

SSB 5065 - H COMM AMD
By Committee on Judiciary

ADOPTED 04/04/2011

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 16.52.011 and 2009 c 287 s 1 are each amended to read
4 as follows:

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

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

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

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

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

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

28 (e) "Euthanasia" means the humane destruction of an animal
29 accomplished by a method that involves instantaneous unconsciousness

1 and immediate death, or by a method that causes painless loss of
2 consciousness, and death during the loss of consciousness.

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

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

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

10 ~~((h))~~ (i) "Necessary food" means the provision at suitable
11 intervals of wholesome foodstuff suitable for the animal's age and
12 species and that is sufficient to provide a reasonable level of
13 nutrition for the animal and is easily accessible to the animal.

14 ~~((i))~~ (j) "Necessary water" means water that is in sufficient
15 quantity and of appropriate quality for the species for which it is
16 intended and that is accessible to the animal.

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

20 ~~((j))~~ (l) "Person" means individuals, corporations, partnerships,
21 associations, or other legal entities, and agents of those entities.

22 ~~((k))~~ (m) "Similar animal" means ~~((an animal classified in the~~
23 ~~same genus))~~: (i) For a mammal, another animal that is in the same
24 taxonomic order; or (ii) for an animal that is not a mammal, another
25 animal that is in the same taxonomic class.

26 ~~((l))~~ (n) "Substantial bodily harm" means substantial bodily harm
27 as defined in RCW 9A.04.110.

28 **Sec. 2.** RCW 16.52.015 and 2003 c 53 s 110 are each amended to read
29 as follows:

30 (1) Law enforcement agencies and animal care and control agencies
31 may enforce the provisions of this chapter. Animal care and control
32 agencies may enforce the provisions of this chapter in a county or city
33 only if the county or city legislative authority has entered into a
34 contract with the agency to enforce the provisions of this chapter.

35 (2) Animal control officers enforcing this chapter shall comply
36 with the same constitutional and statutory restrictions concerning the

1 execution of police powers imposed on law enforcement officers who
2 enforce this chapter and other criminal laws of the state of
3 Washington.

4 (3) Animal control officers have the following enforcement powers
5 when enforcing this chapter:

6 (a) The power to issue citations based on probable cause to
7 offenders for civil infractions and misdemeanor and gross misdemeanor
8 violations of this chapter or RCW 9.08.070 through 9.08.078 or
9 (~~(81.56.120)~~) 81.48.070;

10 (b) The power to cause a law enforcement officer to arrest and take
11 into custody any person the animal control officer has probable cause
12 to believe has committed or is committing a violation of this chapter
13 or RCW 9.08.070 or (~~(81.56.120)~~) 81.48.070. Animal control officers
14 may make an oral complaint to a prosecuting attorney or a law
15 enforcement officer to initiate arrest. The animal control officer
16 causing the arrest shall file with the arresting agency a written
17 complaint within twenty-four hours of the arrest, excluding Sundays and
18 legal holidays, stating the alleged act or acts constituting a
19 violation;

20 (c) The power to carry nonfirearm protective devices for personal
21 protection;

22 (d) The power to prepare affidavits in support of search warrants
23 and to execute search warrants when accompanied by law enforcement
24 officers to investigate violations of this chapter or RCW 9.08.070 or
25 (~~(81.56.120)~~) 81.48.070, and to seize evidence of those violations.

26 (4) Upon request of an animal control officer who has probable
27 cause to believe that a person has violated this chapter or RCW
28 9.08.070 or (~~(81.56.120)~~) 81.48.070, a law enforcement agency officer
29 may arrest the alleged offender.

30 **Sec. 3.** RCW 16.52.085 and 2009 c 287 s 2 are each amended to read
31 as follows:

32 (1) If a law enforcement officer or animal control officer has
33 probable cause to believe that an owner of a domestic animal has
34 violated this chapter or (~~(owns or possesses)~~) a person owns, cares
35 for, or resides with an animal in violation of an order issued under
36 RCW 16.52.200(~~(+3)~~) (4) and no responsible person can be found to
37 assume the animal's care, the officer may authorize, with a warrant,

1 the removal of the animal to a suitable place for feeding and care, or
2 may place the animal under the custody of an animal care and control
3 agency. In determining what is a suitable place, the officer shall
4 consider the animal's needs, including its size and behavioral
5 characteristics. An officer may remove an animal under this subsection
6 without a warrant only if the animal is in an immediate life-
7 threatening condition.

8 (2) If a law enforcement officer or an animal control officer has
9 probable cause to believe a violation of this chapter has occurred, the
10 officer may authorize an examination of a domestic animal allegedly
11 neglected or abused in violation of this chapter by a veterinarian to
12 determine whether the level of neglect or abuse in violation of this
13 chapter is sufficient to require removal of the animal. This section
14 does not condone illegal entry onto private property.

15 (3) Any owner whose domestic animal is removed pursuant to this
16 chapter shall be given written notice of the circumstances of the
17 removal and notice of legal remedies available to the owner. The
18 notice shall be given by posting at the place of seizure, by delivery
19 to a person residing at the place of seizure, or by registered mail if
20 the owner is known. In making the decision to remove an animal
21 pursuant to this chapter, the officer shall make a good faith effort to
22 contact the animal's owner before removal.

23 (4) The agency having custody of the animal may euthanize the
24 animal or may find a responsible person to adopt the animal not less
25 than fifteen business days after the animal is taken into custody. A
26 custodial agency may euthanize severely injured, diseased, or suffering
27 animals at any time. An owner may prevent the animal's destruction or
28 adoption by: (a) Petitioning the district court of the county where
29 the animal was seized for the animal's immediate return subject to
30 court-imposed conditions, or (b) posting a bond or security in an
31 amount sufficient to provide for the animal's care for a minimum of
32 thirty days from the seizure date. If the custodial agency still has
33 custody of the animal when the bond or security expires, the animal
34 shall become the agency's property unless the court orders an
35 alternative disposition. If a court order prevents the agency from
36 assuming ownership and the agency continues to care for the animal, the
37 court shall order the owner to renew a bond or security for the
38 agency's continuing costs for the animal's care. When a court has

1 prohibited the owner from owning (~~or possessing~~), caring for, or
2 residing with a similar animal under RCW 16.52.200(~~(+3)~~) (4), the
3 agency having custody of the animal may assume ownership upon seizure
4 and the owner may not prevent the animal's destruction or adoption by
5 petitioning the court or posting a bond.

6 (5) If no criminal case is filed within fourteen business days of
7 the animal's removal, the owner may petition the district court of the
8 county where the animal was removed for the animal's return. The
9 petition shall be filed with the court, with copies served to the law
10 enforcement or animal care and control agency responsible for removing
11 the animal and to the prosecuting attorney. If the court grants the
12 petition, the agency which seized the animal must deliver the animal to
13 the owner at no cost to the owner. If a criminal action is filed after
14 the petition is filed but before the animal is returned, the petition
15 shall be joined with the criminal matter.

16 (6) In a motion or petition for the animal's return before a trial,
17 the burden is on the owner to prove by a preponderance of the evidence
18 that the animal will not suffer future neglect or abuse and is not in
19 need of being restored to health.

20 (7) Any authorized person treating or attempting to restore an
21 animal to health under this chapter shall not be civilly or criminally
22 liable for such action.

23 **Sec. 4.** RCW 16.52.200 and 2009 c 287 s 3 are each amended to read
24 as follows:

25 (1) The sentence imposed for a misdemeanor or gross misdemeanor
26 violation of this chapter may be deferred or suspended in accordance
27 with RCW 3.66.067 and 3.66.068, however the probationary period shall
28 be two years.

29 (2) In case of multiple misdemeanor or gross misdemeanor
30 convictions, the sentences shall be consecutive, however the
31 probationary period shall remain two years.

32 (3) In addition to the penalties imposed by the court, the court
33 shall order the forfeiture of all animals held by law enforcement or
34 animal care and control authorities under the provisions of this
35 chapter if any one of the animals involved dies as a result of a
36 violation of this chapter or if the defendant has a prior conviction
37 under this chapter. In other cases the court may enter an order

1 requiring the owner to forfeit the animal if the court deems the
2 animal's treatment to have been severe and likely to reoccur. (~~(If~~
3 ~~forfeiture is ordered, the owner)~~)

4 (4) Any person convicted of animal cruelty shall be prohibited from
5 owning (~~(or)~~), caring for, or residing with any similar animals for a
6 period of time as follows:

7 (a) Two years for a first conviction of animal cruelty in the
8 second degree under RCW 16.52.207;

9 (b) Permanently for a first conviction of animal cruelty in the
10 first degree under RCW 16.52.205;

11 (c) Permanently for a second or subsequent conviction of animal
12 cruelty, except as provided in subsection (~~(+4)~~) (5) of this section.

13 (~~(+4)~~) (5) If a person has no more than two convictions of animal
14 cruelty and each conviction is for animal cruelty in the second degree,
15 the person may petition the sentencing court in which the most recent
16 animal cruelty conviction occurred, for a restoration of the right to
17 own or possess a similar animal five years after the date of the second
18 conviction. In determining whether to grant the petition, the court
19 shall consider, but not be limited to, the following:

20 (a) The person's prior animal cruelty in the second degree
21 convictions;

22 (b) The type of harm or violence inflicted upon the animals;

23 (c) Whether the person has completed the conditions imposed by the
24 court as a result of the underlying convictions; (~~(and)~~)

25 (d) Whether the person complied with the prohibition on owning,
26 caring for, or residing with similar animals; and

27 (e) Any other matters the court finds reasonable and material to
28 consider in determining whether the person is likely to abuse another
29 animal.

30 The court may delay its decision on forfeiture under subsection
31 (3) of this section until the end of the probationary period.

32 (~~(+5)~~) (6) In addition to fines and court costs, the defendant,
33 only if convicted or in agreement, shall be liable for reasonable costs
34 incurred pursuant to this chapter by law enforcement agencies, animal
35 care and control agencies, or authorized private or public entities
36 involved with the care of the animals. Reasonable costs include
37 expenses of the investigation, and the animal's care, euthanization, or
38 adoption.

1 ~~((+6))~~ (7) If convicted, the defendant shall also pay a civil
2 penalty of one thousand dollars to the county to prevent cruelty to
3 animals. These funds shall be used to prosecute offenses under this
4 chapter and to care for forfeited animals pending trial.

5 ~~((+7))~~ (8) If a person violates the prohibition on owning, caring
6 for, or residing with similar animals under subsection (4) of this
7 section, that person:

8 (a) Shall pay a civil penalty of one thousand dollars for the first
9 violation;

10 (b) Shall pay a civil penalty of two thousand five hundred dollars
11 for the second violation; and

12 (c) Is guilty of a gross misdemeanor for the third and each
13 subsequent violation.

14 (9) As a condition of the sentence imposed under this chapter or
15 RCW 9.08.070 through 9.08.078, the court may also order the defendant
16 to participate in an available animal cruelty prevention or education
17 program or obtain available psychological counseling to treat mental
18 health problems contributing to the violation's commission. The
19 defendant shall bear the costs of the program or treatment.

20 **Sec. 5.** RCW 16.52.207 and 2007 c 376 s 1 are each amended to read
21 as follows:

22 (1) A person is guilty of animal cruelty in the second degree if,
23 under circumstances not amounting to first degree animal cruelty, the
24 person knowingly, recklessly, or with criminal negligence inflicts
25 unnecessary suffering or pain upon an animal.

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

29 (a) Fails to provide the animal with necessary shelter, rest,
30 sanitation, space, or medical attention and the animal suffers
31 unnecessary or unjustifiable physical pain as a result of the failure;

32 (b) Under circumstances not amounting to animal cruelty in the
33 second degree under (c) of this subsection, abandons the animal; or

34 (c) Abandons the animal and (i) as a result of being abandoned, the
35 animal suffers bodily harm; or (ii) abandoning the animal creates an
36 imminent and substantial risk that the animal will suffer substantial
37 bodily harm.

