

SENATE BILL REPORT

SB 5282

AS REPORTED BY COMMITTEE ON AGRICULTURE, FEBRUARY 23, 1993

Brief Description: Enhancing penalties for animal cruelty.

SPONSORS: Senators Moore, A. Smith, Winsley and McAuliffe

SENATE COMMITTEE ON AGRICULTURE

Majority Report: That Substitute Senate Bill No. 5282 be substituted therefor, and the substitute bill do pass.

Signed by Senators M. Rasmussen, Chairman; Loveland, Vice Chairman; Bauer, and Snyder.

Staff: Katie Healy (786-7784)

Hearing Dates: February 8, 1993; February 23, 1993

BACKGROUND:

Certain terms are defined, such as "animal," "torture," "torment," "cruelty," "owner," and "person." Humane societies and their officers have broad powers, including the ability to arrest for animal cruelty violations. Humane Society officers carry the same weapons that law enforcement officers carry. To resist arrest by a Humane Society officer is a misdemeanor. Society members are permitted to prosecute in court for any animal cruelty violations, whether or not the officer is an attorney. Magistrates may issue warrants in criminal cases involving animal cruelty.

A number of violations are gross misdemeanors, including participation in dog fighting, use of dogs or cat as bait, resulting in the death of the animal, capturing by trap a dog or cat to use as bait, resulting in the death of the animal, poisoning any domestic animal or bird, or selling or furnishing strychnine when not a registered pharmacist. Other violations are misdemeanors, such as cruel treatment of an animal, wanton cruelty to fowls, docking of horse tails, transportation or confinement in a manner that jeopardizes the safety of the animal or the public, neglect, permitting the fighting of animals, being a spectator at a dog fight, involvement in cockfighting, attempt to commit a violation, use of dogs or cats as bait, or capture by trap of dogs or cats to use as bait. Cutting off more than one-half of an animal's ear is a misdemeanor, but a violator may not be fined more than \$20.

Penalties and remedies for reimbursement to caretakers of animals while violations are being investigated are provided. A lien is imposed on an animal when taken into custody. A violator must pay the reasonable cost of food and water when someone enters a pound or place of confinement to feed and

water confined animals without sustenance. There is a prohibition of owning or caring for any similar animals for two years if someone is convicted of an animal cruelty violation. Certain monetary penalties are outlined, both civil and criminal. Railroad companies face a \$100 fine per animal for improper care of animals during transport.

Accepted husbandry practices used in the commercial raising or slaughtering of livestock or poultry or products is exempted. Rodeo events are exempted. Transfer of animals for research is permitted, but must conform with federal laws. Higher education or biomedical research is exempted. Animals may be killed to use as food or with any properly conducted scientific experiments or investigations performed only under the authority of the faculty of some regularly incorporated state college or university.

SUMMARY:

The intent of the measure is to update existing animal cruelty statutes. Definitions are given and expanded of "animal," "owner," "person," and "physical injury."

Humane Society officers are not permitted to make arrests for specific violations. Before the Humane Society officers are approved by a judge, the members and agents of such Humane Society corporations provide notice that they have successfully completed a training course similar to the training required of law enforcement officers handling animal cruelty and animal control violations. The misdemeanor of resisting the Humane Society officers is removed. Judges may issue warrants, not magistrates. Officers may search a building or place with a warrant and seize evidence of animal cruelty violations, but are no longer able to immediately arrest persons found committing the violations. Warrantless arrests may be made, but a Humane Society officer may no longer arrest.

New violations are defined. Animal cruelty in the first degree is a class C felony. Animal cruelty in the second degree is a gross misdemeanor, and in the third degree, a misdemeanor. Promoting animal fighting is a class C felony. The use of animals in the management of livestock is not prohibited, or the use of any animals in any lawful activity licensed by the state, or training of animals for purposes not otherwise legally prohibited. Being a spectator at animal fighting is a gross misdemeanor. Any person intending to deprive or defraud the owner of an animal commits a gross misdemeanor by taking away an animal exceeding \$250 in value, or conceals the identity of any pet animal. A second conviction is a class C felony. A person may not sell an animal to a research institution if the person knows the animal is stolen, or to a person who has previously sold stolen animals to a research facility. These violations are class C felonies. Transportation companies are included with railroad companies in requiring care in transportation. A violation of this section increases from \$100 per animal to \$1,000.

Animals may be removed without a warrant if probable cause exists to believe that an animal has been neglected or cruelly treated and no responsible person can be found to assume the care of the animal. The animal may also be placed under the custody of the Humane Society or like agency. Provisions are made for euthanasia of an animal if necessary. The limit on the fine for cutting animal ears more than one-half is deleted, leaving the violation a misdemeanor. The court may order forfeiture of any property, including animals, used to commit or facilitate an offense of the animal cruelty statute, or that is proceeds from the offense. Penalties for animal cruelty violations include expenses for the investigation of the violation and the care or disposal of the animal or animals, as well as possible participation in an educational program to prevent animal cruelty. An owner whose animal suffers any prohibited act under this title may bring an action to recover the actual damages sustained, including emotional distress suffered by the owner. A city, county, or incorporation may bring an action, including against an owner. No defense is available that the defendant has not been charged with or convicted of a crime involving animals.

An offense involving cruelty to animals is included in the sentencing range for juvenile offenders. Only a registered pharmacist may sell or furnish strychnine, except for county, state, or federal agents during the course of their duties.

Several portions of the present statute are repealed, including the definitions, the ability of humane societies to prosecute, misdemeanors as to wanton cruelty to fowls, causing animals to fight, dog fighting prohibitions, cockfighting prohibitions, training birds to fight, warrantless arrests, attempt to do prohibited acts, the limitations on penalties for misdemeanors, prohibition on poisoning animals, strychnine sales, and gross misdemeanors for poisoning animals.

EFFECT OF PROPOSED SUBSTITUTE:

The sections limiting the powers of Humane Society officers are retained, as well as the provision that animal cruelty violations are considered in juvenile sentencing. The remainder of the bill is removed, specifically the portions increasing the crimes to class C felonies.

Appropriation: none

Revenue: none

Fiscal Note: none requested

TESTIMONY FOR:

The purpose of the bill is to deal aggressively with animal cruelty. The Posado (donkey) case has generated more concern than any other recent case in King County. The language needs to be updated, and intentional crimes and negligence distinguished. A crime should be a felony if intentional, a gross misdemeanor if negligence. Cockfighting is put on par

with gambling charges which are class C felonies. The Gambling Commission could put violators out of business for a couple of years rather than for a few days. The Humane Society officers essentially cooperate with local law enforcement anyway, so the limit on their powers is not so significant. The juvenile sentencing section allows courts to sentence juvenile offenders for longer periods of treatment.

TESTIMONY AGAINST:

Enforcement is fine as it is. The measure inhibits biomedical research and medical progress. An abused child would be diminished if animal cruelty is raised to the same level. Animal rights goes back to Nazi Germany. Breeders are opposed to the measure. This is an extremist animal rights bill. Cockfighting should be legalized and its prohibition is a cultural bias. There are too many holes in the bill, and animal research is not protected.

TESTIFIED: Tim Greyhavens, Lisa Wathne, Progressive Animal Welfare Society (pro); Bob Walter, Humane Society of Tacoma and Pierce County (pro); Dr. Mike Philbrick (pro); Kathy Vos, President, Washington Animal Control Association (pro); Marc Mayo, attorney (pro); Jack Cairnes (con); Dan Hollis (con); Mike Esquavile (con); Patty Wood, Marcia Bryan, Stephanie Bryan, John Booth, Incurably Ill for Animal Research (con); Helena P. Shelley (pro); Lee Wallot, ALAN (con); George Heath, American Association for Lab Animal Science (con); Jeff Craggs, Washington State Farm Bureau (con); John F. Benedict Sportsmen's Rights Coalition (con); Al Woodbridge, Washington State Rifle and Pistol Association (con); Jannette Patterson, Alicia Press, PAWS (pro); Steven Ross, Timberland Valley Dog Fanciers (con); Oscar Straight (con); Pat Healy, Rich LaMonica, Marla McCauley, Molly Sargeant, Washington State Gambling Commission (pro); Deborah J. Goodell, Bremerton Animal Control (pro); Patricia Straight (con); Susan Michaels (pro); Jody Boyman (pro); Stephanie Siebert (pro); Norm Maleng, King County Prosecutor (pro); Dr. Mel Dennis, Jr., University of Washington (pro); Jack Crutchfield, pet industry (pro); Kay Farrell, PAWS-EARS (con); Phil Olson, Cowlitz County Humane Society (pro); Janice Penera, PAWS-EARS (pro); Shelley Calissendorff (pro); Nancy McKenney, John Megow, Humane Society and SPCA of Seattle/King /County (pro); Heather Highmiller, PETS of Thurston County (pro); Jeanne Werner, Pierce County Humane Society (pro); Jeane Gibson (pro); Ray Klatt (pro); Suan Paris, Americans for Medical Progress (con); Cheri Graves, Responsible Dog Owners of the Western States (con); A.J. Barkis, WAPA (pro); Cathy Helsdon, Sue Atwood, Sally Bishop NAIA (con); Kurt Sharar, Washington State Association of Counties (con); Susan Charrier, Washington State Biotechnology Association (con); Barbara Johnston, Hutchinson Cancer Center