
Judiciary Committee

SSB 5065

Title: An act relating to prevention of animal cruelty.

Brief Description: Preventing animal cruelty.

Sponsors: Senate Committee on Judiciary (originally sponsored by Senators Carrell, Kline, Kohl-Welles, Nelson, Delvin, Tom, Shin, McAuliffe and Kilmer).

Brief Summary of Substitute Bill

- Changes animal cruelty in the second degree from a misdemeanor to a gross misdemeanor.
- Modifies the prohibition on owning or caring for similar animals imposed on persons convicted of animal cruelty.
- Creates a new infraction of failure to provide care.

Hearing Date: 3/9/11

Staff: Kelly Pfundheller (786-7289).

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 animal cruelty crimes.

Animal Cruelty Crimes.

Animal cruelty in the first degree is committed when a person: (1) intentionally inflicts substantial pain on, causes physical injury to, or kills an animal by a means that causes undue suffering; (2) with criminal negligence starves, dehydrates, or suffocates an animal, and the animal suffers unnecessary or unjustifiable physical pain or death; or (3) knowingly engages in

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certain conduct involving a sexual act or sexual contact with an animal. 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 shelter, rest, sanitation, space, or medical attention, or by abandoning the animal. Animal cruelty in the second degree is a misdemeanor. The crime is a gross misdemeanor if the person abandons the animal and, as a result, the animal experiences the imminent and substantial risk of substantial bodily harm or the animal suffers bodily harm.

Prohibition on Owning or Caring for Similar Animals.

When a person is convicted of a violation of the animal cruelty law, the court must order forfeiture of all animals held by law enforcement or animal control authorities if any one of the animals involved dies as a result of the violation or if the defendant has a prior conviction under the animal cruelty law. In other cases, the court may order forfeiture of the animal if the animal's treatment was severe and is likely to reoccur.

"Similar animal" means an animal classified in the same genus. When a court orders forfeiture of a defendant's animal, the court must prohibit the defendant from owning or caring for a similar animal for the following time periods:

- two years for a first conviction of animal cruelty in the second degree;
- permanently for a first conviction of animal cruelty in the first degree; and
- permanently for a second or subsequent animal cruelty conviction, although the person may petition for restoration of the right to possess similar animals under limited circumstances.

If a person has no more than two convictions for animal cruelty in the second degree, the person may petition the sentencing court for a restoration of his or her right to own or possess a similar animal after five years, and the court may consider a variety of factors relating to the convictions, including the type of harm or violence inflicted on the animals, whether the person has completed the conditions imposed by the court, and any other matters the court finds reasonable and material.

Summary of Bill:

The bill makes several changes to the state's law for the prevention of cruelty to animals, including amending animal cruelty crimes, creating a new infraction, and adding several definitions of terms.

Animal cruelty in the second degree is a gross misdemeanor.

The definition of "similar animal" is changed to mean: (1) for a mammal, another animal that is in the same taxonomic order; or (2) for an animal that is not a mammal, another animal that is in the same taxonomic class. Any person convicted of animal cruelty is prohibited from owning, caring for, or residing with any similar animals for the specified period of time. If a person petitions the sentencing court for a restoration of his or her right, the court may consider, among

the other factors in current law, whether the person complied with the prohibition on owning, caring for, or residing with similar animals.

A new infraction is created. An owner who fails to provide an animal with necessary food, water, shelter, ventilation, rest, sanitation, space, or medical attention has committed the infraction of failure to provide care. The infraction is a class 2 civil infraction. Animal control officers have the power to issue a citation for the infraction based on probable cause. Local jurisdictions that establish greater civil or criminal penalties for failure to provide care are not preempted by the infraction. The infraction does not apply to accepted animal husbandry practices used in the commercial raising or slaughtering of livestock, poultry, or other products.

"Necessary shelter" means a constructed or natural structure that keeps the animal dry and protected from the elements, allows the animal to turn around freely, sit, stand, and lie without restrictions, and does not cause injury, disfigurement, or physical impairment to the animal.

"Necessary water" means water that is in sufficient quantity and of sufficient quality to sustain the animal and is easily accessible to the animal.

"Food" means food or feed appropriate to the species for which it is intended.

Appropriation: None.

Fiscal Note: Not requested.

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