

HOUSE BILL REPORT

HB 1652

As Reported By House Committee On:
Judiciary

Title: An act relating to animal cruelty.

Brief Description: Enhancing penalties for animal cruelty.

Sponsors: Representatives Romero, G. Cole, Valle, Orr, Cothorn, Brown, Veloria, Holm, Zellinsky, Scott, Brough, Jones, R. Meyers, Dorn, Quall, Van Luven, Roland, L. Johnson, Long, Johanson and Anderson.

Brief History:

Reported by House Committee on:
Judiciary, January 14, 1994, DPS.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 14 members: Representatives Appelwick, Chair; Johanson, Vice Chair; Padden, Ranking Minority Member; Ballasiotes, Assistant Ranking Minority Member; Campbell; Chappell; Eide; J. Kohl; Long; Morris; H. Myers; Schmidt; Scott and Wineberry.

Staff: Pat Shelledy (786-7149).

Background: The state's animal cruelty chapter contains an assortment of provisions defining crimes and powers of enforcement. Many of the statutes originated several years ago and have not been updated to reflect current enforcement practices and concepts of criminal behavior.

Under current law, "animal" includes every living creature except man. The general cruelty to animals provision provides that cruelty to animals is a misdemeanor. The general provision contains a long list of prohibited acts ranging from overworking, torturing, beating, mutilating or killing an animal, to depriving an animal of necessary sustenance and shelter. Although the statute covers a broad range of cruel behavior to any animal, a plethora of other provisions govern specific acts against specific types of animals. Penalties for those violations include a class C felony, gross misdemeanors and misdemeanors.

The class C felony, malicious mischief in the second degree, only protects a specific list of large mammals. A limitation to listing specific animals is the inability to charge a crime if the type of animal that was cruelly treated is not included in the list.

Current law contains express exemptions from the animal cruelty provisions.

Humane societies organized under the act may, under certain circumstances, enforce the chapter. The law states authorized humane society officers may make arrests or cause law enforcement officers to make arrests; they may carry weapons, obtain and execute search warrants, and prosecute cases involving animal cruelty. Humane society officers do not have express statutory authority to seize an abused or neglected animal without a warrant. Law enforcement officers may seize animals without a warrant under limited circumstances.

Persons concerned about prevention of cruelty to animals have criticized the state law as being outdated, inconsistent with current enforcement practices, and too limited in scope for effective protection and enforcement.

Summary of Substitute Bill: The animal cruelty chapter is updated and revised to improve prevention of cruelty to animals and enforcement of state animal cruelty laws.

1. DEFINITIONS.

Terms are defined and principles of liability are stated.

2. ENFORCEMENT POWERS.

Law enforcement agencies and animal care and control agencies may enforce the state law.

Animal control officers' powers are restricted or modified as follows: They may not arrest offenders on their own but will have to obtain the assistance of a law enforcement officer. They are not statutorily authorized to carry firearms in their capacity as humane society officers. They still may prepare affidavits to obtain search warrants but may only execute search warrants when accompanied by law enforcement officers. They will be held to the same standards of enforcement that are imposed on law enforcement officers who enforce other criminal laws, including the requirement that they proceed on the basis of probable cause. The express power to prosecute violations of state law is removed.

Law enforcement officers and animal control officers may seize an animal with a warrant if the officers have probable cause to believe that an owner of an animal has violated the chapter and no responsible person can be found to assume the animal's care. The officer must make a good faith attempt to contact the owner before removal. An officer may seize an animal without a warrant only if the animal is in an immediate life-threatening condition.

Technical corrections are made to corresponding statutes regarding law enforcement officers' arrest powers.

3. HUMANE SOCIETY OFFICERS: APPOINTMENT, TRAINING AND JUDICIAL AUTHORIZATION.

Current law is restated which describes the method of appointing humane society officers. This provision makes the following changes to current law: (1) Current law is clarified to provide that humane society officers may only enforce the law in the county in which the officer has obtained judicial authorization; (2) appointees seeking judicial authorization on or after the effective date of the act must satisfy the court that they are trained to assume the powers of animal control officers; and (3) an officer who is already judicially authorized to act as a humane society officer must obtain training or satisfy the judge that he or she has sufficient experience to enforce the law when the officer has to obtain re-authorization at the expiration of his or her term.

4. PROCEDURE FOLLOWING SEIZURE OF ANIMALS.

The procedure for the owner to contest seizure of an animal is refined. Notice of the seizure must be given to the owner by posting it at the place of seizure, by delivery to a person residing at the place of seizure, or by registered mail. A procedure is developed and refined to contest the seizure and to obtain the animal's return.

5. CRIMES.

a. Animal cruelty in the first degree.

The new crime of animal cruelty in the first degree is established. A person is guilty of animal cruelty in the first degree if the person intentionally tortures, torments, or cruelly treats any animal, and the animal suffers substantial bodily harm or substantial pain as a result of the treatment.

Animal cruelty in the first degree is a class C felony.

b. Animal cruelty in the second degree.

A person is guilty of animal cruelty in the second degree if the person knowingly, recklessly, or with criminal negligence, inflicts unnecessary suffering or pain on an animal under circumstances not amounting to animal cruelty in the first degree.

An owner of an animal is also guilty of animal cruelty in the second degree if the owner knowingly, recklessly, or with criminal negligence, fails to provide the animal with necessary food, water, shelter, rest, sanitation, ventilation, space, or medical attention and the animal suffers unnecessary or unjustifiable physical pain as a result of the failure; or, abandons the animal.

Animal cruelty in the second degree is a misdemeanor.

c. Other crimes.

Other crimes concerning animal fighting, poisoning animals, or using animals as bait are amended to correspond to the general animal cruelty provisions. Some existing crimes are repealed as obsolete or duplicative or in conflict with the new crimes.

6. PENALTY PROVISIONS.

Penalty provisions are changed as follows:

A person convicted of a violation of the chapter shall be liable to law enforcement agencies and animal control agencies for the reasonable expenses of investigating the case and caring for the animal, or euthanizing or adopting the animal.

A convicted offender must also pay a civil penalty of \$1,000 to the county. The fund must be used to prosecute animal cruelty cases and to care for forfeited animals. The penalty under current law is \$100.

As a condition of the sentence, the judge may also order the defendant to obtain treatment. This requirement will apply to adults and juveniles.

7. RAILROAD COMPANY FINES.

A railroad company must pay a fine of \$1,000 for transporting animals in railroad cars without sufficient rest periods, food and water. The current penalty is \$100.

8. CIVIL ACTION.

An owner of an abused animal may bring a civil action for actual damages and for emotional distress against a person who abuses the owner's animal. Damages are limited to those authorized in District Court.

An investigating animal care and control agency may bring a civil action against a defendant. Damages must be limited to the agencies' reasonable costs involved in the case.

A prevailing party shall be entitled to reasonable attorney fees and costs.

9. EXEMPTIONS FROM THE STATUTE.

Private and public research facilities are added to the list of entities and activities exempt from the chapter.

10. MISCELLANEOUS AMENDMENTS AND REPEALERS.

Inconsistent, duplicative or obsolete statutes are repealed.

Substitute Bill Compared to Original Bill: The civil action provision is amended to remove a punitive damages award provision and to provide that the prevailing party, not just a prevailing plaintiff, is entitled to reasonable attorney fees and costs. Seizure provisions are revised to require a warrant unless the animal is in an immediate life-threatening condition. An express exemption allowing humane society officers to carry firearms is removed. Technical amendments are made.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: A strong link exists between torturing animals and later criminal behavior. Current penalties under the law do not recognize the seriousness of the offense and do not provide sufficient tools for intervention with offenders. State law is obsolete and unworkable, which results in its disuse and reliance upon city and county ordinances. The statute needs to be refined and updated.

Testimony Against: Humane societies should not have such broad law enforcement powers. Procedural protections for the rights of property owners and animal owners should be strengthened.

Witnesses: Representative Romero, prime sponsor; Dan Satterberg, King County Prosecutor's Office; Jeanne Pascal, Progressive Animal Welfare Society; Susan Michaels, citizen;

Lisa Wathne, Progressive Animal Welfare Society; Jody Boyman, Progressive Animal Welfare Society; John Benedict, Northwest Field Trial Council; Marlyta Deck, Washington State Fairs Association; Kent Lebsack, Washington State Cattlemens' Association; Ken Koski, Washington State Trappers; Nancy McKenney, Washington Federation of Animal Care and Control Agencies; Sandra Gyll, citizen; John Megow, Humane Society of Seattle and King County; Jeanne Warner, Humane Society of Pierce County; Bob Walter, Humane Society of Tacoma and Pierce County; Ann Albohn, Concern for Animals; Karen Munro, Washington Horse Council; and Chris Cheney, Washington State Farm Bureau.