

# HOUSE BILL REPORT

## HB 1202

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**As Reported by House Committee On:**  
Judiciary

**Title:** An act relating to the prevention of animal cruelty.

**Brief Description:** Preventing animal cruelty.

**Sponsors:** Representatives Roberts, Haler, Haigh, Hunt, Reykdal, Sullivan, Ryu, Dunshee, Goodman, Fitzgibbon, Pollet, Sells, Appleton, Stanford, Lias, Upthegrove, Maxwell, Cody, Tharinger, Jinkins, Bergquist and Ormsby.

**Brief History:**

**Committee Activity:**

Judiciary: 1/31/13, 2/12/13 [DPS].

**Brief Summary of Substitute Bill**

- Allows law enforcement and animal control officers, and fire and rescue workers, to remove an animal from a confined space when the officer or worker has probable cause to believe the animal is in a life-threatening situation.
- Makes numerous amendments broadening existing animal cruelty statutes.
- Makes several technical changes to the animal cruelty chapter.

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### HOUSE COMMITTEE ON JUDICIARY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Pedersen, Chair; Hansen, Vice Chair; Goodman, Jinkins, Kirby, Orwall and Roberts.

**Minority Report:** Do not pass. Signed by 6 members: Representatives Rodne, Ranking Minority Member; O'Ban, Assistant Ranking Minority Member; Hope, Klippert, Nealey and Shea.

**Staff:** Omeara Harrington (786-7136).

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

## **Background:**

### Animal Cruelty.

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 gross misdemeanor. It is an affirmative defense that the failure to provide care was due to economic distress beyond the defendant's control.

### Other Crimes Involving Animals.

In addition to prohibiting animal cruelty, the state's laws regarding the prevention of cruelty to animals prohibit certain specific 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 killing or stealing animals belonging to another person.

#### *Unsafe Confinement.*

Transporting or confining a domestic animal in an unsafe manner is a misdemeanor. If a domestic animal is confined without necessary food and water for more than 36 consecutive hours, any person may enter the area in which the animal is confined and provide food and water. The person providing care to the animal is not subject to liability for the entry, and is entitled to reimbursement for the food and water. Investigating officers may, if it is extremely difficult to supply food and water, remove the animal and take it into protective custody.

#### *Animal Fighting.*

It is unlawful to possess, sell, or train a dog or male chicken for the purpose of an animal fighting exhibition. It is also unlawful to organize, promote, watch, or wager bets on fights between dogs or male chickens. This offense is punishable as a class C felony.

#### *Killing or Harming Livestock.*

It is unlawful for a person to, with malice, kill or cause substantial bodily harm to livestock belonging to another person. A violation constitutes a class C felony.

#### *Killing or Stealing a Pet Animal.*

Any person who kills or obscures the identity of a pet animal, or who steals a pet animal worth up to \$250, is subject to a mandatory fine of \$500 per animal. This conduct also constitutes a gross misdemeanor.

### Enforcement of Animal Cruelty Laws.

Law enforcement agencies and local animal care and control agencies may enforce the animal cruelty laws. A law enforcement officer or animal control officer may, with a warrant, remove an animal to a suitable place for care if the officer has probable cause to believe the owner has violated the animal cruelty laws and there is no responsible person available who can assume the animal's care. The officer may remove an animal without a warrant if the animal is in an immediate life-threatening situation.

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### **Summary of Substitute Bill:**

It is unlawful to leave or confine any animal unattended in a motor vehicle or enclosed space in a manner that places the animal in a life or health-threatening situation due to exposure to extreme temperatures or inadequate ventilation. Animal control officers, law enforcement officers, and fire and rescue workers may enter the vehicle or enclosed space and remove the animal upon probable cause to believe a violation has occurred, and will not be held liable for the entry. Violation is a class 2 infraction carrying a fine of up to \$125, plus statutory assessments. If the animal suffers physical pain, injury, or death from the confinement, the person may be subject to prosecution under the animal cruelty statutes.

Several changes are made to the Animal Cruelty in the second degree statute. Causing injury to an animal with criminal negligence is added to the list of prohibited conduct, as is causing injury though knowing, reckless, or criminally negligent failure to provide food or water. The economic duress defense is eliminated.

Numerous other changes are made to the animal cruelty statutes:

- Organized fighting involving any species, rather than just dogs and male chickens, is prohibited, as is directing a child to engage in animal fighting activities.
- It is unlawful to, with malice, kill or cause substantial bodily harm to any kind of animal owned by another person, and is no longer limited to livestock.
- The value limit on a pet animal, the theft of which is subject to a mandatory \$500 fine, is raised to \$750, which is the monetary threshold for Theft in the third degree. A person in violation of the statute may also be prosecuted for animal cruelty.
- A number of technical changes are made throughout the animal cruelty chapter.

### **Substitute Bill Compared to Original Bill:**

The civil infraction for failure to provide care to an animal is removed.

Changes are made to the definitions section. The definition of necessary food is amended to include consideration of the animal's condition. The definitions of necessary medical attention, necessary rest, necessary shelter, and necessary space are removed.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute 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) This bill clarifies existing law and addresses additional concerns. Particularly important is the issue of leaving animals in cars that are very hot or very cold. Another highlight of the bill is the removal of the economic duress defense. People who have animals they cannot care for now have other groups to turn to for help.

This bill provides for early intervention. This will help avoid the criminal process, which will save time and money. A number of the provisions were borrowed from local ordinances that would be beneficial to apply state-wide.

The definition of necessary medical attention is stringent and may be over broad, but there is not an over enthusiastic desire to prosecute pet owners. It may be necessary to add that "reasonable" medical attention is adequate to address care of geriatric animals.

Animals are sentient beings with a spiritual presence. Not passing this proposal sends an implicit message that animal cruelty has no consequence. It is necessary to do something, and it is okay to make mistakes.

(With concerns) The livestock exemption needs to be clearer, and should reference RCW 16.52.185 directly.

(Opposed) None.

**Persons Testifying:** (In support) Representative Roberts, prime sponsor; Rick Hall, Washington Alliance for Humane Legislation; Brian Boman, Pierce County Animal Control; Denise McVicker, The Humane Society for Tacoma; and Elizabeth Bray.

(With concerns) Jack Field, Washington Cattlemen's Association.

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