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SENATE BILL 5204

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State of Washington

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2013 Regular Session

By Senators Kohl-Welles, Shin, Chase, Carrell, Conway, Nelson, Delvin, Darneille, Frockt, Keiser, and Kline

Read first time 01/23/13. Referred to Committee on Law & Justice.

1 AN ACT Relating to the prevention of animal cruelty; amending RCW  
2 16.52.117, 16.52.207, 16.52.320, and 9.08.070; reenacting and amending  
3 RCW 16.52.011; adding new sections to chapter 16.52 RCW; and  
4 prescribing penalties.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 16.52 RCW  
7 to read as follows:

8 (1) An owner who, under circumstances not amounting to animal  
9 cruelty in the first or second degree, fails to provide an animal with  
10 necessary food, water, shelter, ventilation, rest, sanitation, space,  
11 or medical attention has committed the civil infraction of failure to  
12 provide care.

13 (2) A law enforcement or animal control officer may issue a civil  
14 infraction under this section if the officer has probable cause to  
15 believe that there is a violation of this section.

16 (3) Failure to provide care is a class 2 civil infraction under RCW  
17 7.80.120(1)(b). Class 2 civil infractions under this section must be  
18 issued and processed in compliance with chapter 7.80 RCW. A person

1 receiving a notice of infraction may contest the infraction or explain  
2 mitigating circumstances surrounding the infraction as specified in RCW  
3 7.80.080.

4 (4) This section does not apply to:

5 (a) Lawful animal husbandry practices used in the commercial  
6 raising or slaughtering of livestock or poultry, or products thereof;  
7 or

8 (b) Care of animals engaged in formal training, hunting,  
9 competition, show, outfitting, guiding, and trail riding.

10 (5) This section does not preempt ordinances enacted by local  
11 jurisdictions that:

12 (a) Establish greater civil penalties or criminal penalties for  
13 failure to provide care; or

14 (b) Define procedures for issuing and processing civil infractions.

15 NEW SECTION. **Sec. 2.** A new section is added to chapter 16.52 RCW  
16 to read as follows:

17 (1) A person may not leave or confine any animal unattended in a  
18 motor vehicle or enclosed space in such a manner that places the animal  
19 in a life or health-threatening situation by exposure to excessive heat  
20 or cold or deprivation of ventilation.

21 (2) To protect the health and safety of an animal, an animal  
22 control officer, law enforcement officer, or employee of a fire and  
23 rescue organization who has probable cause to believe that subsection  
24 (1) of this section is being violated has the authority to enter a  
25 vehicle or enclosed space to remove an animal by any means reasonable  
26 under the circumstances, if no other person is present with access to  
27 the vehicle or enclosed space who will immediately remove the animal.  
28 An animal control officer, law enforcement officer, or employee of a  
29 fire and rescue organization or the department or agency by which such  
30 an officer or employee is employed may not be held liable for any  
31 damage to property resulting from actions taken under this section.

32 (3) A person who has confined an animal in an unsafe manner in a  
33 vehicle or enclosed space as described in subsection (1) of this  
34 section has committed a class 2 civil infraction under RCW  
35 7.80.120(1)(b). In the event that an animal suffers physical pain,  
36 injury, or death from unsafe confinement in a vehicle or enclosed

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (p) "Necessary medical attention" means prompt and appropriate  
25 treatment of an animal's illness or injury.

26 (q) "Necessary rest" means the provision of regular rest intervals  
27 sufficient to maintain an animal's health.

28 (r) "Necessary shelter" means a constructed or natural structure  
29 that provides adequate space, light, ventilation, protection from the  
30 elements and protection from heat and cold, suitable to the species,  
31 age, condition, size, and type of the animal, and that is sufficiently  
32 clean and safe to minimize the risk of injury, physical suffering, or  
33 impairment of the animal's health.

34 (s) "Necessary space" means space sufficient to allow an animal to  
35 move in a manner that does not cause injury, disfigurement, or  
36 impairment of the animal's health, suitable to the species, age,  
37 condition, size and type of animal, and that allows normal movements of  
38 the animal, such as sitting, standing, lying down, and turning around,

1 except when confinement of an animal is necessary for medical treatment  
2 or transportation. "Necessary space" includes space sufficient to  
3 allow an animal to reasonably avoid injury by other animals in the same  
4 space.

5 **Sec. 4.** RCW 16.52.117 and 2006 c 287 s 1 are each amended to read  
6 as follows:

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

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

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

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

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

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

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

32 (3) Nothing in this section prohibits the following:

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

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

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

3 ~~((4) For the purposes of this section, "animal" means dogs or male  
4 chickens.))~~

5 **Sec. 5.** RCW 16.52.207 and 2011 c 172 s 5 are each amended to read  
6 as follows:

7 (1) A person is guilty of animal cruelty in the second degree if,  
8 under circumstances not amounting to first degree animal cruelty, the  
9 person knowingly, recklessly, or with criminal negligence inflicts  
10 unnecessary injury, suffering, or pain upon an animal.

11 (2) An owner of an animal is guilty of animal cruelty in the second  
12 degree if, under circumstances not amounting to first degree animal  
13 cruelty, the owner knowingly, recklessly, or with criminal negligence:

14 (a) Fails to provide the animal with necessary food, water,  
15 shelter, rest, sanitation, space, or medical attention and the animal  
16 suffers unnecessary or unjustifiable physical pain or injury as a  
17 result of the failure; or

18 (b) ~~((Under circumstances not amounting to animal cruelty in the  
19 second degree under (c) of this subsection,))~~ Abandons the animal ~~((or  
20 (c) Abandons the animal and (i) as a result of being abandoned, the  
21 animal suffers bodily harm; or (ii) abandoning the animal creates an  
22 imminent and substantial risk that the animal will suffer substantial  
23 bodily harm))~~.

24 (3) Animal cruelty in the second degree is a gross misdemeanor.

25 ~~((4) In any prosecution of animal cruelty in the second degree  
26 under subsection (1) or (2)(a) of this section, it shall be an  
27 affirmative defense, if established by the defendant by a preponderance  
28 of the evidence, that the defendant's failure was due to economic  
29 distress beyond the defendant's control.))~~

30 **Sec. 6.** RCW 16.52.320 and 2011 c 67 s 1 are each amended to read  
31 as follows:

32 (1) It is unlawful for a person to, with malice, kill or cause  
33 substantial bodily harm to ~~((livestock belonging to))~~ animals owned by  
34 another person.

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

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

4 **Sec. 7.** RCW 9.08.070 and 2003 c 53 s 9 are each amended to read as  
5 follows:

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

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

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

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

19 (2) Nothing in this section shall prohibit a person from also being  
20 convicted of separate offenses under RCW 9A.56.030, 9A.56.040, or  
21 9A.56.050 for theft ~~((or))~~ under RCW 9A.56.150, 9A.56.160, or  
22 9A.56.170 for possession of stolen property, or under chapter 16.52 RCW  
23 for animal cruelty.

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