

HOUSE BILL REPORT

SSB 5402

As Reported by House Committee On:
Judiciary

Title: An act relating to prevention of animal cruelty.

Brief Description: Regarding the prevention of animal cruelty.

Sponsors: Senate Committee on Judiciary (originally sponsored by Senators Tom, Carrell, Shin, Delvin, Kline, Fraser, Roach, Kohl-Welles and Marr).

Brief History:

Committee Activity:

Judiciary: 3/19/09, 3/26/09 [DPA].

**Brief Summary of Substitute Bill
(As Amended by House)**

- Changes the circumstances under which a court must prohibit a person convicted of a violation of the animal cruelty law from possessing similar animals.
- Allows a law enforcement officer or animal control officer to seize an animal possessed in violation of a court order prohibiting possession of similar animals.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended. Signed by 11 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Flannigan, Kelley, Kirby, Ormsby, Roberts, Ross and Warnick.

Staff: Edie Adams (786-7180)

Background:

The state's law for the prevention of cruelty to animals prohibits certain practices and activities involving animals. Among the law's prohibitions are transporting or confining

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animals in an unsafe manner, engaging animals in exhibition fighting with other animals, and poisoning animals. In addition, the chapter contains the animal cruelty crimes.

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 food, water, shelter, rest or medical attention, or by abandoning the animal. Animal cruelty in the second degree is a misdemeanor.

Law enforcement agencies and local animal care and control agencies may enforce the animal cruelty law. A law enforcement officer or animal control officer may remove an animal to a suitable place for care if the officer has probable cause to believe the owner has violated the animal cruelty law and there is no person who can assume the animal's care. Written notice of the circumstances of the removal and available legal remedies must be provided to the owner. Fifteen days after removal, the agency that has custody of the animal may allow the adoption of the animal or the destruction of the animal by euthanasia. An owner may prevent the adoption or destruction of the animal by filing a petition for the return of the animal or by posting a bond or security to provide for the animal's care.

When a person is convicted of a violation of the animal cruelty law, the court must order forfeiture of all animals held by law enforcement or animal control authorities if any one of the animals involved dies as a result of the violation or if the defendant has a prior conviction under the animal cruelty law. In other cases, the court may order forfeiture of the animal if the animal's treatment was severe and is likely to reoccur.

If the court orders forfeiture, the court must prohibit the owner from owning or caring for any similar animal for a period of two years. "Similar animal" is not defined in the statute.

Summary of Amended Bill:

The circumstances under which a court must prohibit a person from owning similar animals based on a violation of the animal cruelty laws are changed. When a court orders forfeiture of a defendant's animal, the court must prohibit the defendant from owning or caring for a similar animal for the following time periods:

- two years for a first conviction of animal cruelty in the second degree;
- permanently for a first conviction of animal cruelty in the first degree; and
- permanently for a second or subsequent animal cruelty conviction, although the person may petition for restoration of the right to possess similar animals under limited circumstances.

A person who has no more than two convictions for animal cruelty where each conviction is for animal cruelty in the second degree may petition for the restoration of the right to possess similar animals five years after the date of the second conviction. In determining whether restoration should be allowed, the court must consider the prior convictions, the type of harm or violence inflicted upon the animals, whether the person has completed the conditions imposed by the court as a result of the convictions, and other matters material to determining whether the person is likely to abuse another animal.

A law enforcement officer or animal control officer who has probable cause to believe that a person owns or possesses an animal in violation of an order prohibiting possession of similar animals may remove the animal to a suitable place for care. The agency with custody of the animal assumes ownership upon seizure, and the owner may not prevent the animal's adoption or destruction by petitioning the court or posting a bond.

"Similar animal" is defined as an animal classified in the same genus.

Amended Bill Compared to Original Bill:

The amended bill provides that the court must ban possession of similar animals for any conviction subsequent to a second conviction (not just on the second conviction), and clarifies that the ability to petition for restoration of the right to possess similar animals applies when the person has no more than two convictions of animal cruelty in the second degree.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Amended 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 is necessary because of the lack of adequate provisions in current law. When a person is convicted of animal cruelty in the first degree, the court can only impose a two-year ban on the possession of similar animals. After the two years have expired, the person is able to get a new animal and potentially abuse that animal as well. This bill will provide protection to animals by requiring the court to impose a lifetime ban on possessing similar animals when a person is convicted of this crime.

This is a very serious crime that involves severe abuse of animals. The people who commit these horrible acts have no sense of compassion and are indifferent to the suffering and death they cause. Many of these people are repeat offenders who do not change their ways. A lifetime ban is necessary so that they cannot continue to abuse animals in the future. There is a tremendous amount of time and energy that goes into investigating and prosecuting animal

cruelty cases. This bill will help avoid the expenditure of resources and emotional energy on cases that can be prevented, and more importantly, help prevent future pain and suffering for animals.

(Opposed) None.

Persons Testifying: Debra Eurich, Thurston County Prosecuting Attorney's Office; Susanne Beauregard and Erika Quinn-Ellanbecker, Thurston County Joint Animal Services; Donna Snow; and Julie Corwin.

Persons Signed In To Testify But Not Testifying: None.