

(5) For purposes of this section "tributyltin-based marine antifouling paint or coating" means a paint, coating, or treatment that contains tributyltin or a triorganotin compound used as a substitute for tributyltin and that is intended to control fouling organisms in a marine environment.

NEW SECTION. Sec. 2. This act shall take effect April 1, 1988.

NEW SECTION. Sec. 3. Section (1) of this act shall only remain in effect until the U.S. environmental protection agency promulgates standards for the use of tributyltin-based marine antifouling paint or coating.

Passed the Senate April 26, 1987.

Passed the House April 25, 1987.

Approved by the Governor May 12, 1987.

Filed in Office of Secretary of State May 12, 1987.

CHAPTER 335

[Engrossed Substitute Senate Bill No. 5608]

CRUELTY TO AND NEGLECT OF DOMESTIC ANIMALS

AN ACT Relating to abused and injured animals; amending RCW 16.52.085, 16.52.010, and 46.61.660; adding new sections to chapter 16.52 RCW; creating a new section; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 2, chapter 12, Laws of 1974 ex. sess. and RCW 16.52-.085 are each amended to read as follows:

(1) If the county sheriff or other law enforcement officer shall find that said domestic animal has been neglected by its owner, he or she may authorize the removal of the animal to a proper pasture or other suitable place for feeding and restoring to health.

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

(3) Any owner whose domestic animal is removed to a suitable place pursuant to this chapter shall be given written notice of the circumstances of the removal and notice of legal remedies available to the owner. In making the decision to remove an animal pursuant to this chapter, the law enforcement officer shall make a good faith effort to contact the animal's owner before removal unless the animal is in a life-threatening condition or unless the officer reasonably believes that the owner would remove the animal from the jurisdiction.

(4) If no criminal case is filed within seventy-two hours of the removal of the animal, the owner may petition the district court of the county where

the removal of the animal occurred for the return of the animal. The petition shall be filed with the court, with copies served to the law enforcement agency responsible for removing the animal and to the prosecuting attorney. If a criminal action is filed after the petition is filed but before the animal is returned, the petition shall be joined with the criminal matter.

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

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

NEW SECTION. Sec. 2. A new section is added to chapter 16.52 RCW to read as follows:

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

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

(3) In addition to the penalties imposed by the court, the court shall order the forfeiture of all animals held by law enforcement authorities under the provisions of this chapter if any one of the animals involved dies as a result of a violation of this chapter or if the defendant has a prior conviction under this chapter. In other cases the court may enter an order requiring the owner to forfeit the animal if the court deems the cruel treatment to have been severe and likely to reoccur. If forfeiture is ordered, the owner shall be prohibited from owning or caring for any similar animals for a period of two years. The court may delay its decision on forfeiture under this subsection until the end of the probationary period.

(4) In addition to fines and court costs, the owner, only if convicted or in agreement, shall be liable for reasonable costs incurred pursuant to this chapter by the law enforcement or authorized private or public entities involved with the care of the animals.

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

NEW SECTION. Sec. 3. A new section is added to chapter 16.52 RCW to read as follows:

This chapter shall not limit the right of a law enforcement officer to destroy an animal that has been seriously injured and would otherwise continue to suffer. Such action shall be undertaken with reasonable prudence and, whenever possible, in consultation with a licensed veterinarian and the owner of the animal.

Law enforcement officers and licensed veterinarians shall be immune from civil and criminal liability for actions taken under this chapter if reasonable prudence is exercised in carrying out the provisions of this chapter.

***Sec. 4. Section 17, chapter 146, Laws of 1901 and RCW 16.52.010 are each amended to read as follows:**

((In RCW 16.52.010 through 16.52.055, 16.52.070 through 16.52.090 and 16.52.100 through 16.52.180)) For purposes of this chapter, the singular shall include the plural; the word "animal" shall be held to include every living creature, except man; the words "torture," "torment," and "cruelty," shall be held to include every act, omission, or neglect whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted: PROVID- ED, That in no event shall it be considered cruelty, torture, torment, or neglect to transport a dog in the rear area commonly referred to as the bed, of a pick-up truck, nor shall such activity be prohibited by rule or law; and the words "owner" and "person" shall be held to include corporations as well as individuals; ((and)) the knowledge and acts of agents of and persons employed by corporations in regard to animals transported, owned, or employed by, or in the custody of such corporations, shall be held to be the act and knowledge of such corporations as well as of such agents or employees; and the words "law enforcement officer" shall mean any person who is serving on a full-time, fully compensated basis as a county sheriff or deputy sheriff, including sheriffs or deputy sheriffs serving under a different title pursuant to a county charter, city police officer, town marshal or deputy marshal, or state patrol.

***Sec. 4 was vetoed, see message at end of chapter.**

***Sec. 5. Section 46.56.070, chapter 12, Laws of 1961 and RCW 46.61-.660 are each amended to read as follows:**

Except as provided in RCW 16.52.010, it shall be unlawful for any person to transport any living animal on the running board, fenders, hood, or other outside part of any vehicle unless suitable harness, cage or enclosure be provided and so attached as to protect such animal from falling or being thrown therefrom. It shall be unlawful for any person to transport any persons upon the running board, fenders, hood or other outside part of any vehicle, except that this provision shall not apply to authorized emergency vehicles.

Sec. 5 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 6. Nothing in this act shall be construed as expanding or diminishing, in any manner whatsoever, any authority granted officers under RCW 16.52.020 or 16.52.030.

NEW SECTION. Sec. 7. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or

the application of the provision to other persons or circumstances is not affected.

Passed the Senate April 21, 1987.

Passed the House April 16, 1987.

Approved by the Governor May 12, 1987, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 12, 1987.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to two sections, Substitute Senate Bill No. 5608 entitled:

"AN ACT Relating to abused and injured animals."

The bill amends the cruelty to animals statutes to allow law enforcement officials to remove an animal for a medical examination to determine if the animal is neglected and in need of restoration. The bill also prescribes penalties for violations of these statutes.

Sections 4 and 5, amendments to the original bill, specifically allow dogs to be transported in the open bed of a pickup truck. Current statute allows this to occur but requires that the animal be suitably harnessed or otherwise protected from falling or being thrown from the vehicle. Testimony before the House pointed out that nationally every year over 100,000 dogs die after being thrown from pickup truck beds. In keeping with the intent of the bill to encourage humane treatment of animals, I am vetoing sections 4 and 5.

With the exception of sections 4 and 5, Substitute Senate Bill No. 5608 is approved."

CHAPTER 336

[Substitute Senate Bill No. 5561]

AUCTIONEERS—BONDING AND SECURITY REQUIREMENTS

AN ACT Relating to bonding and trust account requirements for auctioneers; and amending RCW 18.11.085, 18.11.121, 18.11.220, 18.11.230, and 18.11.095.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 5, chapter 324, Laws of 1986 and RCW 18.11.085 are each amended to read as follows:

Every individual, before acting as an auctioneer, shall obtain an auctioneer certificate of registration. To be licensed as an auctioneer, an individual shall meet all of the following requirements:

- (1) Be at least eighteen years of age or sponsored by a licensed auctioneer.
- (2) File with the department a completed application on a form prescribed by the director.
- (3) Show that the proper tax registration certificate required by RCW 82.32.030 has been obtained from the department of revenue.
- (4) Pay the auctioneer registration fee required under the agency rules adopted pursuant to this chapter.