
Judiciary Committee

HB 1150

Title: An act relating to civil remedies for damages to a companion animal.

Brief Description: Providing civil remedies for damages to a companion animal.

Sponsors: Representatives Williams, Simpson, Uptegrove, Ormsby, Campbell and Goodman.

Brief Summary of Bill

- Allows the owner of a companion animal to recover exemplary damages up to three times the actual damages sustained, plus attorney's fees, for acts against a companion animal constituting animal cruelty in the first degree.
- Defines the term "companion animal."

Hearing Date: 1/26/09

Staff: Courtney Barnes (786-7194)

Background:

The state prohibits certain practices and activities involving the treatment of animals. Among the state's prohibitions are transporting or confining animals in an unsafe manner, engaging animals in exhibition fighting with other animals, and animal cruelty.

Animal Cruelty in the First Degree

A person is guilty of animal cruelty in the first degree when he or she intentionally inflicts substantial pain, causes physical injury, or kills an animal by any means that causes undue suffering.

A person commits animal cruelty in the first degree when, with criminal negligence, he or she starves, dehydrates, or suffocates an animal and as a result causes death or substantial and unjustifiable physical pain for a duration sufficient to cause considerable suffering. Sexual conduct or contact with an animal is explicitly prohibited. Knowingly engaging in, aiding

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another to engage in, observing, or facilitating such conduct constitutes animal cruelty in the first degree.

The animal cruelty law contains a number of exemptions, including:

- licensed research institutions;
- accepted husbandry practices in the commercial raising or slaughtering of livestock;
- the customary use of animals in rodeos or fairs;
- the killing of animals for food; and
- practices authorized under the "game laws."

Recovery for Damages

As a matter of law, pets are characterized as personal property. Pet owners may recover damages for the loss of their personal property. Generally, if damaged property is a total loss, the measure of damages is the market value of the property destroyed. If property is damaged but not destroyed, the measure of damages is the difference between the market value of the property before the injury and its market value after the injury. If damaged property does not have a market value and it is a total loss, the measure of damages is the cost to replace or reproduce the property.

A 2008 Washington Court of Appeals case, *Sherman v. Kissinger*, suggests that pets may not always have a market or replacement value. In such a case, the value to the owner may be considered in fixing damages. The value to the owner is called the "intrinsic value" of the property. A jury decides the measure of damages. When fixing damages, a jury cannot consider the sentimental value of the property.

Summary of Bill:

The owner of a companion animal may bring an action for exemplary damages up to three times the actual damages sustained, plus attorney's fees, for acts against a companion animal constituting animal cruelty in the first degree.

A "companion animal" is any nonhuman mammal, bird, reptile, fish, or amphibian that is lawfully owned or possessed and is under the care, custody, or ownership of a person.

Exempted from the definition of companion animal are:

- animals raised solely for meat production, production of products from the animal, or breeding purposes;
- research animals regulated under federal law; and
- wildlife.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.