Proposed Substitute to HB 1202 (H-1382.1)
By Rep. Roberts

EFFECT:

- Removes the civil infraction for failure to provide care to an animal.
- Modifies the definition of necessary food to include a consideration of the animal's condition.
- Removes the definitions of necessary medical attention, necessary rest, necessary shelter, and necessary space.

AN ACT Relating to the prevention of animal cruelty; amending RCW 16.52.117, 16.52.207, 16.52.320, and 9.08.070; reenacting and amending RCW 16.52.011; adding a new section to chapter 16.52 RCW; and prescribing penalties.

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

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

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

(2) To protect the health and safety of an animal, an animal control officer, law enforcement officer, or employee of a fire and rescue organization who has probable cause to believe that subsection (1) of this section is being violated has the authority to enter a vehicle or enclosed space to remove an animal by any means reasonable under the circumstances, if no other person is present with access to the vehicle or enclosed space who will immediately remove the animal. An animal control officer, law enforcement officer, or employee of a

fire and rescue organization or the department or agency by which such an officer or employee is employed may not be held liable for any damage to property resulting from actions taken under this section.

(3) A person who has confined an animal in an unsafe manner in a vehicle or enclosed space as described in subsection (1) of this section has committed a class 2 civil infraction under RCW 7.80.120(1)(b). In the event that an animal suffers physical pain, injury, or death from unsafe confinement in a vehicle or enclosed space, nothing in this section prevents the person who has confined the animal in the vehicle or enclosed space from being convicted of separate offenses for animal cruelty under RCW 16.52.205 or 16.52.207.

Sec. 2. RCW 16.52.011 and 2011 c 172 s 1 and 2011 c 67 s 3 are each reenacted and amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 3. RCW 16.52.117 and 2006 c 287 s 1 are each amended to read as follows:

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

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

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

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

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

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

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

(3) Nothing in this section prohibits the following:

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

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

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

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

Sec. 4. RCW 16.52.207 and 2011 c 172 s 5 are each amended to read as follows:

(1) A person is guilty of animal cruelty in the second degree if, under circumstances not amounting to first degree animal cruelty, the

person knowingly, recklessly, or with criminal negligence inflicts unnecessary injury, suffering, or pain upon an animal.

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

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

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

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

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

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

Sec. 5. RCW 16.52.320 and 2011 c 67 s 1 are each amended to read as follows:

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

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

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

Sec. 6. RCW 9.08.070 and 2003 c 53 s 9 are each amended to read as follows:

(1) Any person who, with intent to deprive or defraud the owner thereof, does any of the following shall be guilty of a gross misdemeanor punishable according to chapter 9A.20 RCW and by a

mandatory fine of not less than five hundred dollars per pet animal, except as provided by subsection (2) of this section:

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

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

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

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

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