacting and amending RCW 9.94A.030; adding new sections to chapter
23 16.52 RCW; creating a new section; repealing RCW 16.52.010, 16.52.030,
24 16.52.040, 16.52.050, 16.52.055, 16.52.060, 16.52.065, 16.52.070,
25 16.52.113, 16.52.120, 16.52.130, 16.52.140, and 16.52.160; and
26 prescribing penalties."

--- END ---