

HOUSE BILL REPORT

SB 5352

As Reported by House Committee On:

Judiciary
Appropriations

Title: An act relating to animal cruelty.

Brief Description: Revising provisions relating to animal cruelty.

Sponsors: Senators Esser, Kline, Weinstein, McCaslin, Thibaudeau, Regala, Schmidt, Kohl-Welles, Stevens, Franklin, Finkbeiner, Jacobsen, Rockefeller and Rasmussen.

Brief History:

Committee Activity:

Judiciary: 3/29/05, 3/31/05 [DPA];

Appropriations: 4/2/05 [DPA(JUDI)].

Brief Summary of Bill (As Amended by House Committee)

- Provides that the act of starving, dehydrating, or suffocating an animal, causing the animal substantial pain and considerable suffering or death, constitutes the crime of first-degree animal cruelty, rather than second-degree animal cruelty.
- Expands the crime of animal fighting and raises the crime of animal fighting from a gross misdemeanor to a class C felony.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended. Signed by 10 members: Representatives Lantz, Chair; Flannigan, Vice Chair; Williams, Vice Chair; Priest, Ranking Minority Member; Rodne, Assistant Ranking Minority Member; Campbell, Kirby, Serben, Springer and Wood.

Staff: Edie Adams (786-7180).

Background:

The state's law for the prevention of cruelty to animals prohibits certain practices and activities involving animals. Among the law's prohibitions are transporting or confining animals in an unsafe manner, engaging animals in exhibition fighting with other animals, and poisoning animals. In addition, the chapter contains the crimes of animal cruelty and animal fighting.

Animal cruelty in the first degree involves intentionally inflicting substantial pain on, causing physical injury to, or killing an animal by a means that causes undue suffering. Animal cruelty in the first degree is a class C felony.

Animal cruelty in the second degree is committed when a person knowingly, recklessly, or with criminal negligence inflicts unnecessary suffering or pain upon an animal. An owner may commit this crime by failing to provide necessary food, water, shelter, rest, or medical attention, or by abandoning the animal. Animal cruelty in the second degree is a misdemeanor.

The crime of animal fighting occurs when an individual owns, possesses, keeps, or trains any animal with the intent that the animal will engage in fighting with another animal. Animal fighting also occurs when an individual causes animals to fight or injure each other for amusement or gain, or aids or abets any such act. Animal fighting is a gross misdemeanor offense punishable by a maximum term of one year in jail, a \$5,000 fine, or both. A person who is knowingly present as a spectator at an animal fighting exhibition or at the preparations for an animal fighting exhibition is guilty of a misdemeanor offense.

Law enforcement agencies and animal care and control agencies may enforce the provisions of the animal cruelty law. An animal control officer may issue a citation based on probable cause but may not execute a search warrant without being accompanied by a law enforcement officer. In addition, the animal control officer may not arrest a person for a violation, but may request a law enforcement officer to make the arrest.

The animal cruelty law contains a number of exemptions, including: licensed research institutions; accepted husbandry practices in the commercial raising or slaughtering of livestock; the customary use of animals in rodeos or fairs; the killing of animals for food; and practices authorized under the "game laws."

Summary of Amended Bill:

The crime of first-degree animal cruelty is expanded to include a person who, with criminal negligence, starves, dehydrates, or suffocates an animal, and the animal suffers substantial and unjustifiable physical pain that causes considerable suffering or death.

The crime of second-degree animal cruelty is amended to remove "depriving an animal of necessary food or water" as a means of committing the crime.

The crime of animal fighting is raised from a gross misdemeanor to a class C felony and expanded to include a person who knowingly:

- breeds, buys, sells, advertises, or offers for sale any animal with the intent that the animal will be used for fighting;
- participates in, advertises, or performs any service in the furtherance of an animal fight;

- transports spectators to an animal fight or accepts payment for admission to an animal fight;
- keeps or uses a place for animal fighting or allows a place to be used for animal fighting;
- serves as a stakeholder for any money wagered on an animal fight; and
- takes or receives a stray or pet animal with the intent of using the stray animal or pet animal for animal fighting or for training or baiting for animal fighting.

The provision making it a crime to be a spectator at an animal fight is removed, although participation in an animal fight remains a criminal offense.

Amended Bill Compared to Original Bill:

The original bill required as an element of the offense of first-degree animal cruelty that the animal suffer "unnecessary and unjustifiable physical pain" rather than "substantial and unjustifiable pain that extends for a period that causes undue suffering." The original bill did not contain the provisions expanding the crime of animal fighting and raising that crime from a gross misdemeanor to a class C felony.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: There was a tragic incident last year where seven or eight starved and dehydrated cats and dogs were found in a condominium. We need to ramp up the penalties and raise the profile of this conduct, and thereby help to deter these unfortunate events in the future. The bill is narrowly drawn and deals only with starvation, dehydration, or suffocation that causes severe suffering or death. We would like to see the bill pass out of committee with no amendments. Ventilation should not be taken out of the second-degree offense because there are cases where lack of ventilation does not rise to the level of suffocation. The animal fighting amendment is a great amendment, but we think it should be addressed as a separate item so that this bill is kept clean and narrowly focused. A collaborative approach has led to agreement on this bill, and we don't want to see a separate issue jeopardize its future.

(In support with amendment) Animal fighting is the ultimate in animal cruelty because people promote it, make money off it, and expose it to an audience. The language of the animal fighting amendment has had bipartisan support and support from law enforcement and prosecutors. Animal fighting is a growing business in our state, and the misdemeanor offense is just a cost of doing business. Law enforcement needs a heavier hammer for this behavior. They also need to be able to address the issue of people stealing pets and using them as bait animals in training fighting dogs. Animal fighting activities by big players are increasing in our state. They choose Washington because of the lower penalties that apply here.

Testimony Against: None.

Persons Testifying: (In support) Senator Esser, prime sponsor; Susan Michaels, Pasados Safe Haven; and Chris Cheney, Washington Dairy Federation and Washington Fryer Commission.

(In support with amendment) Carey Morris and Robert Reder, Humane Society of the United States.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Judiciary. Signed by 28 members: Representatives Sommers, Chair; Fromhold, Vice Chair; Alexander, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; McDonald, Assistant Ranking Minority Member; Bailey, Buri, Clements, Cody, Conway, Darneille, Dunshee, Grant, Haigh, Hinkle, Hunter, Kagi, Kenney, Kessler, Linville, McDermott, McIntire, Miloscia, Pearson, Priest, Schual-Berke, Talcott and Walsh.

Staff: Bernard Dean (786-7130).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Judiciary:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: None.

Testimony Against: None.

Persons Testifying: None.

Persons Signed In To Testify But Not Testifying: None.