

SENATE BILL REPORT

SB 5065

As Reported by Senate Committee On:
Judiciary, February 8, 2011

Title: An act relating to prevention of animal cruelty.

Brief Description: Preventing animal cruelty.

Sponsors: Senators Carrell, Kline, Kohl-Welles, Nelson, Delvin, Tom, Shin, McAuliffe and Kilmer.

Brief History:

Committee Activity: Judiciary: 1/28/11, 2/08/11 [DPS].

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 5065 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug, Ranking Minority Member; Carrell, Hargrove, Kohl-Welles and Regala.

Staff: Juliana Roe (786-7438)

Background: Under current law, a person convicted of animal cruelty in the second degree is guilty of a misdemeanor if the person either knowingly, recklessly, or with criminal negligence inflicts unnecessary suffering or pain upon an animal; fails to provide the animal with necessary shelter, rest, sanitation, space, or medical attention, and the animal suffers unnecessary or unjustifiable physical pain as a result of the failure; or abandons the animal. A person is guilty of a gross misdemeanor if the person abandons the animal and the animal suffers bodily harm or there is a substantial risk the animal will suffer great bodily harm due to the abandonment. If a person is convicted of animal cruelty in the second degree, the court may enter an order requiring the owner to forfeit the animal if the court finds that the animal's treatment was severe or likely to reoccur. If forfeiture is ordered, the owner will be prohibited from owning or caring for any similar animals for a set period of time.

A "similar animal" is defined as an animal classified in the same genus. Genus is a biological classification that groups organisms with similar characteristics.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Summary of Bill (Recommended Substitute): Animal cruelty in the second degree is a gross misdemeanor. If a person is convicted of animal cruelty in the second degree and the court orders forfeiture of the person's animal, then the person is prohibited from owning, caring for, or residing with any similar animals for a set period of time.

If a person has no more than two convictions for animal cruelty in the second degree, the person may petition the sentencing court for a restoration of his or her right after five years, and the court may consider, among other things, whether the person complied with the prohibition on owning, caring for, or residing with similar animals. If a person violates the prohibition, that person must pay a \$1,000 civil penalty for the first violation and a \$2,500 penalty for the second violation. The third and any subsequent violations will result in gross misdemeanors.

Similar animal means (1) for a mammal, another animal that is in the same taxonomic order; or (2) for an animal that is not a mammal, another animal that is in the same taxonomic class.

Food means food or feed appropriate to the species for which it is intended.

Necessary food means the provision at suitable intervals of wholesome foodstuff suitable for the animal's age and species that is sufficient to provide a reasonable level of nutrition for the animal and is easily accessible to the animal.

Necessary shelter means a constructed or natural structure that keeps the animal dry and protected from the elements, allows the animal to turn around freely, sit, stand, and lie without restriction, and does not cause injury, disfigurement, or physical impairment to the animal.

Necessary water means water that is in sufficient quantity and of sufficient quality to sustain the animal and is easily accessible to the animal.

Animal control officers are given the power to issue citations to offenders for civil infractions based on probable cause.

An owner who fails to provide an animal with necessary food, water, shelter, ventilation, rest, sanitation, space, or medical attention can be charged with failure to provide care – a class 2 civil infraction. Local jurisdictions that establish greater civil penalties or criminal penalties for failure to provide care are not preempted by the infraction. These civil infractions do not apply to accepted animal husbandry practices.

EFFECT OF CHANGES MADE BY JUDICIARY COMMITTEE (Recommended Substitute): Food is defined as food or feed appropriate to the species for which it is intended.

Necessary food is defined as the provision at suitable intervals of wholesome foodstuff suitable for the animal's age and species that is sufficient to provide a reasonable level of nutrition for the animal and is easily accessible to the animal.

Necessary shelter is defined as a constructed or natural structure that keeps the animal dry and protected from the elements, allows the animal to turn around freely, sit, stand, and lie without restriction, and does not cause injury, disfigurement, or physical impairment to the animal.

Necessary water is defined as water that is in sufficient quantity and of sufficient quality to sustain the animal and is easily accessible to the animal.

Animal control officers are given the power to issue citations to offenders for civil infractions based on probable cause.

Local jurisdictions that establish greater civil penalties or criminal penalties for failure to provide care are not preempted by the failure to provide care class 2 civil infraction. These civil infractions do not apply to accepted animal husbandry practices.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: Seraphina's bill, SSB 5402, that passed into law in 2009 has been very successful. However, there have been problems. The current law defines the term similar animal very narrowly so that other animals are at risk of victimization. Further, there are no penalties in place for those who violate the court's forfeiture order. There is also a problem in that forfeiture is not ordered for those defendants who actually kill the animal rather than merely harm the animal. Persons that kill animals are still allowed to have pets.

This bill does not affect current animal husbandry practices.

OTHER: I am working on language with staff to address concerns regarding livestock.

Persons Testifying: PRO: Senator Carrell, prime sponsor; Rick Hall, Washington Alliance for Humane Legislation; Debra Eurich, citizen; Whitney Phillips, Washington Alliance for Humane Legislation, Feral Cat Spay/Neuter Project.

OTHER: Jack Field, Washington Cattlemen's Association.