

HOUSE BILL REPORT

HB 1243

As Reported by House Committee On:
Judiciary

Title: An act relating to crimes against animals belonging to another person.

Brief Description: Concerning crimes against animals belonging to another person.

Sponsors: Representatives Kretz, Blake, Haigh, Smith, Johnson, Kelley, Finn, Warnick, Moeller, Harris, Roberts, McCune, Stanford, Haler, Taylor and Condotta.

Brief History:

Committee Activity:

Judiciary: 2/7/11, 2/10/11 [DPS].

Brief Summary of Substitute Bill

- Creates the crime of maliciously killing or causing substantial bodily harm to livestock belonging to another person.
- Establishes a civil cause of action for damages for owners of livestock killed or harmed by another person.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Chandler, Eddy, Frockt, Kirby, Klippert, Nealey, Orwall, Rivers and Roberts.

Staff: Kelly Pfundheller (786-7289).

Background:

Related but separate provisions in the criminal code may apply when a person harms livestock. These include the crimes of animal cruelty, theft of livestock, and malicious mischief.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

A person is guilty of animal cruelty in the first degree when, except as authorized in law, he or she intentionally: (a) inflicts substantial pain on; (b) causes physical injury to; or (c) kills an animal by a means causing undue suffering. "Animal" in this context means every creature other than a human being. Animal cruelty in the first degree is a class C felony and is unranked, except for animal cruelty involving sexual conduct.

A person is guilty of theft of livestock if the person intends to appropriate the horse or cattle for his or her own use or resale to another person. A person commits theft of livestock in the first degree when depriving and defrauding the lawful owner of an animal with the intent to sell or exchange the animal. Theft of livestock in the second degree occurs when the person willfully takes, leads, or transports away, conceals, withholds, slaughters, or otherwise appropriates an animal for his or her own use. Livestock theft in the first degree is a class B felony and is ranked at seriousness level IV under the Sentencing Reform Act.

A person is guilty of malicious mischief in the first degree if he knowingly and maliciously causes physical damage to the property of another in an amount exceeding \$1,500. Malicious mischief in the first degree is a class B felony and is ranked at seriousness level II.

The term "malice" is defined in the criminal code as an evil intent, wish, or design to vex, annoy, or injure another person. Malice may be inferred from an act done in willful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a willful disregard of social duty.

Summary of Substitute Bill:

The term "livestock" includes, but is not limited to, horses, mules, cattle, sheep, swine, goats, and bison.

A new crime is created. It is unlawful for a person to, with malice, kill or cause substantial bodily harm to livestock belonging to another person. The crime is an unranked class C felony, carrying a standard sentence range of zero to 12 months in jail.

The owner of livestock that has been killed or harmed may bring a civil action for damages up to three times the actual damages sustained, plus attorney's fees.

Substitute Bill Compared to Original Bill:

The new crime does not include the malicious killing or harming of wildlife. The definition of "livestock" includes bison in addition to the other animals listed.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) There have been several recent incidents where individuals have killed a rancher's livestock for malicious purposes. People seem to kill the livestock for personal enjoyment or to attract bears. Livestock owners have observed that the same people will repeatedly engage in the killing without suffering consequences. The bill will address this problem by holding these people accountable and deterring future killings.

The civil cause of action created by this legislation will allow livestock owners to recover their losses related to the offense. A single animal can be worth around \$1,500, so the losses resulting from the offense have a significant financial impact on businesses.

The killing and harming of wildlife should not be included in the new crime. While the intent to include wildlife is good, there is another bill before the Legislature that will enhance the penalties for killing big game without a license. That bill will address the problems in relation to wildlife.

The bill makes the new crime an unranked class C felony, which means that it carries a standard sentence range of zero to 12 months in jail. This is nothing more than a gross misdemeanor in practice. The crime should be ranked in order to ensure the punishment of repeat offenders.

This bill should be amended to include bison in the definition of livestock.

(Opposed) None.

Persons Testifying: Representative Kretz, prime sponsor; Mike Cenci, Washington Department of Fish and Wildlife; and Jack Field, Jess Kasger, and Dal Dagnon, Washington Cattleman's Association.

Persons Signed In To Testify But Not Testifying: None.