
SENATE BILL 5282

State of Washington 53rd Legislature 1993 Regular Session

By Senators Moore, A. Smith, Winsley and McAuliffe

Read first time 01/21/93. Referred to Committee on Agriculture.

1 AN ACT Relating to animal cruelty; amending RCW 16.52.030,
2 16.52.050, 16.52.060, 16.52.085, 16.52.090, 16.52.095, 16.52.110,
3 16.52.180, 16.52.200, 9.08.070, 81.56.120, and 13.40.150; adding new
4 sections to chapter 16.52 RCW; adding a new section to chapter 69.38
5 RCW; repealing RCW 16.52.010, 16.52.040, 16.52.055, 16.52.065,
6 16.52.113, 16.52.117, 16.52.120, 16.52.130, 16.52.140, 16.52.160,
7 16.52.165, 16.52.190, 16.52.193, and 16.52.195; and prescribing
8 penalties.

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

10 NEW SECTION. **Sec. 1.** It is the intent of the legislature with
11 chapter . . . , Laws of 1993 (this act) to update the existing animal
12 cruelty statutes and to provide penalties which more accurately reflect
13 the severity of cruelty to animals. The legislature does not intend to
14 revise, expand, or diminish in any way the existing exemptions from the
15 chapter.

16 NEW SECTION. **Sec. 2.** Unless the context clearly requires
17 otherwise, the definitions in this section apply throughout this
18 chapter.

1 (1) "Animal" means any nonhuman mammal, bird, reptile, amphibian,
2 or fish.

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

6 (3) "Person" means an individual, natural or otherwise.

7 (4) "Physical injury" means impairment of physical condition.

8 **Sec. 3.** RCW 16.52.030 and 1982 c 114 s 2 are each amended to read
9 as follows:

10 (1) All members and agents, and all officers of any society (~~(se)~~)
11 incorporated under RCW 16.52.020, as shall by the trustees of such
12 society be duly authorized in writing, approved by any judge of the
13 superior court of the county, and sworn in the same manner as are
14 (~~(constables and)~~) peace officers, shall have power lawfully to
15 interfere to prevent the perpetration of any act of cruelty upon any
16 animal and may use such force as may be necessary to prevent the same,
17 and to that end may summon to their aid any bystander; (~~(they may make~~
18 ~~arrests for the violation of any of the provisions of RCW 16.52.010~~
19 ~~through 16.52.050, 16.52.070 through 16.52.090 and 16.52.100 through~~
20 ~~16.52.180 in the same manner as herein provided for other officers;)~~)
21 and may carry the same weapons that (~~(such)~~) law enforcement officers
22 are authorized to carry. Before such approval by a judge, the members
23 and agents of any such corporation shall provide satisfactory evidence
24 to the judge that they have successfully completed a training program
25 necessary for the duties and obligations in this chapter. In approving
26 the training, the judge shall consider and give weight to similar
27 training required of law enforcement officers.

28 (2) Authorizations under this section shall be for a period not
29 exceeding three years or termination of duties, whichever occurs first.
30 The trustees of the society shall review the authorizations every three
31 years and may revoke authorizations at any time by filing a certified
32 revocation with the superior court from which the authorization was
33 issued: PROVIDED, That all such members and agents shall (~~(, when~~
34 ~~making arrests under this section,)~~) exhibit and expose a suitable
35 badge to be adopted by such society. (~~(All persons resisting such~~
36 ~~specially authorized, approved and sworn officers, agents or members~~
37 ~~shall be guilty of a misdemeanor.)~~)

1 **Sec. 4.** RCW 16.52.050 and 1901 c 146 s 10 are each amended to read
2 as follows:

3 When complaint is made on oath, to any ~~((magistrate))~~ judge
4 authorized to issue warrants in criminal cases that the complainant
5 believes that any of the provisions of law relating to or in any way
6 affecting animals, are being or are about to be violated in any
7 particular building or place, such ~~((magistrates))~~ judge shall issue
8 and deliver immediately a warrant directed to any sheriff,
9 ~~((constable))~~ deputy, police or peace officer, or officer of any
10 incorporated society qualified as provided in RCW 16.52.030,
11 authorizing him or her to enter and search such building or place ~~((~~
12 ~~and to arrest any person or persons there present violating or~~
13 ~~attempting to violate any law relating to or in any way affecting~~
14 ~~animals, and to bring such person or persons before some court or~~
15 ~~magistrate of competent jurisdiction within the city or county within~~
16 ~~which such offense has been committed or attempted to be committed, to~~
17 ~~be dealt with according to law))~~ and seize evidence of violations of
18 this chapter.

19 **Sec. 5.** RCW 16.52.060 and 1987 c 202 s 182 are each amended to
20 read as follows:

21 Any judge, sheriff, deputy, or police officer may arrest any person
22 found committing any ~~((of the))~~ act ~~((s enumerated))~~ in violation of RCW
23 ~~((16.52.065))~~ 9.08.070 or 81.56.120 or this chapter, without a warrant
24 for such arrest, and any officer or member of any humane society, or
25 society for the prevention of cruelty to animals, may cause the
26 immediate arrest of any person engaged in, or who shall have committed
27 such cruelties, upon making oral complaint to any sheriff, deputy, or
28 police officer ~~((, or such officer or member of such society may himself~~
29 ~~or herself arrest any person found perpetrating any of the cruelties~~
30 ~~herein enumerated))~~: PROVIDED, That said person making such oral
31 complaint ~~((or making such arrest))~~ shall file with a proper officer a
32 written complaint, stating the act or acts complained of, within
33 twenty-four hours, excluding Sundays and legal holidays, after such
34 arrest shall have been made.

35 NEW SECTION. **Sec. 6.** (1) A person is guilty of animal cruelty in
36 the first degree when, except as authorized in law, he or she:

1 (a) Intentionally, knowingly, or recklessly (i) inflicts
2 substantial pain on, (ii) causes physical injury to, or (iii) kills an
3 animal by a means causing undue suffering;

4 (b) Intentionally or knowingly kills any mammal or bird not owned
5 by that person; or

6 (c) Uses or causes an animal to be used for purposes of human
7 sexual arousal or intercourse, or requests or encourages the same to be
8 done.

9 (2) For purposes of prosecuting violations under this section, each
10 offense is a separate offense and shall be prosecuted accordingly.

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

12 NEW SECTION. Sec. 7. (1) A person is guilty of animal cruelty in
13 the second degree when he or she fails to provide an animal that the
14 person owns or possesses with necessary food, water, shelter, rest,
15 sanitation, ventilation, space, or medical attention and such failure
16 results in physical injury or the death of the animal.

17 (2) Animal cruelty in the second degree is a gross misdemeanor.

18 NEW SECTION. Sec. 8. (1) A person is guilty of animal cruelty in
19 the third degree when he or she fails to provide an animal that the
20 person owns or possesses with necessary food, water, shelter, rest,
21 sanitation, ventilation, space, or medical attention and such failure
22 jeopardizes the health or safety of the animal.

23 (2) Animal cruelty in the third degree is a misdemeanor.

24 NEW SECTION. Sec. 9. (1) A person is guilty of promoting animal
25 fighting who, for amusement or monetary gain:

26 (a) Causes, permits, assists, facilitates, or provides (i)
27 transportation, (ii) a premises, (iii) a facility, (iv) equipment, or
28 (v) an animal for: An animal to fight or injure another animal or a
29 human in this state;

30 (b) Maintains one or more animals with the intent that the animal
31 or animals be used in this state in violation of (a) of this
32 subsection;

33 (c) Advertises, promotes, or in any way disseminates information
34 that can be reasonably construed to be intended to attract human
35 spectators to a fight between animals or animals and humans in this
36 state; or

1 (d) Participates in a fight with an animal in this state.

2 (2) Promoting animal fighting is a class C felony.

3 (3) This section does not prohibit:

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

8 (b) The use of animals in any lawful activity licensed by the
9 state; or

10 (c) The training of animals or the use of equipment in the training
11 of animals for purposes not otherwise prohibited by law.

12 (4) For purposes of prosecuting violations under this section, each
13 offense is a separate offense and shall be prosecuted accordingly.

14 (5) For purposes of this section, it is a separate offense for each
15 animal that is maintained for purposes of intent to fight.

16 NEW SECTION. Sec. 10. (1) A person is guilty of being a spectator
17 at animal fighting when he or she is knowingly present as a spectator
18 of an animal fighting event as described in section 9 of this act (a)
19 where preparations are being made for an exhibition of fighting between
20 animals or animals and humans or (b) in which an animal is engaged in
21 fighting.

22 (2) It is not a defense that the person did not pay money to
23 observe an animal fight.

24 (3) Being a spectator at animal fighting is a gross misdemeanor.

25 **Sec. 11.** RCW 16.52.085 and 1987 c 335 s 1 are each amended to read
26 as follows:

27 (1) If the county sheriff, deputy, peace officer, or other law
28 enforcement officer (~~shall find~~) has probable cause to believe that
29 said domestic animal has been neglected or cruelly treated by its owner
30 and no responsible person can be found to assume the care of the
31 animal, he or she may authorize the removal of the animal to a (~~proper~~
32 ~~pasture or other~~) suitable place for feeding and (restoring to
33 health) care without a warrant, or place the animal under the custody
34 of the humane society, animal control agency, or agency responsible for
35 stray animals in that jurisdiction. In determining what is a suitable
36 place, the agency shall consider the animal's needs, including its size
37 and disposition.

1 (2) If ((a)) the county sheriff, deputy, peace officer, or other
2 law enforcement officer has probable cause to believe a violation of
3 this chapter has occurred, the officer may authorize an examination of
4 an allegedly neglected or abused domestic animal by a veterinarian to
5 determine whether the level of neglect or abuse is sufficient to
6 require removal of the animal. ((This section does not condone illegal
7 entry onto private property.))

8 (3) Any owner whose domestic animal is removed to a suitable place
9 pursuant to this chapter shall be given written notice of the
10 circumstances of the removal and notice of legal remedies available to
11 the owner. The notice shall be given by posting at the place of
12 seizure, by delivery to a person residing at the place of seizure, or
13 by registered mail if the owner is known. In making the decision to
14 remove an animal pursuant to this chapter, the law enforcement officer
15 shall make a good faith effort to contact the animal's owner before
16 removal unless the animal is in a life-threatening condition or unless
17 the officer reasonably believes that the owner would remove the animal
18 from the jurisdiction.

19 (4) An animal taken into custody under this section may be humanely
20 disposed of, at the discretion of the corporation or agency having
21 custody of the animal, not less than fourteen business days after the
22 animal is taken into custody. This does not preclude the euthanasia of
23 severely injured or suffering animals at any time. A person may
24 prevent the disposition of an animal in custody by: (a) Petitioning a
25 court of competent jurisdiction for the immediate return of the animal
26 subject to such conditions as the court may impose or (b) posting a
27 bond or security in an amount sufficient to provide for the animal's
28 care and keeping for a minimum of thirty days from the date of the
29 seizure. At the end of the time for which expenses have been covered
30 by the bond or security, the animal becomes the property of the
31 corporation or agency having custody unless a court order prevents such
32 a disposition. A court order preventing such a disposition may provide
33 for a bond or security for the costs to the corporation or agency
34 having custody for the care, keeping, or disposal of the animal.

35 (5) If no criminal case is filed within ~~((seventy-two hours))~~
36 fourteen business days of the removal of the animal, the owner may
37 petition ~~((the district))~~ a court of competent jurisdiction in the
38 county where the removal of the animal occurred for the return of the
39 animal. The petition shall be filed with the court, with copies served

1 to the law enforcement agency responsible for removing the animal and
2 to the prosecuting attorney. If a criminal action is filed after the
3 petition is filed but before the animal is returned, the petition shall
4 be joined with the criminal matter.

5 ~~((+5))~~ (6) In a motion or petition for the return of the removed
6 animal before a trial, the burden is on the owner to prove by a
7 preponderance of the evidence that the animal will not suffer future
8 neglect and is not in need of being restored to health.

9 ~~((+6))~~ (7) Any authorized person treating or attempting to restore
10 an animal to health under this chapter shall not be civilly or
11 criminally liable for such action.

12 **Sec. 12.** RCW 16.52.090 and 1901 c 146 s 6 are each amended to read
13 as follows:

14 Every person who shall cut ~~((or))~~, cause to be cut, or assist in
15 cutting the solid part of the tail of any horse in the operation known
16 as "docking," or in any other operation for the purpose of shortening
17 the tail or changing the carriage thereof, shall be guilty of a
18 misdemeanor.

19 **Sec. 13.** RCW 16.52.095 and Code 1881 s 840 are each amended to
20 read as follows:

21 It shall not be lawful for any person to cut off more than one-half
22 of the ear or ears of any domestic animal such as an ox, cow, bull,
23 calf, sheep, goat or hog, and any person cutting off more than one-half
24 of the ear or ears of any such animals, shall be deemed guilty of a
25 misdemeanor ~~(, and upon conviction, shall be fined in any sum less than~~
26 ~~twenty dollars))~~.

27 **Sec. 14.** RCW 16.52.110 and 1901 c 146 s 13 are each amended to
28 read as follows:

29 Every owner, driver, or possessor of any old, maimed or diseased
30 horse, cow, mule, or other domestic animal, who shall permit the same
31 to go loose in any lane, street, square, or lot or place of any city or
32 township, without proper care and attention, for more than three hours
33 after knowledge thereof, shall be guilty of a misdemeanor: PROVIDED,
34 That this shall not apply to any such owner keeping any old or diseased
35 animal belonging to him or her on his or her own premises with proper
36 care. Every sick, disabled, infirm or crippled horse, ox, mule, cow or

1 other domestic animal, which shall be abandoned on the public highway,
2 or in any open or enclosed space in any city or township, may, if,
3 after search by a peace officer or officer of such society no owner can
4 be found therefor, be (~~killed by such officer; and it shall be the~~
5 ~~duty of all peace and public officers to cause the same to be killed on~~
6 ~~information of such abandonment~~) euthanized or removed by such officer
7 to a suitable place for feeding and care, or if necessary, euthanasia.

8 NEW SECTION. **Sec. 15.** (1) Unless the context clearly requires
9 otherwise, as used in this section, "property" means anything of value.

10 (2) Upon conviction of a person for a violation of section 9 of
11 this act, the superior court may, in addition to its other powers of
12 disposition, order forfeiture of any property, including animals, that
13 was used or intended to be used to commit or facilitate the offense, or
14 that is proceeds traceable to or derived from the offense. The court
15 shall hear all motions and testimony and decide the forfeiture without
16 a jury.

17 (3) During the pendency of any criminal case alleging a violation
18 of section 9 of this act, the court may issue such orders as are
19 appropriate to prevent wrongful disposition of property subject to
20 forfeiture under this section. The court shall be guided in the entry
21 of any order under this subsection by RCW 9A.82.100.

22 (4) If any property is seized pursuant to this section, the seizing
23 agency shall immediately file a lis pendens with the appropriate county
24 official.

25 (5) All seized property shall remain under the control of the
26 seizing law enforcement agency, except animals may be released to the
27 custody of a corporation formed under RCW 16.52.020, to a public animal
28 control agency, or the agency responsible for stray animals in the
29 jurisdiction in which the arrest was made. If the owner of seized
30 property is not charged with a violation of section 9 of this act
31 within fourteen days of seizure, all seized property shall be returned.

32 (6) When ordering forfeiture of property the court shall provide
33 for the protection of bona fide security and community property
34 interests unless the holder of the interest knew of or participated in
35 the violation of section 9 of this act, and except to the extent that
36 such interests were acquired in such a way as to be forfeitable under
37 this section.

1 (7) The person seeking the protection of a security or community
2 property interest shall have the burden of proving by a preponderance
3 of the evidence the interest is bona fide and the person did not know
4 of or participate in the violation of section 9 of this act.

5 (8) The prosecuting attorney shall serve notice on the owner and
6 all persons having any known right or interest in the property that it
7 is seeking forfeiture of the property. Notice shall be made according
8 to the rules of civil procedure within fifteen calendar days following
9 the filing of criminal charges.

10 (9) Upon entry of an order of forfeiture, the seizing agency may
11 dispose of the seized property, items, or animals in any manner. The
12 disposition of any animal seized under this subsection shall consider
13 the best interest of the animal. The seizing agency may return any
14 property to a person having a secured or community property interest in
15 such property or may sell the property and remit in cash any amount due
16 and owing the secured or community interest person. Any funds received
17 from disposal of the seized property, items, or animals except as are
18 returned to secured parties or parties having a community property
19 interest may be used for such lawful purposes as the seizing agency
20 deems appropriate, including paying the costs of the investigation and
21 prosecution.

22 (10) In the event a person whose property, items, or animals were
23 seized is not charged with a violation of section 9 of this act, or is
24 not convicted of such violation, all seized property, items, and
25 animals shall be immediately returned to the person. No civil or
26 criminal liability may accrue to any individual or agency as a result
27 of any good faith arrest and seizure of any property or item.

28 **Sec. 16.** RCW 16.52.180 and 1901 c 146 s 18 are each amended to
29 read as follows:

30 (~~No part of RCW 16.52.010 through 16.52.050, 16.52.070 through~~
31 ~~16.52.090 and 16.52.100 through 16.52.180 shall be deemed to~~) This
32 chapter shall not interfere with any of the laws of this state known as
33 the "game laws," (~~nor shall RCW 16.52.010 through 16.52.050, 16.52.070~~
34 ~~through 16.52.090 and 16.52.100 through 16.52.180 be deemed to~~
35 ~~interfere~~) or with the right to destroy any venomous reptile or any
36 known as dangerous to life, limb or property, or to interfere with the
37 right to kill animals to be used for food or with any properly
38 conducted scientific experiments or investigations, which experiments

1 or investigations shall be performed only under the authority of the
2 faculty of some regularly incorporated college or university of the
3 state of Washington.

4 **Sec. 17.** RCW 16.52.200 and 1987 c 335 s 2 are each amended to read
5 as follows:

6 (1) The sentence imposed for a violation of this chapter may be
7 deferred or suspended in accordance with RCW 3.66.067 and 3.66.068,
8 however the probationary period shall be two years.

9 (2) In case of multiple convictions, the sentences shall be
10 consecutive, however the probationary period shall remain two years.

11 (3) In addition to the penalties imposed by the court, the court
12 shall order the forfeiture of all animals held by law enforcement
13 authorities under the provisions of this chapter if any one of the
14 animals involved dies as a result of a violation of this chapter or if
15 the ~~((defendant))~~ offender has a prior conviction under this chapter.
16 In other cases the court may enter an order requiring the owner to
17 forfeit the animal if the court ~~((deems))~~ finds the ~~((cruel))~~
18 of the animal to have been severe and likely to reoccur. If forfeiture
19 is ordered, the owner shall be prohibited from owning or caring for any
20 similar animals for a period of ~~((two-years))~~ time for which the
21 sentencing court retains jurisdiction. The court may delay its
22 decision on forfeiture under this subsection until the end of the
23 probationary period.

24 (4) In addition to fines and court costs, the ~~((owner))~~ offender,
25 only if convicted or in agreement, shall be liable for reasonable costs
26 incurred pursuant to this chapter, including expenses for the
27 investigation of the violation and the care or disposal of the animal
28 or animals, by the law enforcement or authorized private or public
29 entities involved with the care of the animals.

30 (5) If convicted, the ~~((owner))~~ offender shall also pay a civil
31 penalty of one ~~((hundred))~~ thousand dollars to the county to prevent
32 cruelty to animals. These funds shall be used to prosecute offenses
33 under this chapter and to care for forfeited animals pending trial.

34 (6) In addition to the penalties imposed by the court, the court
35 may, when otherwise authorized, order the offender to participate in a
36 program designed to provide prevention, treatment, or education in the
37 area of animal cruelty.

1 NEW SECTION. **Sec. 18.** (1) An owner whose animal is subjected to
2 any act that is a violation of this chapter or RCW 9.08.070,
3 9A.48.080(1)(c), or 81.56.120 may bring an action to recover the actual
4 damages sustained by him or her. Actual damages may include emotional
5 distress suffered by an owner.

6 (2) In an action brought under subsection (1) of this section,
7 regardless of whether an award of actual damages is obtained, a court
8 may award a sum of not less than five hundred dollars and not more than
9 five thousand dollars to an owner whose animal is subjected to any act
10 that is a violation of this chapter or RCW 9.08.070, 9A.48.080(1)(c),
11 or 81.56.120.

12 (3) A city, county, or corporation that is incorporated pursuant to
13 RCW 16.52.020 may bring an action under this section against any
14 person, including an owner. Any damages awarded such corporation shall
15 be limited to the costs incurred by the corporation. The costs may
16 include investigation of alleged violations of this chapter and
17 capturing, transporting, treating, sheltering, feeding, and disposing
18 of animals whose treatment is a violation of this chapter.

19 (4) In an action brought under subsection (3) of this section,
20 regardless of whether an award of damages is obtained, a court may
21 award a sum of not less than five hundred dollars and not more than
22 five thousand dollars to a corporation that has custody, control, or
23 ownership over an animal that has been subjected to any act that is a
24 violation of this chapter or RCW 9.08.070, 9A.48.080(1)(c), or
25 81.56.120. An award made pursuant to this subsection may only be used
26 to provide: (a) Education in prevention of cruelty to animals; or (b)
27 treatment programs for persons who are found in violation of this
28 chapter.

29 (5) An award made by a district court pursuant to this section
30 shall not exceed the amount authorized by RCW 3.66.020.

31 (6) In an action brought under this section, any prevailing
32 plaintiff shall be awarded costs and fees of the action including
33 reasonable attorneys' fees.

34 (7) In any action brought under this section, it is not a defense
35 that the defendant has not been charged with, or convicted of, a crime
36 involving animals. The remedies provided in this section are in
37 addition to, and do not replace or supplant, any other remedy available
38 at law.

1 **Sec. 19.** RCW 9.08.070 and 1989 c 359 s 2 are each amended to read
2 as follows:

3 (1) Any person who, with intent to deprive or defraud the owner
4 thereof, does any of the following shall be guilty of a gross
5 misdemeanor and shall be punished as prescribed under RCW 9A.20.021(2)
6 and by a mandatory fine of not less than five hundred dollars per pet
7 animal except as provided by (~~(d)~~) this subsection:

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

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

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

16 (~~d~~)) Nothing in this subsection or subsection (2) of this section
17 shall prohibit a person from also being convicted of separate offenses
18 under RCW 9A.56.030, 9A.56.040, or 9A.56.050 for theft or under RCW
19 9A.56.150, 9A.56.160, or 9A.56.170 for possession of stolen property.

20 (2)(a) It is unlawful for any person to receive with intent to sell
21 to a research institution in the state of Washington, or sell or
22 otherwise directly transfer to a research institution in the state of
23 Washington, a pet animal that the person knows or has reason to know
24 has been stolen or fraudulently obtained. This subsection does not
25 apply to U.S.D.A. licensed dealers.

26 (b) The first conviction under (a) of this subsection is a gross
27 misdemeanor and is punishable as prescribed under RCW 9A.20.021(2) and
28 by a mandatory fine of not less than five hundred dollars per pet
29 animal. A second or subsequent conviction under (a) of this subsection
30 is a class C felony and is punishable as prescribed under RCW
31 9A.20.021(1)(c) and by a mandatory fine of not less than one thousand
32 dollars per pet animal.

33 (3)(a) It is unlawful for any person, who knows or has reason to
34 know that a pet animal has been stolen or fraudulently obtained, to
35 sell or otherwise transfer the pet animal to another who the person
36 knows or has reason to know has previously sold a stolen or
37 fraudulently obtained pet animal to a research institution in the state
38 of Washington.

1 (b) A conviction under (a) of this subsection is a class C felony
2 and shall be punishable as prescribed under RCW 9A.20.021(1)(c) and by
3 a mandatory fine of not less than one thousand dollars per pet animal.

4 (4)(a) It is unlawful for a U.S.D.A. licensed dealer to receive
5 with intent to sell, or sell or transfer directly or through a third
6 party, to a research institution in the state of Washington, a pet
7 animal that the dealer knows or has reason to know has been stolen or
8 fraudulently obtained.

9 (b) A conviction under (a) of this subsection is a class C felony
10 and shall be punishable as prescribed under RCW 9A.20.021(1)(c) and by
11 a mandatory fine of not less than one thousand dollars per pet animal.

12 (5) The sale, receipt, or transfer of each individual pet animal in
13 violation of subsections (1), (2), (3), and (4) of this section
14 constitutes a separate offense.

15 (6) The provisions of subsections (1), (2), (3), and (4) of this
16 section shall not apply to the lawful acts of any employee, agent, or
17 director of any humane society, animal control agency, or animal
18 shelter operated by or on behalf of any government agency, operating
19 under law.

20 **Sec. 20.** RCW 81.56.120 and 1961 c 14 s 81.56.120 are each amended
21 to read as follows:

22 Railroad or other transportation companies in carrying or
23 transporting animals shall not permit them to be confined in cars for
24 a longer period than forty-eight consecutive hours without unloading
25 them for rest, water and feeding for a period of at least two
26 consecutive hours, unless prevented from so unloading them by
27 unavoidable accident. In estimating such confinement, the time during
28 which the animals have been confined without such rest on connecting
29 roads from which they are received shall be included. Animals so
30 unloaded shall, during such rest, be properly fed, watered by the owner
31 or person having the custody of them, or in case of his default in so
32 doing, then by the railroad company transporting them, at the expense
33 of said owner or person in custody thereof, and said company shall in
34 such case have a lien upon such animals for food, care and custody
35 furnished, and shall not be liable for such detention of such animals.
36 If animals are transported where they can and do have proper food,
37 water, space and opportunity for rest, the foregoing provision in
38 regard to their being unloaded shall not apply. Violators of this

1 section shall be punished by fine not exceeding one ((hundred))
2 thousand dollars per animal.

3 **Sec. 21.** RCW 13.40.150 and 1992 c 205 s 109 are each amended to
4 read as follows:

5 (1) In disposition hearings all relevant and material evidence,
6 including oral and written reports, may be received by the court and
7 may be relied upon to the extent of its probative value, even though
8 such evidence may not be admissible in a hearing on the information.
9 The youth or the youth's counsel and the prosecuting attorney shall be
10 afforded an opportunity to examine and controvert written reports so
11 received and to cross-examine individuals making reports when such
12 individuals are reasonably available, but sources of confidential
13 information need not be disclosed. The prosecutor and counsel for the
14 juvenile may submit recommendations for disposition.

15 (2) For purposes of disposition:

16 (a) Violations which are current offenses count as misdemeanors;

17 (b) Violations may not count as part of the offender's criminal
18 history;

19 (c) In no event may a disposition for a violation include
20 confinement.

21 (3) Before entering a dispositional order as to a respondent found
22 to have committed an offense, the court shall hold a disposition
23 hearing, at which the court shall:

24 (a) Consider the facts supporting the allegations of criminal
25 conduct by the respondent;

26 (b) Consider information and arguments offered by parties and their
27 counsel;

28 (c) Consider any predisposition reports;

29 (d) Consult with the respondent's parent, guardian, or custodian on
30 the appropriateness of dispositional options under consideration and
31 afford the respondent and the respondent's parent, guardian, or
32 custodian an opportunity to speak in the respondent's behalf;

33 (e) Allow the victim or a representative of the victim and an
34 investigative law enforcement officer to speak;

35 (f) Determine the amount of restitution owing to the victim, if
36 any;

37 (g) Determine whether the respondent is a serious offender, a
38 middle offender, or a minor or first offender;

1 (h) Consider whether or not any of the following mitigating factors
2 exist:

3 (i) The respondent's conduct neither caused nor threatened serious
4 bodily injury or the respondent did not contemplate that his or her
5 conduct would cause or threaten serious bodily injury;

6 (ii) The respondent acted under strong and immediate provocation;

7 (iii) The respondent was suffering from a mental or physical
8 condition that significantly reduced his or her culpability for the
9 offense though failing to establish a defense;

10 (iv) Prior to his or her detection, the respondent compensated or
11 made a good faith attempt to compensate the victim for the injury or
12 loss sustained; and

13 (v) There has been at least one year between the respondent's
14 current offense and any prior criminal offense;

15 (i) Consider whether or not any of the following aggravating
16 factors exist:

17 (i) In the commission of the offense, or in flight therefrom, the
18 respondent inflicted or attempted to inflict serious bodily injury to
19 another;

20 (ii) The offense was committed in an especially heinous, cruel, or
21 depraved manner;

22 (iii) The victim or victims were particularly vulnerable;

23 (iv) The respondent has a recent criminal history or has failed to
24 comply with conditions of a recent dispositional order or diversion
25 agreement;

26 (v) The current offense included a finding of sexual motivation
27 pursuant to RCW 9.94A.127;

28 (vi) The respondent was the leader of a criminal enterprise
29 involving several persons; ((and))

30 (vii) The offense involved cruelty to animals; and

31 (viii) There are other complaints which have resulted in diversion
32 or a finding or plea of guilty but which are not included as criminal
33 history.

34 (4) The following factors may not be considered in determining the
35 punishment to be imposed:

36 (a) The sex of the respondent;

37 (b) The race or color of the respondent or the respondent's family;

38 (c) The creed or religion of the respondent or the respondent's
39 family;

1 (d) The economic or social class of the respondent or the
2 respondent's family; and

3 (e) Factors indicating that the respondent may be or is a dependent
4 child within the meaning of this chapter.

5 (5) A court may not commit a juvenile to a state institution solely
6 because of the lack of facilities, including treatment facilities,
7 existing in the community.

8 NEW SECTION. **Sec. 22.** A new section is added to chapter 69.38 RCW
9 to read as follows:

10 It is unlawful for any person other than a registered pharmacist to
11 sell at retail or furnish to any person any strychnine. This section
12 does not prohibit county, state, or federal agents, in the course of
13 their duties, from furnishing strychnine to any person. Every
14 registered pharmacist selling or furnishing strychnine shall, before
15 delivering the same, record the transaction as provided for in RCW
16 69.38.030.

17 NEW SECTION. **Sec. 23.** The following acts or parts of acts are
18 each repealed:

- 19 (1) RCW 16.52.010 and 1901 c 146 s 17;
- 20 (2) RCW 16.52.040 and 1901 c 146 s 14;
- 21 (3) RCW 16.52.055 and 1901 c 146 s 3;
- 22 (4) RCW 16.52.065 and 1982 c 114 s 3 & 1893 c 27 s 8;
- 23 (5) RCW 16.52.113 and 1982 c 114 s 8;
- 24 (6) RCW 16.52.117 and 1982 c 114 s 9;
- 25 (7) RCW 16.52.120 and 1982 c 114 s 11 & 1901 c 146 s 7;
- 26 (8) RCW 16.52.130 and 1982 c 114 s 12 & 1901 c 146 s 8;
- 27 (9) RCW 16.52.140 and 1901 c 146 s 11;
- 28 (10) RCW 16.52.160 and 1901 c 146 s 9;
- 29 (11) RCW 16.52.165 and 1982 c 114 s 7 & 1901 c 146 s 16;
- 30 (12) RCW 16.52.190 and 1941 c 105 s 1;
- 31 (13) RCW 16.52.193 and 1987 c 34 s 7 & 1941 c 105 s 2; and
- 32 (14) RCW 16.52.195 and 1941 c 105 s 3.

33 NEW SECTION. **Sec. 24.** Sections 1, 2, 6 through 10, 15, and 18 of
34 this act are each added to chapter 16.52 RCW.

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