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**SUBSTITUTE SENATE BILL 5282**

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**State of Washington**

**53rd Legislature**

**1993 Regular Session**

**By** Senate Committee on Agriculture (originally sponsored by Senators Moore, A. Smith, Winsley and McAuliffe)

Read first time 02/25/93.

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, and 13.40.150; adding a new section to chapter  
4 69.38 RCW; creating a new section; repealing RCW 16.52.040, 16.52.055,  
5 and 16.52.140; and prescribing penalties.

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

7 NEW SECTION. **Sec. 1.** It is the intent of the legislature by the  
8 enactment of chapter . . . , Laws of 1993 (this act) to update the  
9 existing animal cruelty statutes. The legislature does not intend to  
10 revise, expand, or diminish in any way the existing exemptions from  
11 chapter 16.52 RCW.

12 **Sec. 2.** RCW 16.52.030 and 1982 c 114 s 2 are each amended to read  
13 as follows:

14 (1) All members and agents, and all officers of any society (~~(so)~~)  
15 incorporated under RCW 16.52.020, as shall by the trustees of such  
16 society be duly authorized in writing, approved by any judge of the  
17 superior court of the county, and sworn in the same manner as are  
18 (~~constables—and~~) peace officers, shall have power lawfully to

1 interfere to prevent the perpetration of any act of cruelty upon any  
2 animal and may use such force as may be necessary to prevent the same,  
3 and to that end may summon to their aid any bystander; (~~they may make~~  
4 ~~arrests for the violation of any of the provisions of RCW 16.52.010~~  
5 ~~through 16.52.050, 16.52.070 through 16.52.090 and 16.52.100 through~~  
6 ~~16.52.180 in the same manner as herein provided for other officers;~~)  
7 and may carry the same weapons that ((such)) law enforcement officers  
8 are authorized to carry. Before such approval by a judge, the members  
9 and agents of any such corporation shall provide satisfactory evidence  
10 to the judge that they have successfully completed a training program  
11 necessary for the duties and obligations in this chapter. In approving  
12 the training, the judge shall consider and give weight to similar  
13 training required of law enforcement officers.

14 (2) Authorizations under this section shall be for a period not  
15 exceeding three years or termination of duties, whichever occurs first.  
16 The trustees of the society shall review the authorizations every three  
17 years and may revoke authorizations at any time by filing a certified  
18 revocation with the superior court from which the authorization was  
19 issued: PROVIDED, That all such members and agents shall(~~, when~~  
20 ~~making arrests under this section,~~) exhibit and expose a suitable  
21 badge to be adopted by such society. (~~All persons resisting such~~  
22 ~~specially authorized, approved and sworn officers, agents or members~~  
23 ~~shall be guilty of a misdemeanor.~~)

24 **Sec. 3.** RCW 16.52.050 and 1901 c 146 s 10 are each amended to read  
25 as follows:

26 When complaint is made on oath, to any ((magistrate)) judge  
27 authorized to issue warrants in criminal cases that the complainant  
28 believes that any of the provisions of law relating to or in any way  
29 affecting animals, are being or are about to be violated in any  
30 particular building or place, such ((magistrates)) judge shall issue  
31 and deliver immediately a warrant directed to any sheriff,  
32 ((constable)) deputy, police or peace officer, or officer of any  
33 incorporated society qualified as provided in RCW 16.52.030,  
34 authorizing him or her to enter and search such building or place(~~,~~  
35 ~~and to arrest any person or persons there present violating or~~  
36 ~~attempting to violate any law relating to or in any way affecting~~  
37 ~~animals, and to bring such person or persons before some court or~~  
38 ~~magistrate of competent jurisdiction within the city or county within~~

1 ~~which such offense has been committed or attempted to be committed, to~~  
2 ~~be dealt with according to law))~~ and seize evidence of violations of  
3 this chapter.

4 **Sec. 4.** RCW 16.52.060 and 1987 c 202 s 182 are each amended to  
5 read as follows:

6 Any judge, sheriff, deputy, or police officer may arrest any person  
7 found committing any ~~((of the))~~ act~~((s enumerated))~~ in violation of RCW  
8 16.52.065, 9.08.070, or 81.56.120 or this chapter, without a warrant  
9 for such arrest, and any officer or member of any humane society, or  
10 society for the prevention of cruelty to animals, may cause the  
11 immediate arrest of any person engaged in, or who shall have committed  
12 such cruelties, upon making oral complaint to any sheriff, deputy, or  
13 police officer~~((, or such officer or member of such society may himself~~  
14 ~~or herself arrest any person found perpetrating any of the cruelties~~  
15 ~~herein enumerated))~~: PROVIDED, That said person making such oral  
16 complaint ~~((or making such arrest))~~ shall file with a proper officer a  
17 written complaint, stating the act or acts complained of, within  
18 twenty-four hours, excluding Sundays and legal holidays, after such  
19 arrest shall have been made.

20 **Sec. 5.** RCW 16.52.085 and 1987 c 335 s 1 are each amended to read  
21 as follows:

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

33 (2) If ~~((a))~~ the county sheriff, deputy, peace officer, or other  
34 law enforcement officer has probable cause to believe a violation of  
35 this chapter has occurred, the officer may authorize an examination of  
36 an allegedly neglected or abused domestic animal by a veterinarian to  
37 determine whether the level of neglect or abuse is sufficient to

1 require removal of the animal. (~~This section does not condone illegal~~  
2 ~~entry onto private property.~~)

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

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

30 (5) If no criminal case is filed within (~~seventy-two hours~~)  
31 fourteen business days of the removal of the animal, the owner may  
32 petition (~~the district~~) a court of competent jurisdiction in the  
33 county where the removal of the animal occurred for the return of the  
34 animal. The petition shall be filed with the court, with copies served  
35 to the law enforcement agency responsible for removing the animal and  
36 to the prosecuting attorney. If a criminal action is filed after the  
37 petition is filed but before the animal is returned, the petition shall  
38 be joined with the criminal matter.

1       (~~(5)~~) (6) In a motion or petition for the return of the removed  
2 animal before a trial, the burden is on the owner to prove by a  
3 preponderance of the evidence that the animal will not suffer future  
4 neglect and is not in need of being restored to health.

5       (~~(6)~~) (7) Any authorized person treating or attempting to restore  
6 an animal to health under this chapter shall not be civilly or  
7 criminally liable for such action.

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

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

15       **Sec. 7.** RCW 16.52.095 and Code 1881 s 840 are each amended to read  
16 as follows:

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

23       **Sec. 8.** RCW 16.52.110 and 1901 c 146 s 13 are each amended to read  
24 as follows:

25       Every owner, driver, or possessor of any old, maimed or diseased  
26 horse, cow, mule, or other domestic animal, who shall permit the same  
27 to go loose in any lane, street, square, or lot or place of any city or  
28 township, without proper care and attention, for more than three hours  
29 after knowledge thereof, shall be guilty of a misdemeanor: PROVIDED,  
30 That this shall not apply to any such owner keeping any old or diseased  
31 animal belonging to him or her on his or her own premises with proper  
32 care. Every sick, disabled, infirm or crippled horse, ox, mule, cow or  
33 other domestic animal, which shall be abandoned on the public highway,  
34 or in any open or enclosed space in any city or township, may, if,  
35 after search by a peace officer or officer of such society no owner can  
36 be found therefor, be (~~killed by such officer; and it shall be the~~

1 ~~duty of all peace and public officers to cause the same to be killed on~~  
2 ~~information of such abandonment)) euthanized or removed by such officer~~  
3 ~~to a suitable place for feeding and care, or if necessary, euthanasia.~~

4 **Sec. 9.** RCW 16.52.180 and 1901 c 146 s 18 are each amended to read  
5 as follows:

6 ((No part of RCW 16.52.010 through 16.52.050, 16.52.070 through  
7 16.52.090 and 16.52.100 through 16.52.180 shall be deemed to)) This  
8 chapter shall not interfere with any of the laws of this state known as  
9 the "game laws," ((nor shall RCW 16.52.010 through 16.52.050, 16.52.070  
10 through 16.52.090 and 16.52.100 through 16.52.180 be deemed to  
11 interfere)) or with the right to destroy any venomous reptile or any  
12 known as dangerous to life, limb or property, or to interfere with the  
13 right to kill animals to be used for food or with any properly  
14 conducted scientific experiments or investigations, which experiments  
15 or investigations shall be performed only under the authority of the  
16 faculty of some regularly incorporated college or university of the  
17 state of Washington.

18 **Sec. 10.** RCW 16.52.200 and 1987 c 335 s 2 are each amended to read  
19 as follows:

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

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

25 (3) In addition to the penalties imposed by the court, the court  
26 shall order the forfeiture of all animals held by law enforcement  
27 authorities under the provisions of this chapter if any one of the  
28 animals involved dies as a result of a violation of this chapter or if  
29 the ((defendant)) offender has a prior conviction under this chapter.  
30 In other cases the court may enter an order requiring the owner to  
31 forfeit the animal if the court ((deems)) finds the ((cruel))  
32 of the animal to have been severe and likely to reoccur. If forfeiture  
33 is ordered, the owner shall be prohibited from owning or caring for any  
34 similar animals for a period of ((two years)) time for which the  
35 sentencing court retains jurisdiction. The court may delay its  
36 decision on forfeiture under this subsection until the end of the  
37 probationary period.

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

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

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

15 **Sec. 11.** RCW 13.40.150 and 1992 c 205 s 109 are each amended to  
16 read as follows:

17 (1) In disposition hearings all relevant and material evidence,  
18 including oral and written reports, may be received by the court and  
19 may be relied upon to the extent of its probative value, even though  
20 such evidence may not be admissible in a hearing on the information.  
21 The youth or the youth's counsel and the prosecuting attorney shall be  
22 afforded an opportunity to examine and controvert written reports so  
23 received and to cross-examine individuals making reports when such  
24 individuals are reasonably available, but sources of confidential  
25 information need not be disclosed. The prosecutor and counsel for the  
26 juvenile may submit recommendations for disposition.

27 (2) For purposes of disposition:

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

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

31 (c) In no event may a disposition for a violation include  
32 confinement.

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

36 (a) Consider the facts supporting the allegations of criminal  
37 conduct by the respondent;

1 (b) Consider information and arguments offered by parties and their  
2 counsel;

3 (c) Consider any predisposition reports;

4 (d) Consult with the respondent's parent, guardian, or custodian on  
5 the appropriateness of dispositional options under consideration and  
6 afford the respondent and the respondent's parent, guardian, or  
7 custodian an opportunity to speak in the respondent's behalf;

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

10 (f) Determine the amount of restitution owing to the victim, if  
11 any;

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

14 (h) Consider whether or not any of the following mitigating factors  
15 exist:

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

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

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

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

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

28 (i) Consider whether or not any of the following aggravating  
29 factors exist:

30 (i) In the commission of the offense, or in flight therefrom, the  
31 respondent inflicted or attempted to inflict serious bodily injury to  
32 another;

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

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

36 (iv) The respondent has a recent criminal history or has failed to  
37 comply with conditions of a recent dispositional order or diversion  
38 agreement;

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

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

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

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

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

11 (a) The sex of the respondent;

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

13 (c) The creed or religion of the respondent or the respondent's  
14 family;

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

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

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

22 NEW SECTION. Sec. 12. A new section is added to chapter 69.38 RCW  
23 to read as follows:

24 It is unlawful for any person other than a registered pharmacist to  
25 sell at retail or furnish to any person any strychnine. This section  
26 does not prohibit county, state, or federal agents, in the course of  
27 their duties, from furnishing strychnine to any person. Every  
28 registered pharmacist selling or furnishing strychnine shall, before  
29 delivering the same, record the transaction as provided for in RCW  
30 69.38.030.

31 NEW SECTION. Sec. 13. The following acts or parts of acts are  
32 each repealed:

33 (1) RCW 16.52.040 and 1901 c 146 s 14;

34 (2) RCW 16.52.055 and 1901 c 146 s 3; and

35 (3) RCW 16.52.140 and 1901 c 146 s 11.

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