

# HOUSE BILL REPORT

## SSB 5065

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### As Passed House - Amended:

April 4, 2011

**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 History:

#### Committee Activity:

Judiciary: 3/9/11, 3/24/11 [DPA].

#### Floor Activity:

Passed House - Amended: 4/4/11, 93-2.

### Brief Summary of Substitute Bill (As Amended by House)

- 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.

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## HOUSE COMMITTEE ON JUDICIARY

**Majority Report:** Do pass as amended. Signed by 12 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Shea, Assistant Ranking Minority Member; Chandler, Eddy, Frockt, Kirby, Klippert, Nealey, Orwall, Rivers and Roberts.

**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

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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 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.

*Food and Water.*

The terms food and water arise in different contexts in the state's law for the prevention of cruelty to animals, including in the context of intervention by others and dog breeding.

"Necessary food" is defined as the provision at suitable intervals of wholesome foodstuff suitable for the animal's age and sufficient to provide a reasonable level of nutrition for the animal.

If any domestic animal is confined without necessary food and water for more than 36 hours, any person may enter into and open any place of confinement and supply the animal with necessary food and water. If an investigating officer finds it extremely difficult to supply confined animals with food and water, the officer may remove the animal to protective custody.

Among other requirements, a person who owns, possesses, or controls more than 10 dogs with intact sexual organs over the age of six months and keeps the dogs in an enclosure for the majority of the day must provide the dogs with easy and convenient access to adequate amounts of clean food and water. All enclosures must contain potable water that is not frozen, is substantially free from debris, and is readily accessible to all dogs in the enclosure at all times.

### **Summary of Amended 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 multiple 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 violates the prohibition on owning, caring for, or residing with similar animals, he or she must pay a civil penalty in the amount of \$1,000 for the first violation and \$2,000 for the second violation. The third and each subsequent violation is a gross misdemeanor. 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.

"Food" means food or feed appropriate to the species for which it is intended. "Necessary water" means water that is in sufficient quantity and of appropriate quality for the species for which it is intended and is accessible to the animal.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Amended 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) The bill clarifies the law relating to animal cruelty crimes and the prohibition against owning or caring for similar animals. The current law contains weaknesses and

loopholes that have allowed people to go unpunished for doing horrendous things to animals. The bill corrects these issues and takes steps to ensure the current law can be enforced.

The state should take animal cruelty seriously. There is a real connection between cruelty to animals and violence against persons. People who harm animals pose a risk to society. However, the current law does not provide effective enforcement mechanisms. This legislation will protect the public by providing adequate penalties.

(With concerns) There are serious concerns that this bill has broad implications and will perhaps create unintended consequences. The civil infraction in the bill will place animal owners in a position where they must prove that they are not abusing their animals. Unfounded allegations of animal abuse cause trauma to innocent people who are properly caring for their animals. The bill should be amended to exempt certain people who are using animals in the course of normal and usual activities, like ranching or agricultural fairs.

The civil infraction in the bill contains vague and ambiguous language. Many terms are left undefined, and the terms that are defined are unclear. The definition of "necessary shelter" does not take into account the situations where animals choose not to use the shelter. The definition of "necessary water" does not take into account that different animals require and prefer different water quality. In addition, the infraction contains no stated purpose, which might allow the bias of officers to influence investigations. The bill should be amended to specify that the infraction is meant to prevent animal abuse.

(Opposed) None.

**Persons Testifying:** (In support) Senator Carrell, prime sponsor; Whitney Phillips, Student Animal Legal Defense Fund; Richard Hall, Washington Alliance for Humane Legislation; Denise McVicker, Washington Federation of Animal Care and Control Agencies and the Humane Society for Tacoma and Pierce County; and Kim Koon, Pasado's Safe Haven.

(With concerns) Representative Short; Jack Field, Washington Cattleman's Association; Nick Cockrell, Stockman's Coalition; and Jim Halstrom.

**Persons Signed In To Testify But Not Testifying:** None.