

SHB 2644 - S AMD 729
By Senator Padden

ADOPTED 03/04/2016

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 16.52.085 and 2011 c 172 s 3 are each amended to
4 read as follows:

5 (1) If a law enforcement officer or animal control officer has
6 probable cause to believe that an owner of a domestic animal has
7 violated this chapter or a person owns, cares for, or resides with an
8 animal in violation of an order issued under RCW 16.52.200(4) and no
9 responsible person can be found to assume the animal's care, the
10 officer may authorize, with a warrant, the removal of the animal to a
11 suitable place for feeding and care, or may place the animal under
12 the custody of an animal care and control agency. In determining what
13 is a suitable place, the officer shall consider the animal's needs,
14 including its size and behavioral characteristics. An officer may
15 remove an animal under this subsection without a warrant only if the
16 animal is in an immediate life-threatening condition.

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

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

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

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

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

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

1 **Sec. 2.** RCW 16.52.200 and 2011 c 172 s 4 are each amended to
2 read as follows:

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

7 (2) In case of multiple misdemeanor or gross misdemeanor
8 convictions, the sentences shall be consecutive, however the
9 probationary period shall remain two years.

10 (3) In addition to the penalties imposed by the court, the court
11 shall order the forfeiture of all animals held by law enforcement or
12 animal care and control authorities under the provisions of this
13 chapter if any one of the animals involved dies as a result of a
14 violation of this chapter or if the defendant has a prior conviction
15 under this chapter. In other cases the court may enter an order
16 requiring the owner to forfeit the animal if the court deems the
17 animal's treatment to have been severe and likely to reoccur.

18 (4) Any person convicted of animal cruelty shall be prohibited
19 from owning, caring for, or residing with any similar animals for a
20 period of time as follows:

21 (a) Two years for a first conviction of animal cruelty in the
22 second degree under RCW 16.52.207;

23 (b) Permanently for a first conviction of animal cruelty in the
24 first degree under RCW 16.52.205;

25 (c) Permanently for a second or subsequent conviction of animal
26 cruelty, except as provided in subsection (5) of this section.

27 (5) If a person has no more than two convictions of animal
28 cruelty and each conviction is for animal cruelty in the second
29 degree, the person may petition the sentencing court in which the
30 most recent animal cruelty conviction occurred, for a restoration of
31 the right to own or possess a similar animal five years after the
32 date of the second conviction. In determining whether to grant the
33 petition, the court shall consider, but not be limited to, the
34 following:

35 (a) The person's prior animal cruelty in the second degree
36 convictions;

37 (b) The type of harm or violence inflicted upon the animals;

38 (c) Whether the person has completed the conditions imposed by
39 the court as a result of the underlying convictions;

1 (d) Whether the person complied with the prohibition on owning,
2 caring for, or residing with similar animals; and

3 (e) Any other matters the court finds reasonable and material to
4 consider in determining whether the person is likely to abuse another
5 animal.

6 The court may delay its decision on forfeiture under subsection
7 (3) of this section until the end of the probationary period.

8 (6) In addition to fines and court costs, the defendant, only if
9 convicted or in agreement, shall be liable for reasonable costs
10 incurred pursuant to this chapter by law enforcement agencies, animal
11 care and control agencies, or authorized private or public entities
12 involved with the care of the animals. Reasonable costs include
13 expenses of the investigation, and the animal's care, euthanization,
14 or adoption.

15 (7) If convicted, the defendant shall also pay a civil penalty of
16 one thousand dollars to the county to prevent cruelty to animals.
17 These funds shall be used to prosecute offenses under this chapter
18 and to care for forfeited animals pending trial.

19 (8) If a person violates the prohibition on owning, caring for,
20 or residing with similar animals under subsection (4) of this
21 section, that person:

22 (a) Shall pay a civil penalty of one thousand dollars for the
23 first violation;

24 (b) Shall pay a civil penalty of two thousand five hundred
25 dollars for the second violation; and

26 (c) Is guilty of a gross misdemeanor for the third and each
27 subsequent violation.

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

34 (10) Nothing in this section limits the authority of a law
35 enforcement officer, animal control officer, custodial agency, or
36 court to remove, adopt, euthanize, or require forfeiture of an animal
37 under RCW 16.52.085."

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1 On page 1, line 1 of the title, after "cases;" strike the
2 remainder of the title and insert "and amending RCW 16.52.085 and
3 16.52.200."

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