
SENATE BILL 5402

State of Washington

61st Legislature

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By Senators Tom, Carrell, Shin, Delvin, Kline, Fraser, Roach, Kohl-
Welles, and Marr

Read first time 01/21/09. Referred to Committee on Judiciary.

1 AN ACT Relating to prevention of animal cruelty; and amending RCW
2 16.52.011, 16.52.085, and 16.52.200.

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

4 **Sec. 1.** RCW 16.52.011 and 2007 c 376 s 2 are each amended to read
5 as follows:

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

8 (2) (~~Unless the context clearly requires otherwise,~~) The
9 definitions in this section apply throughout this chapter unless the
10 context clearly requires otherwise.

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

14 (b) "Animal" means any nonhuman mammal, bird, reptile, or
15 amphibian.

16 (c) "Animal care and control agency" means any city or county
17 animal control agency or authority authorized to enforce city or county
18 municipal ordinances regulating the care, control, licensing, or
19 treatment of animals within the city or county, and any corporation

1 organized under RCW 16.52.020 that contracts with a city or county to
2 enforce the city or county ordinances governing animal care and
3 control.

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

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

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

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

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

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

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

28 (k) "Similar animals" includes:

29 (i) Livestock, including but not limited to horses, mules, donkeys,
30 cattle, bison, sheep, goats, swine, rabbits, llamas, alpacas, ratites,
31 poultry, waterfowl, game birds, and other species as designated under
32 RCW 16.36.005;

33 (ii) Small animals, including but not limited to dogs, cats,
34 ferrets, birds other than poultry, or other animals identified or
35 commonly recognized as family pets as described in WAC 16-54-160 and
36 16-54-170;

37 (iii) Wild and exotic animals and birds, including zoo animals,
38 including but not limited to animals listed in WAC 16-54-180 of the

1 species cervidae, giraffidae, bovidae, ovidae, capridae, suidae, old
2 world primate, gibbons, and lessor and greater apes except as otherwise
3 listed in RCW 16.36.005.

4 (1) "Substantial bodily harm" means substantial bodily harm as
5 defined in RCW 9A.04.110.

6 **Sec. 2.** RCW 16.52.085 and 1994 c 261 s 6 are each amended to read
7 as follows:

8 (1) If a law enforcement officer or animal control officer has
9 probable cause to believe that an owner of a domestic animal has
10 violated this chapter or owns or possesses an animal in violation of a
11 court of record's order under RCW 16.52.200(3) and no responsible
12 person can be found to assume the animal's care, the officer may
13 authorize, with a warrant, the removal of the animal to a suitable
14 place for feeding and care, or may place the animal under the custody
15 of an animal care and control agency. In determining what is a
16 suitable place, the officer shall consider the animal's needs,
17 including its size and behavioral characteristics. An officer may
18 remove an animal under this subsection without a warrant only if the
19 animal is in an immediate life-threatening condition.

20 (2) If a law enforcement officer or an animal control officer has
21 probable cause to believe a violation of this chapter has occurred, the
22 officer may authorize an examination of a domestic animal allegedly
23 neglected or abused in violation of this chapter by a veterinarian to
24 determine whether the level of neglect or abuse in violation of this
25 chapter is sufficient to require removal of the animal. This section
26 does not condone illegal entry onto private property.

27 (3) Any owner whose domestic animal is removed pursuant to this
28 chapter shall be given written notice of the circumstances of the
29 removal and notice of legal remedies available to the owner. The
30 notice shall be given by posting at the place of seizure, by delivery
31 to a person residing at the place of seizure, or by registered mail if
32 the owner is known. In making the decision to remove an animal
33 pursuant to this chapter, the officer shall make a good faith effort to
34 contact the animal's owner before removal.

35 (4) The agency having custody of the animal may euthanize the
36 animal or may find a responsible person to adopt the animal not less
37 than fifteen business days after the animal is taken into custody. A

1 custodial agency may euthanize severely injured, diseased, or suffering
2 animals at any time. An owner may prevent the animal's destruction or
3 adoption by: (a) Petitioning the district court of the county where
4 the animal was seized for the animal's immediate return subject to
5 court-imposed conditions, or (b) posting a bond or security in an
6 amount sufficient to provide for the animal's care for a minimum of
7 thirty days from the seizure date. If the custodial agency still has
8 custody of the animal when the bond or security expires, the animal
9 shall become the agency's property unless the court orders an
10 alternative disposition. If a court order prevents the agency from
11 assuming ownership and the agency continues to care for the animal, the
12 court shall order the owner to renew a bond or security for the
13 agency's continuing costs for the animal's care. When a court of
14 competent jurisdiction has prohibited the owner from owning or
15 possessing animals under RCW 16.52.200(3), the agency having custody of
16 the animal may assume ownership upon seizure and the owner may not
17 prevent the animal's destruction or adoption by petitioning the court
18 or posting a bond.

19 (5) If no criminal case is filed within fourteen business days of
20 the animal's removal, the owner may petition the district court of the
21 county where the animal was removed for the animal's return. The
22 petition shall be filed with the court, with copies served to the law
23 enforcement or animal care and control agency responsible for removing
24 the animal and to the prosecuting attorney. If the court grants the
25 petition, the agency which seized the animal must deliver the animal to
26 the owner at no cost to the owner. If a criminal action is filed after
27 the petition is filed but before the animal is returned, the petition
28 shall be joined with the criminal matter.

29 (6) In a motion or petition for the animal's return before a trial,
30 the burden is on the owner to prove by a preponderance of the evidence
31 that the animal will not suffer future neglect or abuse and is not in
32 need of being restored to health.

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

36 **Sec. 3.** RCW 16.52.200 and 2003 c 53 s 113 are each amended to read
37 as follows:

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

5 (2) In case of multiple misdemeanor or gross misdemeanor
6 convictions, the sentences shall be consecutive, however the
7 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 or
10 animal care and control authorities under the provisions of this
11 chapter if any one of the animals involved dies as a result of a
12 violation of this chapter or if the defendant has a prior conviction
13 under this chapter. If any animal dies or endures substantial pain or
14 undue suffering as a result of a violation of this chapter, the court
15 shall prohibit the convicted person from owning, possessing, harboring,
16 or residing with similar animals. This prohibition is permanent unless
17 and until the right is restored by a court of competent jurisdiction.
18 The court may also permanently prohibit the convicted person from
19 owning, possessing, harboring, or residing with nonsimilar animals
20 where there is a likelihood of abuse or neglect to nonsimilar animals.
21 In ((other cases)) circumstances not amounting to death, substantial
22 pain, or undue suffering the court ((may)) shall enter an order
23 requiring the ((owner)) convicted person to forfeit the animal if the
24 court deems the animal's treatment to have been either severe ((and))
25 or likely to reoccur, or both. If forfeiture is ordered and a
26 convicted person is not permanently prohibited from owning, possessing,
27 harboring, or residing with similar animals, the ((owner)) convicted
28 person shall be prohibited from owning ((or caring for)), possessing,
29 harboring, or residing with any similar animals for a period of two
30 years. ((The court may delay its decision on forfeiture under this
31 subsection until the end of the probationary period.))

32 (4) In addition to fines and court costs, the defendant, only if
33 convicted or in agreement, shall be liable for reasonable costs
34 incurred pursuant to this chapter by law enforcement agencies, animal
35 care and control agencies, or authorized private or public entities
36 involved with the care of the animals. Reasonable costs include
37 expenses of the investigation, and the animal's care, euthanization, or
38 adoption.

1 (5) If convicted, the defendant shall also pay a civil penalty of
2 one thousand dollars to the county to prevent cruelty to animals.
3 These funds shall be used to prosecute offenses under this chapter and
4 to care for forfeited animals pending trial.

5 (6) As a condition of the sentence imposed under this chapter or
6 RCW 9.08.070 through 9.08.078, the court may also order the defendant
7 to participate in an available animal cruelty prevention or education
8 program or obtain available psychological counseling to treat mental
9 health problems contributing to the violation's commission. The
10 defendant shall bear the costs of the program or treatment.

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