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**SUBSTITUTE SENATE BILL 5501**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Senate Law & Justice (originally sponsored by Senators Fain, Frockt, Kohl-Welles, and Chase)

AN ACT Relating to the prevention of animal cruelty; amending RCW 16.52.117, 16.52.320, 9.08.070, 16.52.205, and 16.52.180; reenacting and amending RCW 16.52.011; adding a new section to chapter 16.52 RCW; and prescribing penalties.

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

NEW SECTION. **Sec.**  A new section is added to chapter 16.52 RCW to read as follows:

(1) It is a class 2 civil infraction under RCW 7.80.120 to leave or confine any animal unattended in a motor vehicle or enclosed space if the animal could be harmed or killed by exposure to excessive heat, cold, lack of ventilation, or lack of necessary water.

(2) To protect the health and safety of an animal, an animal control officer or law enforcement officer who reasonably believes that an animal is suffering or is likely to suffer harm from exposure to excessive heat, cold, lack of ventilation, or lack of necessary water is authorized to enter a vehicle or enclosed space to remove an animal by any means reasonable under the circumstances if no other person is present in the immediate area who has access to the vehicle or enclosed space and who will immediately remove the animal. An animal control officer, law enforcement officer, or the department or agency employing such an officer is not liable for any damage to property resulting from actions taken under this section.

(3) Nothing in this section prevents the person who has confined the animal in the vehicle or enclosed space from being convicted of separate offenses for animal cruelty under RCW 16.52.205 or 16.52.207.

(4) No part of this section shall be deemed to interfere with any of the laws regulating or any legal right to engage in agriculture, rodeos, farms, parades, use under game laws, official sport competitions licensed or regulated by the state, use of service animals, handling of animals known as dangerous to life, limb, or property, any right to kill animals to be used for food, or with any properly conducted scientific experiments or investigations, which experiments or investigations must be performed only under the authority of the faculty of a regularly incorporated college or university of the state of Washington or a research facility registered with the United States department of agriculture and regulated by 7 U.S.C. Sec. 2131 et seq., or any other similar lawful activities.

**Sec.**  RCW 16.52.011 and 2011 c 172 s 1 and 2011 c 67 s 3 are each reenacted and amended to read as follows:

(1) Principles of liability as defined in chapter 9A.08 RCW apply to this chapter.

(2) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(a) "Abandons" means the knowing or reckless desertion of an animal by its owner or the causing of the animal to be deserted by its owner, in any place, without making provisions for the animal's adequate care.

(b) "Animal" means any nonhuman mammal, bird, reptile, or amphibian.

(c) "Animal care and control agency" means any city or county animal control agency or authority authorized to enforce city or county municipal ordinances regulating the care, control, licensing, or treatment of animals within the city or county, and any corporation organized under RCW 16.52.020 that contracts with a city or county to enforce the city or county ordinances governing animal care and control.

(d) "Animal control officer" means any individual employed, contracted, or appointed pursuant to RCW 16.52.025 by an animal care and control agency or humane society to aid in the enforcement of ordinances or laws regulating the care and control of animals. For purposes of this chapter, the term "animal control officer" shall be interpreted to include "humane officer" as defined in (g) of this subsection and RCW 16.52.025.

(e) "Euthanasia" means the humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death, or by a method that causes painless loss of consciousness, and death during the loss of consciousness.

(f) "Food" means food or feed appropriate to the species for which it is intended.

(g) "Humane officer" means any individual employed, contracted, or appointed by an animal care and control agency or humane society as authorized under RCW 16.52.025.

(h) "Law enforcement agency" means a general authority Washington law enforcement agency as defined in RCW 10.93.020.

(i) "Livestock" includes, but is not limited to, horses, mules, cattle, sheep, swine, goats, and bison.

(j) "Necessary food" means the provision at suitable intervals of wholesome foodstuff suitable for the animal's age ((~~and~~)), species, and condition, and that is sufficient to provide a reasonable level of nutrition for the animal and is easily accessible to the animal or as directed by a veterinarian for medical reasons.

(k) "Necessary water" means water that is in sufficient quantity and of appropriate quality for the species for which it is intended and that is accessible to the animal or as directed by a veterinarian for medical reasons.

(l) "Owner" means a person who has a right, claim, title, legal share, or right of possession to an animal or a person having lawful control, custody, or possession of an animal.

(m) "Person" means individuals, corporations, partnerships, associations, or other legal entities, and agents of those entities.

(n) "Similar animal" means: (i) For a mammal, another animal that is in the same taxonomic order; or (ii) for an animal that is not a mammal, another animal that is in the same taxonomic class.

(o) "Substantial bodily harm" means substantial bodily harm as defined in RCW 9A.04.110.

(p) "Malice" has the same meaning as provided in RCW 9A.04.110, but applied to acts against animals.

**Sec.**  RCW 16.52.117 and 2006 c 287 s 1 are each amended to read as follows:

(1) A person commits the crime of animal fighting if the person knowingly does any of the following or causes a minor to do any of the following:

(a) Owns, possesses, keeps, breeds, trains, buys, sells, or advertises or offers for sale any animal with the intent that the animal shall be engaged in an exhibition of fighting with another animal;

(b) ((~~Knowingly~~)) Promotes, organizes, conducts, participates in, is a spectator of, advertises, prepares, or performs any service in the furtherance of, an exhibition of animal fighting, transports spectators to an animal fight, or provides or serves as a stakeholder for any money wagered on an animal fight ((~~at any place or building~~));

(c) Keeps or uses any place for the purpose of animal fighting, or manages or accepts payment of admission to any place kept or used for the purpose of animal fighting;

(d) Suffers or permits any place over which the person has possession or control to be occupied, kept, or used for the purpose of an exhibition of animal fighting; or

(e) Takes, leads away, possesses, confines, sells, transfers, or receives ((~~a stray animal or a pet animal, with the intent to deprive the owner of the pet animal, and~~)) an animal with the intent of using the ((~~stray~~)) animal ((~~or pet animal~~)) for animal fighting, or for training or baiting for the purpose of animal fighting.

(2) A person who violates this section is guilty of a class C felony punishable under RCW 9A.20.021.

(3) Nothing in this section prohibits the following:

(a) The use of dogs in the management of livestock, as defined by chapter 16.57 RCW, by the owner of the livestock or the owner's employees or agents or other persons in lawful custody of the livestock;

(b) The use of dogs in hunting as permitted by law; or

(c) The training of animals or the use of equipment in the training of animals for any purpose not prohibited by law.

(4) ((~~For the purposes of this section, "animal" means dogs or male chickens.~~)) No part of this section shall be deemed to interfere with any of the laws regulating or any legal right to engage in agriculture, rodeos, farms, parades, use under game laws, official sport competitions licensed or regulated by the state, use of service animals, handling of animals known as dangerous to life, limb, or property, any right to kill animals to be used for food, or with any properly conducted scientific experiments or investigations, which experiments or investigations must be performed only under the authority of the faculty of a regularly incorporated college or university of the state of Washington or a research facility registered with the United States department of agriculture and regulated by 7 U.S.C. Sec. 2131 et seq., or any other similar lawful activities.

**Sec.**  RCW 16.52.320 and 2011 c 67 s 1 are each amended to read as follows:

(1) It is unlawful for a person to, with malice, kill or cause substantial bodily harm to livestock belonging to another person.

(2) A violation of this section constitutes a class C felony.

((~~(3) For the purposes of this section, "malice" has the same meaning as provided in RCW 9A.04.110, but applied to acts against livestock.~~))

**Sec.**  RCW 9.08.070 and 2003 c 53 s 9 are each amended to read as follows:

(1) Any person who, with intent to deprive or defraud the owner thereof, does any of the following shall be guilty of a gross misdemeanor punishable according to chapter 9A.20 RCW and by a mandatory fine of not less than five hundred dollars per pet animal, except as provided by subsection (2) of this section:

(a) Takes, leads away, confines, secretes or converts any pet animal, except in cases in which the value of the pet animal exceeds ((~~two~~)) seven hundred fifty dollars;

(b) Conceals the identity of any pet animal or its owner by obscuring, altering, or removing from the pet animal any collar, tag, license, tattoo, or other identifying device or mark;

(c) Willfully or recklessly kills or injures any pet animal, unless excused by law.

(2) Nothing in this section shall prohibit a person from also being convicted of separate offenses under RCW 9A.56.030, 9A.56.040, or 9A.56.050 for theft ((~~or~~)), under RCW 9A.56.150, 9A.56.160, or 9A.56.170 for possession of stolen property, or under chapter 16.52 RCW for animal cruelty.

**Sec.**  RCW 16.52.205 and 2006 c 191 s 1 are each amended to read as follows:

(1) A person is guilty of animal cruelty in the first degree when, except as authorized in law, he or she ((~~intentionally~~)): (a) Intentionally inflicts substantial pain on, ((~~(b) causes physical injury to, or (c) kills an animal by a means causing undue suffering, or forces a minor to inflict unnecessary pain, injury, or death on~~)) causes physical injury to, or kills an animal (i) by a means causing undue suffering; (ii) with malice; or (iii) while manifesting an extreme indifference to life; or (b) forces a minor to inflict substantial pain on, cause physical injury to, or kill an animal.

(2) A person is guilty of animal cruelty in the first degree when, except as authorized by law, he or she, with criminal negligence, starves, dehydrates, or suffocates an animal and as a result causes: (a) Substantial and unjustifiable physical pain that extends for a period sufficient to cause considerable suffering; or (b) death.

(3) A person is guilty of animal cruelty in the first degree when he or she:

(a) Knowingly engages in any sexual conduct or sexual contact with an animal;

(b) Knowingly causes, aids, or abets another person to engage in any sexual conduct or sexual contact with an animal;

(c) Knowingly permits any sexual conduct or sexual contact with an animal to be conducted on any premises under his or her charge or control;

(d) Knowingly engages in, organizes, promotes, conducts, advertises, aids, abets, participates in as an observer, or performs any service in the furtherance of an act involving any sexual conduct or sexual contact with an animal for a commercial or recreational purpose; or

(e) Knowingly photographs or films, for purposes of sexual gratification, a person engaged in a sexual act or sexual contact with an animal.

(4) Animal cruelty in the first degree is a class C felony.

(5) In addition to the penalty imposed in subsection (4) of this section, the court may order that the convicted person do any of the following:

(a) Not harbor or own animals or reside in any household where animals are present;

(b) Participate in appropriate counseling at the defendant's expense;

(c) Reimburse the animal shelter or humane society for any reasonable costs incurred for the care and maintenance of any animals taken to the animal shelter or humane society as a result of conduct proscribed in subsection (3) of this section.

(6) Nothing in this section may be considered to prohibit accepted animal husbandry practices or accepted veterinary medical practices by a licensed veterinarian or certified veterinary technician.

(7) If the court has reasonable grounds to believe that a violation of this section has occurred, the court may order the seizure of all animals involved in the alleged violation as a condition of bond of a person charged with a violation.

(8) For purposes of this section:

(a) "Animal" means every creature, either alive or dead, other than a human being.

(b) "Sexual conduct" means any touching or fondling by a person, either directly or through clothing, of the sex organs or anus of an animal or any transfer or transmission of semen by the person upon any part of the animal, for the purpose of sexual gratification or arousal of the person.

(c) "Sexual contact" means any contact, however slight, between the mouth, sex organ, or anus of a person and the sex organ or anus of an animal, or any intrusion, however slight, of any part of the body of the person into the sex organ or anus of an animal, or any intrusion of the sex organ or anus of the person into the mouth of the animal, for the purpose of sexual gratification or arousal of the person.

(d) "Photographs" or "films" means the making of a photograph, motion picture film, videotape, digital image, or any other recording, sale, or transmission of the image.

(9) No part of this section shall be deemed to interfere with any of the laws regulating or any legal right to engage in agriculture, rodeos, farms, parades, use under game laws, official sport competitions licensed or regulated by the state, use of service animals, handling of animals known as dangerous to life, limb, or property, any right to kill animals to be used for food, or with any properly conducted scientific experiments or investigations, which experiments or investigations must be performed only under the authority of the faculty of a regularly incorporated college or university of the state of Washington or a research facility registered with the United States department of agriculture and regulated by 7 U.S.C. Sec. 2131 et seq., or any other similar lawful activities.

**Sec.**  RCW 16.52.180 and 1994 c 261 s 12 are each amended to read as follows:

No part of this chapter shall be deemed to interfere with any of the laws regulating or any legal right to engage in agriculture, rodeos, farms, parades, use under game laws, official sport competitions licensed or regulated by the state, use of service animals, nor to interfere with any of the laws of this state known as the "game laws," nor be deemed to interfere with the right to destroy any venomous reptile or any known as dangerous to life, limb, or property, or to interfere with the right to kill animals to be used for food or with any properly conducted scientific experiments or investigations, which experiments or investigations shall be performed only under the authority of the faculty of some regularly incorporated college or university of the state of Washington or a research facility registered with the United States department of agriculture and regulated by 7 U.S.C. Sec. 2131 et seq.

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