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HOUSE BILL 1652

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State of Washington

53rd Legislature

1993 Regular Session

By 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

Read first time 02/05/93. Referred to Committee on Judiciary.

1 AN ACT Relating to animal cruelty; amending RCW 16.52.030,  
2 16.52.050, 16.52.060, 16.52.085, 16.52.090, 16.52.095, 16.52.110,  
3 16.52.180, 16.52.200, 9.08.070, 81.56.120, and 13.40.150; adding new  
4 sections to chapter 16.52 RCW; adding a new section to chapter 69.38  
5 RCW; repealing RCW 16.52.010, 16.52.040, 16.52.055, 16.52.065,  
6 16.52.113, 16.52.117, 16.52.120, 16.52.130, 16.52.140, 16.52.160,  
7 16.52.165, 16.52.190, 16.52.193, and 16.52.195; and prescribing  
8 penalties.

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

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

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

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

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

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

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

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

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

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

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

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

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

19       Any judge, sheriff, deputy, or police officer may arrest any person  
20 found committing any ((of the)) act((s enumerated)) in violation of RCW  
21 ((16.52.065)) 9.08.070 or 81.56.120 or this chapter, without a warrant  
22 for such arrest, and any officer or member of any humane society, or  
23 society for the prevention of cruelty to animals, may cause the  
24 immediate arrest of any person engaged in, or who shall have committed  
25 such cruelties, upon making oral complaint to any sheriff, deputy, or  
26 police officer, or such officer or member of such society may himself  
27 or herself arrest any person found perpetrating any of the cruelties  
28 herein enumerated:     PROVIDED, That said person making such oral  
29 complaint or making such arrest shall file with a proper officer a  
30 written complaint, stating the act or acts complained of, within  
31 twenty-four hours, excluding Sundays and legal holidays, after such  
32 arrest shall have been made.

33       NEW SECTION.   **Sec. 6.** (1) A person is guilty of animal cruelty in  
34 the first degree when, without any reasonable belief that he or she is  
35 authorized to do so, he or she:

1 (a) By a means causing undue suffering, intentionally, knowingly,  
2 or recklessly inflicts substantial pain on, causes serious physical  
3 injury to, or kills an animal; or

4 (b) Intentionally or knowingly kills any mammal or bird not owned  
5 by that person.

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

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

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

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

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

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

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

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

27 (b) Maintains one or more animals with the intent that the animal  
28 or animals be used in this state in violation of (a) of this  
29 subsection;

30 (c) Advertises, promotes, or in any way disseminates information  
31 that can be reasonably construed to be intended to attract human  
32 spectators to a fight between animals or animals and humans in this  
33 state; or

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

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

36 (3) This section does not prohibit:

1 (a) The use of animals in the management of livestock, as defined  
2 by chapter 16.57 RCW, by the owner of the livestock or the owner's  
3 employees or agents or other persons in lawful custody of the  
4 livestock;

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

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

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

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

13 NEW SECTION. Sec. 10. (1) A person is guilty of animal fighting  
14 when he or she bets on an animal fight or is knowingly present as a  
15 supporting spectator of an animal fighting event (a) where preparations  
16 are being made for an exhibition of fighting between animals or animals  
17 and humans or (b) in which an animal is engaged in fighting.

18 (2) Being a spectator at animal fighting is a gross misdemeanor.

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

21 (1) If the county sheriff, deputy, peace officer, or other law  
22 enforcement officer (~~shall find~~) has probable cause to believe that  
23 said domestic animal has been neglected or cruelly treated by its owner  
24 and no responsible person can be found to assume the care of the  
25 animal, he or she may authorize the removal of the animal to a (~~proper~~  
26 ~~pasture or other~~) suitable place for feeding and (~~restoring to~~  
27 ~~health~~) care without a warrant, or place the animal under the custody  
28 of the humane society, animal control agency, or agency responsible for  
29 stray animals in that jurisdiction. In determining what is a suitable  
30 place, the agency shall consider the animal's needs, including its size  
31 and disposition.

32 (2) If ((a)) the county sheriff, deputy, peace officer, or other  
33 law enforcement officer has probable cause to believe a violation of  
34 this chapter has occurred, the officer may authorize an examination of  
35 an allegedly neglected or abused domestic animal by a veterinarian to  
36 determine whether the level of neglect or abuse is sufficient to

1 require removal of the animal. (~~This section does not condone illegal~~  
2 ~~entry onto private property.~~)

3 (3) Any owner whose domestic animal is removed to a suitable place  
4 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 officer  
10 shall make a good faith effort to contact the animal's owner before  
11 removal unless the animal is in a life-threatening condition or unless  
12 the officer reasonably believes that the owner would remove the animal  
13 from the jurisdiction.

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

30 (5) If no criminal case is filed within (~~seventy-two hours~~)  
31 fourteen business days of the removal of the animal, the owner may  
32 petition (~~the district~~) a court of competent jurisdiction in the  
33 county where the removal of the animal occurred for the return of the  
34 animal. The petition shall be filed with the court, with copies served  
35 to the law enforcement agency responsible for removing the animal and  
36 to the prosecuting attorney. If a criminal action is filed after the  
37 petition is filed but before the animal is returned, the petition shall  
38 be joined with the criminal matter.

1       (~~(5)~~) (6) In a motion or petition for the return of the removed  
2 animal before a trial, the burden is on the owner to prove by a  
3 preponderance of the evidence that the animal will not suffer future  
4 neglect and is not in need of being restored to health.

5       (~~(6)~~) (7) Any authorized person treating or attempting to restore  
6 an animal to health under this chapter shall not be civilly or  
7 criminally liable for such action.

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

10       Every person who shall cut (~~(or)~~) cause to be cut, or assist in  
11 cutting the solid part of the tail of any horse in the operation known  
12 as "docking," or in any other operation for the purpose of shortening  
13 the tail or changing the carriage thereof, shall be guilty of a  
14 misdemeanor.

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

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

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

25       Every owner, driver, or possessor of any old, maimed or diseased  
26 horse, cow, mule, or other domestic animal, who shall permit the same  
27 to go loose in any lane, street, square, or lot or place of any city or  
28 township, without proper care and attention, for more than three hours  
29 after knowledge thereof, shall be guilty of a misdemeanor: PROVIDED,  
30 That this shall not apply to any such owner keeping any old or diseased  
31 animal belonging to him or her on his or her own premises with proper  
32 care. Every sick, disabled, infirm or crippled horse, ox, mule, cow or  
33 other domestic animal, which shall be abandoned on the public highway,  
34 or in any open or enclosed space in any city or township, may, if,  
35 after search by a peace officer or officer of such society no owner can  
36 be found therefor, be (~~killed by such officer; and it shall be the~~

1 ~~duty of all peace and public officers to cause the same to be killed on~~  
2 ~~information of such abandonment)) euthanized or removed by such officer~~  
3 ~~to a suitable place for feeding and care, or if necessary, euthanasia.~~

4 NEW SECTION. **Sec. 15.** Any equipment, motor vehicles, real or  
5 personal property, and animals used or intended for use in violation of  
6 section 9 of this act in this state and any proceeds gained from a  
7 violation of section 9 of this act in this state may be confiscated as  
8 a result of an arrest. If any criminal charge is brought as a result  
9 of the arrest, all confiscated equipment, motor vehicles, real or  
10 personal property, and animals shall remain under the control of the  
11 appropriate law enforcement agency except that any animals may be  
12 released to the custody of a corporation formed pursuant to RCW  
13 16.52.020, to a public animal control agency, or to the agency  
14 responsible for stray animals in the jurisdiction. In the event there  
15 is a conviction for a violation of section 9 of this act, all  
16 equipment, motor vehicles, real or personal property, and animals that  
17 were the property of the convicted person or persons, and that were  
18 used in the violation, as well as any seized proceeds, shall be  
19 forfeited to the arresting authority, which authority may dispose of  
20 them in any lawful manner. The disposition of any animal seized under  
21 this subsection shall consider the best interest of the animal.

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

24 (~~No part of RCW 16.52.010 through 16.52.050, 16.52.070 through~~  
25 ~~16.52.090 and 16.52.100 through 16.52.180 shall be deemed to)) This  
26 chapter shall not interfere with any of the laws of this state known as  
27 the "game laws," (~~nor shall RCW 16.52.010 through 16.52.050, 16.52.070~~  
28 ~~through 16.52.090 and 16.52.100 through 16.52.180 be deemed to~~  
29 ~~interfere)) or with the right to destroy any venomous reptile or any  
30 known as dangerous to life, limb or property, or to interfere with the  
31 right to kill animals to be used for food or with any properly  
32 conducted scientific experiments or investigations, which experiments  
33 or investigations shall be performed only under the authority of the  
34 faculty of some regularly incorporated college or university of the  
35 state of Washington.~~~~



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

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

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

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

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

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

30       (6) In addition to the penalties imposed by the court, the court  
31 may, when otherwise authorized, order the offender to participate in a  
32 program designed to provide prevention, treatment, or education in the  
33 area of animal cruelty.

34       NEW SECTION. **Sec. 18.** (1) An owner whose animal is subjected to  
35 any act that is a violation of this chapter or RCW 9.08.070,  
36 9A.48.080(1)(c), or 81.56.120 may bring an action to recover the actual  
37 damages sustained by him or her. Actual damages may include emotional  
38 distress suffered by an owner.

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

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

14 (4) In an action brought under subsection (3) of this section,  
15 regardless of whether an award of damages is obtained, a court may  
16 award a sum of not less than five hundred dollars and not more than  
17 five thousand dollars to a corporation that has custody, control, or  
18 ownership over an animal that has been subjected to any act that is a  
19 violation of this chapter or RCW 9.08.070, 9A.48.080(1)(c), or  
20 81.56.120. An award made pursuant to this subsection may only be used  
21 to provide: (a) Education in prevention of cruelty to animals; or (b)  
22 treatment programs for persons who are found in violation of this  
23 chapter.

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

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

29 (7) In any action brought under this section, it is not a defense  
30 that the defendant has not been charged with, or convicted of, a crime  
31 involving animals. The remedies provided in this section are in  
32 addition to, and do not replace or supplant, any other remedy available  
33 at law.

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

36 (1) Any person who, with intent to deprive or defraud the owner  
37 thereof, does any of the following shall be guilty of a gross  
38 misdemeanor and shall be punished as prescribed under RCW 9A.20.021(2)

1 and by a mandatory fine of not less than five hundred dollars per pet  
2 animal except as provided by (~~(d)~~ of) this subsection:

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

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

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

11 (~~d~~)) Nothing in this subsection or subsection (2) of this section  
12 shall prohibit a person from also being convicted of separate offenses  
13 under RCW 9A.56.030, 9A.56.040, or 9A.56.050 for theft or under RCW  
14 9A.56.150, 9A.56.160, or 9A.56.170 for possession of stolen property.

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

21 (b) The first conviction under (a) of this subsection is a gross  
22 misdemeanor and is punishable as prescribed under RCW 9A.20.021(2) and  
23 by a mandatory fine of not less than five hundred dollars per pet  
24 animal. A second or subsequent conviction under (a) of this subsection  
25 is a class C felony and is punishable as prescribed under RCW  
26 9A.20.021(1)(c) and by a mandatory fine of not less than one thousand  
27 dollars per pet animal.

28 (3)(a) It is unlawful for any person, who knows or has reason to  
29 know that a pet animal has been stolen or fraudulently obtained, to  
30 sell or otherwise transfer the pet animal to another who the person  
31 knows or has reason to know has previously sold a stolen or  
32 fraudulently obtained pet animal to a research institution in the state  
33 of Washington.

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

37 (4)(a) It is unlawful for a U.S.D.A. licensed dealer to receive  
38 with intent to sell, or sell or transfer directly or through a third  
39 party, to a research institution in the state of Washington, a pet

1 animal that the dealer knows or has reason to know has been stolen or  
2 fraudulently obtained.

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

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

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

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

16 Railroad or other transportation companies in carrying or  
17 transporting animals shall not permit them to be confined in cars for  
18 a longer period than forty-eight consecutive hours without unloading  
19 them for rest, water and feeding for a period of at least two  
20 consecutive hours, unless prevented from so unloading them by  
21 unavoidable accident. In estimating such confinement, the time during  
22 which the animals have been confined without such rest on connecting  
23 roads from which they are received shall be included. Animals so  
24 unloaded shall, during such rest, be properly fed, watered by the owner  
25 or person having the custody of them, or in case of his default in so  
26 doing, then by the railroad company transporting them, at the expense  
27 of said owner or person in custody thereof, and said company shall in  
28 such case have a lien upon such animals for food, care and custody  
29 furnished, and shall not be liable for such detention of such animals.  
30 If animals are transported where they can and do have proper food,  
31 water, space and opportunity for rest, the foregoing provision in  
32 regard to their being unloaded shall not apply. Violators of this  
33 section shall be punished by fine not exceeding one (~~hundred~~)  
34 thousand dollars per animal.

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

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

11 (2) For purposes of disposition:

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

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

15 (c) In no event may a disposition for a violation include  
16 confinement.

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

20 (a) Consider the facts supporting the allegations of criminal  
21 conduct by the respondent;

22 (b) Consider information and arguments offered by parties and their  
23 counsel;

24 (c) Consider any predisposition reports;

25 (d) Consult with the respondent's parent, guardian, or custodian on  
26 the appropriateness of dispositional options under consideration and  
27 afford the respondent and the respondent's parent, guardian, or  
28 custodian an opportunity to speak in the respondent's behalf;

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

31 (f) Determine the amount of restitution owing to the victim, if  
32 any;

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

35 (h) Consider whether or not any of the following mitigating factors  
36 exist:

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

1 (ii) The respondent acted under strong and immediate provocation;  
2 (iii) The respondent was suffering from a mental or physical  
3 condition that significantly reduced his or her culpability for the  
4 offense though failing to establish a defense;  
5 (iv) Prior to his or her detection, the respondent compensated or  
6 made a good faith attempt to compensate the victim for the injury or  
7 loss sustained; and  
8 (v) There has been at least one year between the respondent's  
9 current offense and any prior criminal offense;  
10 (i) Consider whether or not any of the following aggravating  
11 factors exist:  
12 (i) In the commission of the offense, or in flight therefrom, the  
13 respondent inflicted or attempted to inflict serious bodily injury to  
14 another;  
15 (ii) The offense was committed in an especially heinous, cruel, or  
16 depraved manner;  
17 (iii) The victim or victims were particularly vulnerable;  
18 (iv) The respondent has a recent criminal history or has failed to  
19 comply with conditions of a recent dispositional order or diversion  
20 agreement;  
21 (v) The current offense included a finding of sexual motivation  
22 pursuant to RCW 9.94A.127;  
23 (vi) The respondent was the leader of a criminal enterprise  
24 involving several persons; ((and))  
25 (vii) The offense involved cruelty to animals; and  
26 (viii) There are other complaints which have resulted in diversion  
27 or a finding or plea of guilty but which are not included as criminal  
28 history.  
29 (4) The following factors may not be considered in determining the  
30 punishment to be imposed:  
31 (a) The sex of the respondent;  
32 (b) The race or color of the respondent or the respondent's family;  
33 (c) The creed or religion of the respondent or the respondent's  
34 family;  
35 (d) The economic or social class of the respondent or the  
36 respondent's family; and  
37 (e) Factors indicating that the respondent may be or is a dependent  
38 child within the meaning of this chapter.

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

4 NEW SECTION. **Sec. 22.** A new section is added to chapter 69.38 RCW  
5 to read as follows:

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

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

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

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

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