

ESSB 5651 - H AMD TO JUDI COMM AMD (5651-S.E AMH JUDI TANG 080) **516**

By Representative Warnick

FAILED 4/08/2009

1 On page 1 of the amendment, strike all material after line 2 and
2 insert the following:

3

4 "NEW SECTION. **Sec. 1.** The legislature finds that:

5 (1) Dogs are neither a commercial crop nor a commodity and should
6 not be indiscriminately or irresponsibly mass produced;

7 (2) Poorly managed dog housing facilities increases the likelihood
8 that the dogs will be denied their most basic needs including but not
9 limited to: Sanitary living conditions, proper and timely medical
10 care, the ability to have sufficient exercise, and adequate shelter
11 from the elements;

12 (3) Poorly managed dog housing facilities can easily fall below
13 even the most basic standards of humane housing and husbandry; and

14 (4) Current Washington state laws could better define conditions
15 producing substandard animal care, resulting in the abuse of animals.

16

17 **Sec. 2.** RCW 16.52.011 and 2007 c 376 s 2 are each amended to read
18 as follows:

19 (1) Principles of liability as defined in chapter 9A.08 RCW apply
20 to this chapter.

21 (2) Unless the context clearly requires otherwise, the definitions
22 in this section apply throughout this chapter.

23 (a) "Abandons" means the knowing or reckless desertion of an
24 animal by its owner or the causing of the animal to be deserted by its
25 owner, in any place, without making provisions for the animal's
26 adequate care.

27

1 (b) "Adequate care" means the responsible practice of good animal
2 husbandry, including but not limited to, the handling, production,
3 management, confinement, space, cleanliness, food, water, protection,
4 shelter, and transportation appropriate for the age, condition, size
5 and type of dog and the provision of veterinary care when needed to
6 prevent suffering or impairment of health and, when necessary,
7 euthanasia.

8 (c) "Adequate cleaning" means: (i) the removal of debris, food
9 waste and excrement from the primary enclosure with sufficient
10 frequency to minimize the animals' contact with the above-mentioned
11 contaminants; (ii) the primary enclosure is sanitized with sufficient
12 frequency to minimize odors and the hazards of disease; and (iii) the
13 primary enclosure is cleaned so as to prevent the animals confined
14 therein from being directly or indirectly sprayed with the stream of
15 water, or directly or indirectly exposed to hazardous chemicals or
16 disinfectants.

17 (d) "Adequate exercise" means the opportunity for a dog to move
18 sufficiently outside of its primary enclosure to maintain normal
19 muscle tone and mass for the age, size, and condition of the dog,
20 except when exercise is medically contraindicated.

21 (e) "Adequate food" means the provision of and access to food
22 that: (i) is of sufficient quantity and nutritive value to maintain
23 each dog in good health; (ii) is accessible to each dog; (iii) is
24 prepared so as to permit ease of consumption for the age, condition,
25 size and type of each dog; (iv) is provided in a clean and sanitary
26 manner; (v) is placed so as to minimize contamination by excrement and
27 pests; and (vi) is provided at suitable intervals for the age,
28 activity level and condition of the dog, but at least once daily,
29 except as prescribed by a veterinarian.

30 (f) "Adequate shelter" means the provision of and access to
31 shelter that: (i) is suitable for the age, condition, size, and type
32 of each dog; (ii) provides adequate space for each animal; (iii) is
33 safe and protects each animal from injury, rain, sleet, snow, hail,
34 direct sunlight, the adverse effects of heat or cold, physical

1 suffering, and impairment of health; (iv) is properly lighted; (v) is
2 properly cleaned; (vi) enables each animal to be clean and dry, except
3 when detrimental to the dog; and (vii) provides a solid surface,
4 resting platform, pad, floormat, or similar device that is large
5 enough for the animal to lie on in a normal manner and can be
6 maintained in a sanitary manner. Shelters with wire, grid, or slat
7 floors that permit the animals' feet to pass through the openings, or
8 sag under the animals' weight, or otherwise do not protect the
9 animals' feet or toes from injury do not constitute adequate shelter.

10 (g) "Adequate space" means sufficient space to allow for each
11 dog's safety and for each dog to (i) easily stand, sit, lie, turn
12 about, and make all other normal body movements in a comfortable,
13 normal position for the dog and (ii) interact safely with other dogs
14 in the enclosure. When freedom of movement would endanger the dog,
15 temporarily and appropriately restricting movement of the animal
16 according to professionally accepted animal husbandry standards for
17 the breed is considered satisfying the provision of providing adequate
18 space.

19 (h) "Adequate water" means the provision of and access to clean,
20 fresh, potable water of a drinkable temperature that is provided in a
21 suitable manner, in sufficient volume, and at suitable intervals, but
22 at least once every eight hours, to maintain normal hydration for the
23 age, condition, size and type of each dog, except as prescribed by a
24 veterinarian; and is provided in clean, durable receptacles that are
25 accessible to each dog and are placed so as to minimize contamination
26 of the water by excrement and pests.

27 (i) "Animal" means any nonhuman mammal, bird, reptile, or
28 amphibian.

29 ((+e)) (j) "Animal care and control agency" means any city or
30 county animal control agency or authority authorized to enforce city
31 or county municipal ordinances regulating the care, control,
32 licensing, or treatment of animals within the city or county, and any
33 corporation organized under RCW 16.52.020 that contracts with a city
34

1 or county to enforce the city or county ordinances governing animal
2 care and control.

3 ~~((d))~~ (k) "Animal control officer" means any individual
4 employed, contracted, or appointed pursuant to RCW 16.52.025 by an
5 animal care and control agency or humane society to aid in the
6 enforcement of ordinances or laws regulating the care and control of
7 animals. For purposes of this chapter, the term "animal control
8 officer" shall be interpreted to include "humane officer" as defined
9 in (f) of this subsection and RCW 16.52.025.

10 ~~((e))~~ (l) "Euthanasia" means the humane destruction of an animal
11 accomplished by a method that involves instantaneous unconsciousness
12 and immediate death, or by a method that causes painless loss of
13 consciousness, and death during the loss of consciousness.

14 ~~((f))~~ (m) "Humane officer" means any individual employed,
15 contracted, or appointed by an animal care and control agency or
16 humane society as authorized under RCW 16.52.025.

17 ~~((g))~~ (n) "Law enforcement agency" means a general authority
18 Washington law enforcement agency as defined in RCW 10.93.020.

19 (h) "Necessary food" means the provision at suitable intervals of
20 wholesome foodstuff suitable for the animal's age and species and
21 sufficient to provide a reasonable level of nutrition for the animal.

22 ~~((i))~~ (o) "Owner" means a person who has a right, claim, title,
23 legal share, or right of possession to an animal or a person having
24 lawful control, custody, or possession of an animal.

25 ~~((j))~~ (p) "Person" means individuals, corporations, partnerships,
26 associations, or other legal entities, and agents of those entities.

27 ~~((k))~~ (q) "Substantial bodily harm" means substantial bodily
28 harm as defined in RCW 9A.04.110.

29 (3) The definitions in subsection (2)(b) through (h) apply when
30 the animal is a dog.

31
32 **Sec. 3.** RCW 16.52.207 and 2007 c 376 s 1 are each amended to read
33 as follows:

1 (1) A person is guilty of animal cruelty in the second degree if,
2 under circumstances not amounting to first degree animal cruelty, the
3 person knowingly, recklessly, or with criminal negligence inflicts
4 unnecessary suffering or pain upon an animal.

5 (2) An owner of an animal is guilty of animal cruelty in the
6 second degree if, under circumstances not amounting to first degree
7 animal cruelty, the owner knowingly, recklessly, or with criminal
8 negligence:

9 (a) Fails to provide the animal with necessary shelter, rest,
10 sanitation, space, or medical attention, or in the case of a dog,
11 adequate care as defined in RCW 16.52.011, and the animal suffers
12 unnecessary or unjustifiable physical pain or serious illness as a
13 result of the failure;

14 (b) Under circumstances not amounting to animal cruelty in the
15 second degree under (c) of this subsection, abandons the animal; or

16 (c) Abandons the animal and (i) as a result of being abandoned,
17 the animal suffers bodily harm; or (ii) abandoning the animal creates
18 an imminent and substantial risk that the animal will suffer
19 substantial bodily harm.

20 (3)(a) Animal cruelty in the second degree under subsection (1),
21 (2)(a), or (2)(b) of this section is a misdemeanor.

22 (b) Animal cruelty in the second degree under subsection (2)(c) of
23 this section is a gross misdemeanor.

24 (4) In any prosecution of animal cruelty in the second degree
25 under subsection (1) or (2)(a) of this section, it shall be an
26 affirmative defense, if established by the defendant by a
27 preponderance of the evidence, that the defendant's failure was due to
28 economic distress beyond the defendant's control.

29

30 NEW SECTION. Sec. 4. This act takes effect January 1, 2010."

31

32 Correct the title.

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34

EFFECT: Strikes all the provisions of the striking amendment and does the following:

1. Refers to poorly managed dog housing facilities, rather than large-scale dog breeding facilities, in the declaration section, and states that the current law could better define conditions producing substandard animal care.

2. Provides that a person commits animal cruelty in the second degree if the person fails to provide an animal with necessary shelter, rest, sanitation, space, or medical attention, or in the case of dogs, fails to provide adequate care, that results in serious illness to the animal.

3. Amends the animal cruelty statutes by defining what adequate care, cleaning, exercise, food, shelter, space, and water means as it applies to dogs.

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