

# SENATE BILL REPORT

## ESSB 5651

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As Amended by House, April 8, 2009

**Title:** An act relating to providing humanitarian requirements for certain dog breeding practices.

**Brief Description:** Providing humanitarian requirements for certain dog breeding practices.

**Sponsors:** Senate Committee on Labor, Commerce & Consumer Protection (originally sponsored by Senators Kohl-Welles, Delvin, Kline and Tom).

**Brief History:**

**Committee Activity:** Labor, Commerce & Consumer Protection: 2/09/09, 2/19/09 [DPS, w/oRec].

Passed Senate: 3/11/09, 35-11.

Passed House: 4/08/09, 74-23.

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### SENATE COMMITTEE ON LABOR, COMMERCE & CONSUMER PROTECTION

**Majority Report:** That Substitute Senate Bill No. 5651 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Holmquist, Ranking Minority Member; Franklin, King and Kline.

**Minority Report:** That it be referred without recommendation.

Signed by Senator Honeyford.

**Staff:** Ingrid Mungia (786-7423)

**Background:** The United States Congress passed the Animal Welfare Act (Act) in 1966. The law requires the humane care and treatment of certain animals sold as pets at the wholesale level, transported in commerce, and used in research or exhibits. Individuals using or working with these animals must be licensed or registered by the United States Department of Agriculture (Department). They also must comply with regulations and standards enforced by the Department's Animal and Plant Health Inspection Service (APHIS). Although the Act generally does not cover domestic pets in retail stores, APHIS does inspect the wholesale dealers that supply such stores with dogs and cats.

Washington State's law for the prevention of cruelty to animals prohibits certain practices and activities involving animals. The law prohibits transporting or confining animals in an

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unsafe manner, engaging animals in exhibition fighting with other animals, and poisoning animals. Law enforcement agencies and animal care and control agencies may enforce the provisions of the animal cruelty law. Counties may individually regulate kennels, grooming facilities, and pet stores.

**Summary of Engrossed Substitute Bill:** At any time a person may not own, possess, control or otherwise have charge or custody of more than 50 dogs with intact sexual organs over the age of six months. Any person who owns, possesses, controls, or otherwise has charge or custody of more than ten 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 space to allow each dog to turn about freely, stand, sit, and lie down;
- provide each dog that is over the age of four months with a minimum of one exercise period during each day for a total of not less than one hour of exercise during such day;
- maintain adequate housing facilities and primary enclosures;
- provide dogs with easy and convenient access to adequate amounts of clean food and water; and
- provide veterinary care without delay when necessary.

Housing facilities and primary enclosure must meet the following minimum requirements:

- housing facilities and primary enclosures must be kept in sanitary conditions;
- housing facilities must enable all dogs to remain dry and clean;
- housing facilities must provide shelter and protection from extreme temperatures and weather conditions that may be uncomfortable or hazardous to the dogs;
- housing facilities must provide sufficient shade to shelter all the dogs housed in the primary enclosure at one time;
- a primary enclosure must have floors that are constructed in a manner that protects the dogs' feet and legs from injury;
- primary enclosures must be placed no higher than 42 inches above the floor and may not be placed over or stacked on top of another cage or primary enclosure;
- feces, hair, dirt, debris, and food waste must be removed from primary enclosures at least daily or more often if necessary; and
- all dogs housed in the same enclosure must be compatible.

Any animal control officer or other authorized public health or safety official may, upon receiving a complaint or upon that person's own motion, investigate any violation.

The prohibition does not apply to seven different types of facilities:

- a publicly-operated animal control facility or animal shelter;
- a private, charitable, not-for-profit humane society or animal adoption organization;
- a veterinary facility;
- a retail pet store;
- a research institution;
- a boarding facility;
- a grooming facility;
- a USDA-licensed commercial dog breeder prior to the effective date of the act; or

- a USDA-licensed commercial dog breeder, after the effective date of this act, except for the prohibition against having 50 dogs with intact sexual organs over the age of six months.

A person who violates the prohibition is guilty of a gross misdemeanor.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** The bill takes effect on January 1, 2010.

**Staff Summary of Public Testimony:** PRO: This is a consumer protection issue as well as a protection bill on the part of animals. Animals should have clean facilities and be able to move around and get fresh air and not be kept in horrible conditions and continue to breed. There are outstanding breeding operations in this state. This bill is not designed to provide a hardship on those that care for dogs properly. We want to make things humane for this pet population. The puppy mill discovered at Goldwater was wrong. Multiple dogs were stacked in crates and freezers. Law enforcement is powerless to intervene under current statute unless dogs show obvious signs of abuse and neglect. It is important to put restrictions in place on those that cannot regulate themselves. This bill would allow law enforcement officers to prevent the disturbing situations we find and allow us to act sooner and prevent the damage that is occurring. Law enforcement has to have evidence to go onto a property. We have to wait until there is a violation of cruelty or confinement. We would like to get to this sooner.

In this country each year approximately 2.5 million puppies are born in puppy mills where no regulations exist. This bill will require suitable housing to allow temperature control and ventilation. Dogs from puppy mills have a large degree of health problems, including genital defects and life-threatening illnesses. As a result of lax regulations, these dogs also cause health threats to people who purchase these puppies. The cruelty statute is the only way we have been able to fight against puppy mills. Please add language regarding the disposition of animals that are removed from puppy mills and the future activity of individuals once they are convicted.

This bill will address a glaring loophole in the USDA commercial breeder licensing program. Under Federal law, the USDA will only license breeders with more than three breeding females that sell at the wholesale level. There is no statewide regulation for breeders that sell directly to the public. This bill will establish a baseline for breeders in the state that can be used for the basic welfare of dogs in commercial breeding facilities. This bill provides a necessary stop-gap between responsible breeders and large scale breeders that are already regulated under federal regulation. There is a dire need for uniformity across the counties.

CON: In the first couple of paragraphs, the word "puppy mill" is there six times, but there is no definition of puppy mill or licensed breeder. The terms need to be defined. Craig's List is a big problem. The state should implement some sort of AKC registration program for every

puppy that is born. You can't address the problem unless you know where the puppy is from. The regulations apply to anybody with ten dogs over the age of four months. The effect on a responsible breeder is significant. The language allows an animal control officer to enter my property without a warrant. This violates my constitutional rights. Breeders shouldn't be shut down because other breeders are doing wrong things. This bill needs to target those that are not licensed. This bill needs to be changed and applied statewide. This bill doesn't address breeders who are doing it in the correct way.

**Persons Testifying:** PRO: Senator Kohl-Welles, prime sponsor; Emily Diaz, Skagit County Sheriff's Office Animal Control; Dylan Doty, Federation of Animal Control Agencies; Brad Evergreen, Humane Society Veterinary Medical Association; Kurt Meacham, Washington Federation of Animal Care & Control Agencies; Audrey Long, Theresa Edwards, Terrah Hatch, Brandon Hatch, citizens; Susanne Beauregard, Animal Services of Thurston County; Dan Paul, The Humane Society of the United States.

CON: Sylvie McGee, citizen; Carrie Loffelmachen, Hobby Kennel & Pet Store Owner; Sarah Wendell, Dog Groomer & Pet Store employee; Melani Keel, Hitopp Kennel.

**House Amendment(s):** Removes the requirement that housing facilities be equipped with smoke alarms. Removes references to sprinkler systems as a means of fire suppression, but still requires a means of fire suppression such as fire extinguishers. Removes the requirement that the ambient temperature in the housing facility be between 50-85 degrees. Removes specifications regarding the slats in the floors of the dogs' enclosures. Provides that the exercise standards related to enclosures are based on the minimum allowable enclosure size rather than the primary enclosure size. Removes the prohibition against the use of treadmills to exercise the dogs. Removes the requirement that male unaltered dogs be examined by a veterinarian at least once per year and female unaltered dogs be examined either once per year or prior to each attempt at breeding, whichever occurs more frequently. Provides that commercial dog breeders licensed by the USDA before the effective date of the act are only exempt from the prohibition of having more than 50 dogs. Commercial dog breeders licensed by the USDA after the effective date of the act are not exempt from the act. Removes the provision regarding an animal control officer investigating complaints. Removes the definition of "large-scale breeding facility." Clarifies the requirements regarding dogs being in the same enclosure with other dogs.