

**SENATE BILL REPORT**

**SB 5532**

**AS REPORTED BY COMMITTEE ON AGRICULTURE, FEBRUARY 23, 1993**

**Brief Description:** Changing cruelty to animals provisions.

**SPONSORS:** Senators M. Rasmussen, Roach, Amondson, Barr and Winsley

**SENATE COMMITTEE ON AGRICULTURE**

**Majority Report:** That Substitute Senate Bill No. 5532 be substituted therefor, and the substitute bill do pass.

Signed by Senators M. Rasmussen, Chairman; Loveland, Vice Chairman; Barr, 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:**

Humane Society officers are approved by superior court judges. They have power to investigate any animal cruelty violations. If a complainant has probable cause to believe animal cruelty violations are occurring in any particular building or place, a judge may issue a warrant in criminal cases. A Humane Society officer is not permitted to use the warrant. Humane Society officers are no longer permitted to arrest violators.

Animal cruelty in the first degree is defined and raised to a gross misdemeanor. Animal cruelty in the second degree is defined and is a misdemeanor. An exclusion is added for persons engaged in properly conducted medical research experiments, tests, projects or procedures, whether public or private research. The misdemeanor of transporting or confining an animal in a manner which would jeopardize the safety of the animal or the public is deleted. If a violator is arrested, the animal may be taken into the officer's possession and a lien accrues for any necessary expense to care for the animal. If the lien is unpaid for ten days from the date demand is made on the owner, the agency possessing the animal may pursue lien remedies.

Instead of a law enforcement officer, a judge orders the veterinary examination of a neglected animal. Written notice of a removed animal is given by posting it at the place of seizure, by delivery to a person living at the place of seizure, or by registered or certified mail if the owner is known. If a criminal case is filed within 72 hours of removal of the animal, the agency holding the animal has a lien for costs involved in caring for and transporting the animal. The court can order that costs be paid before the animal is returned to the owner. If the animal is not to be returned, the agency may sell the animal. The animal must be sold to the highest bidder, unless it is the owner or someone who has previously been convicted of any violation of this title. If no case is filed within 72 hours, the agency must make reasonable efforts to return the animal. The court may order forfeiture of the animal if the evidence shows it is likely to suffer continuing neglect. The burden of proof is now on the

agency to show the animal should not be returned before the trial because it will suffer future neglect and is in need of being restored to health, instead of on the owner to prove that it should be returned.

Exemptions include livestock and poultry practices and rodeo events, purebred dog and cat shows, field trials, terrier trials, 4-H events, circuses, zoos, aquariums, and fairs.

Anyone or any organization interfering with or restricting proper holding or transfer of an animal is liable for any losses or damages.

Essentially all authority provided to Humane Society officers, including the power to prosecute, is repealed. They may still investigate animal cruelty violations. Also repealed is the section prohibiting the removal of more than one-half of the ear or ears of any domestic animal.

**EFFECT OF PROPOSED SUBSTITUTE:**

Animal cruelty violations are considered in juvenile sentencing. Language is added to the sentence exempting medical, veterinary and health-oriented research to indicate that research facilities must be registered with the federal government and abide by the Animal Welfare Act. The section providing an action against a group for interference with the holding of an animal is deleted. A criminal case must be filed within seven business days, instead of 72 hours.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** none requested

**TESTIMONY FOR:**

The measure is fairly good, but does not have owner "victim" rights. It protects animal research. The reduction in Humane Society officer power is appropriate because they usually work with law enforcement officers now in the manner specified. Breeders liked the measure.

**TESTIMONY AGAINST:**

The penalties should be increased to class C felonies. Gross misdemeanors are still too light on offenders. Enforcement of the present statute is fine as it now stands. Cockfighting should be legalized, and its prohibition is a cultural bias.

**TESTIFIED:** D. Mycki Fulda (pro); Klaus Meyn, Northwest Field Trial Council (pro); Al Woodbridge, Washington State Rifle and Pistol Association (pro); John Benedict, Sportsmen's Rights Coalition (pro); Jeff Craggs, Washington Farm Bureau (pro); Marcia Bryan, Patty Wood, Incurably Ill for Animal Research (pro); George Heath, Washington Branch, American Association for Lab Animal Science (pro); Cathy Helsdon, Sue Atwood, NAIA

(pro); Helena P. Shelley; Steven Ross, Timberland Valley  
Kennel Club (pro); Tim Greyhavens, PAWS (con); Jody Boyman  
(con); Kurt Sharar, Washington State Association of Counties  
(con); Shelley Calissendorff (con); Robert Walter, Jeanne  
Werner, Humane Society of Tacoma/Pierce County (con); Sue  
Paris, Americans for Medical Progress (pro); Michel Paulin,  
Lewis County Farm Bureau (pro); Lothor Pinkers, Washington  
State Horse Council