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SENATE BILL 5532

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State of Washington                      53rd Legislature                      1993 Regular Session

By Senators M. Rasmussen, Roach, Amondson, Barr and Winsley

Read first time 02/02/93. Referred to Committee on Agriculture.

1            AN ACT Relating to animal cruelty; amending RCW 16.52.050,  
2 16.52.060, 16.52.070, 16.52.080, 16.52.085, 16.52.140, and 16.52.185;  
3 adding new sections to chapter 16.52 RCW; repealing RCW 16.52.030,  
4 16.52.040, and 16.52.095; and prescribing penalties.

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

6            NEW SECTION.    **Sec. 1.** All members and agents, and all officers of  
7 any society so incorporated as shall by the trustees of such society be  
8 duly authorized in writing, approved by the presiding judge of the  
9 superior court of the county, and sworn in the same manner as are law  
10 enforcement officers, shall have power lawfully to investigate any  
11 violations of law under this title.

12            **Sec. 2.** RCW 16.52.050 and 1901 c 146 s 10 are each amended to read  
13 as follows:

14            When complaint is made on oath, to any ((magistrate)) judge  
15 authorized to issue warrants in criminal cases that the complainant has  
16 probable cause to believe((s)) that any of the provisions of law  
17 relating to or in any way affecting animals, are being or are about to  
18 be violated in any particular building or place, ((such magistrates

1 ~~shall~~) the judge may issue and deliver immediately a warrant directed  
2 to any sheriff, constable, police or peace officer, ((~~or officer of any~~  
3 ~~incorporated society qualified as provided in RCW 16.52.030,))~~  
4 authorizing him or her to enter and search such building or place, and  
5 to arrest any person or persons there present violating or attempting  
6 to violate any law relating to or in any way affecting animals, and to  
7 bring such person or persons before some court or magistrate of  
8 competent jurisdiction within the city or county within which such  
9 offense has been committed or attempted to be committed, to be dealt  
10 with according to law.

11 **Sec. 3.** RCW 16.52.060 and 1987 c 202 s 182 are each amended to  
12 read as follows:

13 Any judge, sheriff, deputy, or police officer may arrest any person  
14 found committing any of the acts enumerated in RCW 16.52.065 or  
15 81.56.120, without a warrant for such arrest, and any officer or member  
16 of any humane society, or society for the prevention of cruelty to  
17 animals, may cause the immediate arrest of any person engaged in, or  
18 who shall have committed such cruelties, upon making ~~((oral))~~ written  
19 complaint to any sheriff, deputy, or police officer~~((~~or such officer~~~~  
20 ~~or member of such society may himself or herself arrest any person~~  
21 ~~found perpetrating any of the cruelties herein enumerated: PROVIDED,~~  
22 ~~That said person making such oral complaint or making such arrest shall~~  
23 ~~file with a proper officer a written complaint, stating the act or acts~~  
24 ~~complained of, within twenty four hours, excluding Sundays and legal~~  
25 ~~holidays, after such arrest shall have been made))~~.

26 **Sec. 4.** RCW 16.52.070 and 1982 c 114 s 4 are each amended to read  
27 as follows:

28 (1) Except as provided in RCW 9A.48.080, every person who engages  
29 in the following conduct shall be guilty of a gross misdemeanor:  
30 Cruelly kill, cause, procure, authorize, request, or encourage so to be  
31 cruelly killed, any animal; cruelly beat, mutilate, torture, torment,  
32 any animal; and whoever having the charge or custody of any animal,  
33 either as owner or otherwise, inflicts unnecessary suffering or pain  
34 upon the same, or who cruelly abandons any animal.

35 (2) Except as provided in RCW 9A.48.080, every person who cruelly  
36 overdrives, overloads, drives when overloaded, overworks, ((~~tortures,~~  
37 ~~torments,~~)) deprives of necessary sustenance, ((~~cruelly beats,~~

1 ~~mutilates or cruelly kills,~~) or causes, procures, authorizes, requests  
2 or encourages so to be overdriven, overloaded, driven when overloaded,  
3 overworked, (~~tortured, tormented,~~) deprived of necessary sustenance,  
4 (~~cruelly beaten or mutilated or cruelly killed,~~) any animal; and  
5 whoever having the charge or custody of any animal, either as owner or  
6 otherwise, inflicts unnecessary suffering or pain upon the same when  
7 such suffering or pain does not rise to the level found to be a gross  
8 misdemeanor, or unnecessarily fails to provide the same with the proper  
9 food, drink, air, light, space, shelter or protection from the weather,  
10 or who wilfully and unreasonably drives the same when unfit for labor  
11 or with yoke or harness that chafes or galls it, or check rein or any  
12 part of its harness too tight for its comfort, or at night when it has  
13 been six consecutive hours without a full meal, (~~or who cruelly~~  
14 ~~abandons any animal,~~) shall be guilty of a misdemeanor.

15 (3) For the purposes of this section, necessary sustenance or  
16 proper food means the provision at suitable intervals, not to exceed  
17 twenty-four hours, of wholesome foodstuff suitable for the species and  
18 age of the animal and sufficient to provide a reasonable level of  
19 nutrition for the animal.

20 (4) This section shall not apply to persons engaged in properly  
21 conducted medical research experiments, tests, projects or procedures,  
22 whether conducted by public or private research facilities.

23 **Sec. 5.** RCW 16.52.080 and 1982 c 114 s 5 are each amended to read  
24 as follows:

25 (~~Any person who wilfully transports or confines or causes to be~~  
26 ~~transported or confined any domestic animal or animals in a manner,~~  
27 ~~posture or confinement that will jeopardize the safety of the animal or~~  
28 ~~the public shall be guilty of a misdemeanor.—And)) Whenever ((any  
29 such)) a person shall be taken into custody or be subject to arrest  
30 pursuant to a valid warrant therefor by any officer ((or authorized  
31 person)), such officer or person may take charge of the animal or  
32 animals; and any necessary expense thereof shall be a lien thereon to  
33 be paid before the animal or animals may be recovered; and if the  
34 expense is not paid, it may be recovered from the owner of the animal  
35 or the person guilty. If unpaid for a period of ten days from the date  
36 demand is made upon the owner of the animal for payment, the agency  
37 having possession of such animal shall pursue the remedies set forth in  
38 chapter 60.60 RCW.~~

1       **Sec. 6.** RCW 16.52.085 and 1987 c 335 s 1 are each amended to read  
2 as follows:

3       (1) If the county sheriff or other law enforcement officer shall  
4 find that said domestic animal has been neglected by its owner, he or  
5 she may authorize the removal of the animal to a proper pasture or  
6 other suitable place for feeding and restoring to health.

7       (2) If a law enforcement officer has probable cause to believe a  
8 violation of this chapter has occurred, the officer may ~~((authorize))~~  
9 petition any judge authorized to issue warrants to order an examination  
10 of an allegedly neglected domestic animal by a veterinarian to  
11 determine whether the level of neglect is sufficient to require removal  
12 of the animal. This section does not condone illegal entry onto  
13 private property.

14       (3) Any owner whose domestic animal is removed to a suitable place  
15 pursuant to this chapter shall be given written notice of the  
16 circumstances of the removal and notice of legal remedies available to  
17 the owner. The notice shall be given by posting at the place of  
18 seizure, by delivery to a person residing at the place of seizure, or  
19 by registered or certified mail if the owner is known. In making the  
20 decision to remove an animal pursuant to this chapter, the law  
21 enforcement officer shall make a good faith effort to contact the  
22 animal's owner before removal unless the animal is in a life-  
23 threatening condition or unless the officer reasonably believes that  
24 the owner would remove the animal from the jurisdiction.

25       (4) If a criminal case is filed within seventy-two hours of the  
26 removal of the animal, then the humane society, animal control agency,  
27 or agency that has custody of the animal seized shall have a lien on  
28 the animal seized for the costs to the humane society, animal control  
29 agency, or agency holding the animal for freight, transportation,  
30 storage, provision of food, medical and other care, and all other  
31 reasonable and necessary expenses involved in caring for the animal  
32 during the time that the agency has custody of the animal, which lien  
33 shall be identical to the lien set forth in RCW 60.60.010.

34       If the court having jurisdiction of the criminal case orders at any  
35 time that the animal be returned to its owner or to the person from  
36 whose custody or control the animal was removed, the court shall order  
37 the owner or other person to pay to the humane society, animal control  
38 agency, or other agency having custody of the animal all reasonable and  
39 necessary costs, set forth in this subsection, before imposing any duty

1 upon the agency to return the animal. If the owner or other person  
2 does not pay those necessary costs within ten days of the order, then  
3 the humane society or other agency having custody of the animal shall  
4 foreclose upon its lien by selling the animal in the manner set forth  
5 in chapter 60.60 RCW.

6 If the court having jurisdiction of the criminal case orders that  
7 the animal not be returned to the owner or other person from whose  
8 custody or control the animal was removed, the court shall order the  
9 humane society, animal control agency, or other agency having custody  
10 of the animal to sell the animal in the manner set forth in chapter  
11 60.60 RCW.

12 In no case may the humane society, animal control agency, or other  
13 agency selling an animal pursuant to this chapter refuse to sell the  
14 animal to the highest bidder, unless the successful bidder is the owner  
15 or other person from whose custody or control the animal was removed,  
16 and from whose custody the court having jurisdiction of the criminal  
17 case ordered the animal permanently removed, or unless the successful  
18 bidder is a person whom the humane society or animal control agency  
19 knows to have been convicted of any violation of this title.

20 (5) If no criminal case is filed within seventy-two hours of the  
21 removal of the animal, ((the owner may petition the district court of  
22 the county where the removal of the animal occurred for the return of  
23 the animal. The petition)) the agency in whose custody the animal has  
24 been kept shall make reasonable efforts to return the animal to its  
25 owner or to the person from under whose control the animal was removed  
26 at the time of removal of the animal by the responsible law enforcement  
27 agency. The superior court of the county from which the animal was  
28 removed may order the forfeiture of the animal from its owner or from  
29 the person from whose custody or control the animal was removed, if the  
30 court finds by a preponderance of the evidence that the animal is  
31 likely to suffer future neglect of a similar nature to that which was  
32 used by the law enforcement agency to justify the removal of the  
33 animal. A petition by the agency having custody of the animal shall be  
34 filed with the court, with copies served to the law enforcement agency  
35 responsible for removing the animal and to the prosecuting attorney.  
36 If a criminal action is filed after the petition is filed but before  
37 the animal is returned, the petition shall be joined with the criminal  
38 matter.

1        ~~((5))~~ (6) In a motion or petition for the return of the removed  
2 animal before a trial, the burden is on the ~~((owner))~~ humane society,  
3 animal control agency, or agency having custody of the animal to prove  
4 by a preponderance of the evidence that the animal will ~~((not))~~ suffer  
5 future neglect and is ~~((not))~~ in need of being restored to health.

6        ~~((6))~~ (7) Any authorized person treating or attempting to restore  
7 an animal to health under this chapter shall not be civilly or  
8 criminally liable for such action.

9        **Sec. 7.** RCW 16.52.140 and 1901 c 146 s 11 are each amended to read  
10 as follows:

11        Any ~~((person qualified under RCW 16.52.030 and any))~~ sheriff,  
12 constable, police or peace officer may enter any place, building or  
13 tenement, where there is an exhibition of the fighting of birds or  
14 animals or where preparations are being made or training had for such  
15 exhibition, and without a warrant arrest all or any persons there  
16 present and bring them before some court or magistrate of competent  
17 jurisdiction to be dealt with according to law.

18        **Sec. 8.** RCW 16.52.185 and 1982 c 114 s 10 are each amended to read  
19 as follows:

20        Nothing in this chapter applies to accepted husbandry practices  
21 used in the commercial raising or slaughtering of livestock or poultry,  
22 or products thereof or to the use of animals in the normal and usual  
23 course of rodeo events, purebred dog and cat shows, field trials,  
24 terrier trials, 4-H events, circuses, zoos, aquariums, and fairs.

25        NEW SECTION. **Sec. 9.** Any individual or organization, including  
26 humane societies or shelters, that interferes with or restricts the  
27 proper holding and transfer of an animal shall be liable for any losses  
28 or damages suffered by an individual or organization that may have  
29 rightfully taken possession of an animal.

30        NEW SECTION. **Sec. 10.** The following acts or parts of acts are  
31 each repealed:

- 32        (1) RCW 16.52.030 and 1982 c 114 s 2 & 1901 c 146 s 2;  
33        (2) RCW 16.52.040 and 1901 c 146 s 14; and  
34        (3) RCW 16.52.095 and Code 1881 s 840 & 1871 p 103 s 1.

1        NEW SECTION.   **Sec. 11.**   Sections 1 and 9 of this act are each added  
2   to chapter 16.52 RCW.

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